

Monitors' Seventeenth 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

The seventeenth independent monitors' report documents the continuing evolution of the consent decree with respect to the State Police. The sixteenth report noted that the State Police had become "self-monitoring" and that as agency it possessed the ability to "analyze and correct" problematic law enforcement procedures on a "real time" basis. The report further noted that the goal of the Consent Decree was to encourage the development of law enforcement organizations that were "self-aware" and could adapt to a changing environment. The report concluded that the State Police had achieved that goal.

The evolution of the consent decree process continues with the designation of the Office of State Police Affairs (OSPA) as the agency to monitor and evaluate the efforts of the State Police to comply with the mandates of the consent decree. In the past, independent monitors designated by the Department of Justice were responsible for evaluating the implementation of the consent decree by the State Police. With this report, the torch is passed in that the State of New Jersey begins to establish a mechanism to move from federal oversight of the consent decree to self-regulation. This transition takes shape as OSPA begins to assume the duties and responsibilities of the independent monitors.

Following the completion of the independent monitors' Sixteenth Report on November 1, 2007, the New Jersey Advisory Committee on Police Standards completed its work and issued a final report. To briefly review, the committee was created by Governor Jon Corzine in August of 2006 by Executive Order No. 26. The committee was directed by the governor to recommend whether and under what circumstances the State of New Jersey should join with the Department of Justice in filing a motion with this Court seeking to terminate the consent decree. The committee also was asked to make recommendations concerning the measures necessary to ensure that the practice of racial profiling did not occur in the event that the consent decree is terminated by this Court.

In its final report, the Advisory Committee indicated that the State of New Jersey should join in a motion to terminate the consent decree provided a mechanism was developed to ensure that the progress made by the State Police under the consent decree continues in the months and years ahead. In outlining its view of what needed to be done by the State to terminate the Decree, the Committee specifically recommended that the Office of State Police Affairs be assigned the responsibility to: 1) audit the Office of Professional Standards within the Division of State Police; 2) collect and analyze data with the Division of State Police and assess the adequacy of data collection; 3) review the functions of the Field Operations Section of the Division of State Police; and 4) exercise oversight of the Management Awareness Personal Performance System implemented by the Division of State Police.

Following the release of committee's final report on December 7, 2007, the independent monitors discussed the findings and recommendations of the Advisory Committee report with the State of New Jersey. Following those discussions and subsequent consultation with the Department of Justice resulted in a decision that the monitors would assist in preparing the State of New Jersey, the Office of State Police Affairs and the State Police for the termination of the consent decree. It was further agreed that the monitors would work with OSPA to ensure that the office developed the protocol and procedures necessary to effectively evaluate the issues addressed by the consent decree. The monitors also agreed to mentor personnel assigned to the OSPA to ensure that they developed the knowledge, skills and abilities needed to the undertake duties and responsibilities heretofore performed by the monitors.

This report marks the culmination of those efforts. In preparing the seventeenth report, staff assigned to the Office of State Police Affairs reviewed 376 motor vehicle stops including videotape reviews of 272 of the stops, gathered statistical data from those reviews and conducted an analysis of the data to determine whether the law enforcement activity undertaken by the State Police during motor vehicle stops was attributable to race. In addition, the staff evaluated the efforts of management at the State Police to supervise the activities of subordinate troopers through the Management Awareness Personnel Performance System and other mechanisms. Furthermore, the staff performed audits of the internal affairs function and the training function to determine compliance with the consent decree. All these activities were performed in accordance with protocol established by the independent monitors and with their guidance and assistance.

Training

The State Police continue to comply with every consent decree requirement applicable to the training function in the seventeenth reporting period. The New Jersey State Police Academy continues to refine and improve its ability to provide effective and meaningful training. More importantly, the Academy has initiated a process whereby each training program will comport with the strategic mission of the State Police and reflect the best practices of the law enforcement community.

As noted in the sixteenth report, the Academy had initiated an assessment to identify issues within the organization that could be addressed by training programs. With the seventeenth report, the assessment is complete and the State Police have moved to incorporate the findings of the assessment into the development and implementation of training programs.

Previously, training programs and the curricula supporting those programs were developed by instructors based on what the instructors deemed to be important. During the seventeenth reporting period, the Academy discarded this approach to developing training programs. Moving forward training programs and the curricula supporting those programs will be developed based on the organization's strategic plan (intelligence-led policing), best practices identified as relevant to the topic of instruction and any issues identified by the organizational assessment. Instructors developing individual programs will be responsible for integrating the agency's strategic plan, relevant best practices and issues identified by the organizational assessment into the curricula supporting the programs. This process marks a significant improvement in the development of training programs and together with the post-implementation evaluation of training should serve to enhance and improve the training function within the State Police.

In addition, the Academy has taken steps to become the central repository for records concerning all requests by individual troopers to attend training programs, the delivery of training to all troopers whether by the State Police or a third party and the post-delivery evaluation of those programs. In the past, the Academy was not always advised that individual members of the State Police were attending training programs conducted by third party vendors. As a result, the Academy could not maintain "quality control" over the training delivered to members of the State Police. By establishing itself as the central repository for records regarding training requests and mandating the post-delivery evaluation of those programs, the Academy can implement a measure of quality control that ensures members of the State Police do not receive training that is inconsistent with the mission and goals of the organization and the consent decree.

Supervision

Three levels of review are utilized by the State Police to monitor the activities of individual troopers during motor vehicle stops. An initial review of each stop may be conducted within the trooper's immediate chain of command. The initial review and any subsequent reviews may include an examination of all paper documents generated by the incident as well as the video tape created by the mobile video recorder. Ideally, the initial review is conducted by the trooper's immediate supervisor. A second review may be conducted by management within the State Police. The purpose of the second review is to provide an element of quality control to the supervisory reviews conducted within the chain of command. A tertiary review is conducted by staff assigned to the Office of State Police Affairs.

In the past, State Police policy dictated that all incidents in which a law enforcement action was taken following the stop of a motor vehicle would be

subject to a video tape review. That policy was modified during the fifteenth reporting period to require a mandatory review of all incidents in which there was a request for consent to search a vehicle, a canine deployment or a use of force. All other incidents were not subject to a mandatory review. During this reporting period, 376 incidents were examined for by the Office of State Police Affairs. Of those incidents, OSPA noted a supervisory or management video tape review by the State Police in 300 incidents yielding a rate of review of approximately eighty percent. Those 300 reviews yielded 109 events in which State Police supervisory or management reviews noted errors by the troopers conducting the motor vehicle stop.

Error rates by supervisors and management in this reporting period remained consistent with error rates in previous reporting periods. Of the 376 incidents it reviewed, OSPA found that the State Police failed to identify and remedy errors in 16 of the incidents. This translates into an error rate of a little more than four percent, which satisfies the benchmark established for this process.

Two issues with respect to supervision may require further attention moving forward. First, 45 percent of the initial video tape reviews that were conducted of motor vehicle stops were conducted by someone outside the trooper's immediate chain of command. The independent monitors have previously noted that the initial reviews are most effective when performed by the trooper's immediate supervisor. Shifting the responsibility for these reviews away from the immediate supervisors may dampen the effectiveness of the supervisory process as it moves forward. Second, field supervision of motor vehicle stops reviewed by OSPA fell to 34 percent and continues a trend of decreasing field supervision noted in the sixteenth report. Field supervision of critical incidents remains at very high levels. However, field supervision of non-critical incidents has decreased. Lower levels of field supervision may compromise the ability of the State Police to effectively supervise the law enforcement activities of individual troopers during motor vehicle stops. Both issues will be examined in the next report to determine whether the effectiveness of the supervisory process is being compromised.

A third issue deserves mention for a different reason. During the seventeenth reporting period, the State Police appear to have finally resolved the issues that arose following the delivery of search and seizure training by third party vendors in 2006. The issues raised by the training programs were discussed in detail in the fifteenth report. For the purposes of this report it bears repeating that the programs led to a significant increase in problematic law enforcement activities, particularly consent requests, during motor vehicle stops.

It appears that during the seventeenth reporting period effective supervision of motor vehicle stops together with in-service training programs designed to

address the issues created by the third party training programs have returned consent requests to levels consistent with reporting periods prior to the program. Supervisory and management reviews focused on correcting mistakes by individual troopers during the development of reasonable suspicion during motor vehicle stops. The New Jersey State Police Academy developed in-service training programs designed to address the principles of search and seizure during motor vehicle stops. These responses to an emerging problem provide direct support for the conclusion that the State Police has evolved into an organization that can analyze and correct problematic law enforcement activities on a "real time" basis. The State Police should be lauded for its response to this issue.

MAPPS Development

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

The evolution of the use of the MAPPS data system into a proactive problem identification and problem solving system commenced during the fifteenth reporting period. Initially, MAPPS was intended to provide the State Police with information that focused on motor vehicle stops. During the fifteenth reporting period, the State Police moved beyond that narrow focus in its use of MAPPS to focus on systemic organizational issues and to craft solutions to those issues before they negatively impact the organization in any significant way. During this reporting period, the State Police used MAPPS and its affiliated processes to respond to issues of in-field enforcement and off-duty misconduct. MAPPS developed and now maintains a database on all consent requests (with canine deployments added after the reporting period) from which the Risk Assessment Core Group (RACG) compiles a quarterly report. Work also began during the seventeenth reporting period on developing a new module for MAPPS (and its associated policies), capturing use of force for reporting purposes. And, growing out of one of the issues raised in the fifteenth reporting period, the RACG has

worked with the Office of Professional Standards to enhance flagging of alleged off-duty misconduct within its database to facilitate further RACG analyses.

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

Inspections, Audit and Quality Control

Inspections and Audit personnel from Field Operations and the Office of State Police Affairs continue to review motor vehicle stop reports and video tapes elements for conformance to the requirements of the consent decree. These quality control procedures yielded a consistency in the application of law enforcement procedures throughout the seventeenth reporting period. OSPA continues to provide the State Police with an additional tier of review for law enforcement activities related to the consent decree.

Overall Compliance Status

Compliance in all areas has met and continues to meet the requirements established by the Consent Decree. All functions subject to review under the decree including training, supervision, inspections, audits and MAPPS processes are fully staffed and functioning. In the opinion of the OSPA, the State Police continue to function as an organization that is able to "analyze and correct" problematic law enforcement procedures on a "real time" basis. This accomplishment is consistent with the goal of the Consent Decree which was to encourage the development of a law enforcement organization that was monitor its activities and adapt to changes in the legal and criminal justice environments.

Independent Monitors' Seventeenth Report
Period Ending December 30, 2007

1 Introduction

This document represents the seventeenth "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 Office of State Police Affairs regarding compliance monitoring for the period January 1, 2007 through December 31, 2007.¹

With this report, the State of New Jersey and the Office of State Police Affairs assumes the duties and responsibilities previously executed by the independent monitors. More specifically, with this report the Office of State Police Affairs has undertaken the steps necessary to review and assess the efforts of the State Police to maintain compliance with the Consent Decree and to report the results of its assessment and review to the Department of Justice.

The Office of State Police Affairs was tasked with the responsibility of preparing the seventeenth report with the encouragement and consent of the independent monitors and the Department of Justice. Following the release of the sixteenth report and the Report of the Advisory Committee on Police Standards, discussions were held between the independent monitors, the Department of Justice, the State of New Jersey and the Office of State Police Affairs as to the preparation of the seventeenth report.² From those discussions, it was agreed that the Office of State Police Affairs would begin to assume the duties formerly performed by the independent monitors including the preparation of the seventeenth report. It was further agreed that the seventeenth reporting period would encompass the 2007 calendar year due to the timing of the sixteenth report which was issued in August of 2007 and the completion of the Report of the Advisory Committee on Police Standards which was released in December of 2007.

¹ Throughout this report, the terms "Office of State Police Affairs" and "monitoring team" will be used interchangeably. The reader should not read either term to include the work of the independent monitors.

² In August of 2006, Governor Corzine established by executive order the Advisory Committee on Police Standards. The committee was asked to perform several functions including making recommendations to the governor concerning whether the State should join the Department of Justice in moving to terminate the Consent Decree. The committee was also asked to identify those measures that would ensure that the New Jersey State Police maintain the reforms implemented under the Consent Decree.

In addition, it was agreed that the Office of State Police Affairs would prepare a draft of the seventeenth report for the review and signature of the independent monitors. In doing so, it also was agreed that independent monitors would retain final authority with respect to content and analysis contained in the report.

The report is organized into three sections, identified below:

- Introduction;
- Compliance Assessment; and
- Summary.

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

1.1 Overall Status Assessment

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

1.2 Format for Compliance Assessment

The 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 paragraph 26). The remaining 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. All data collected were of one of two types. They were either collected by:

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

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

The monitoring team assessed the performance of the New Jersey State Police on each task outlined in the Consent Decree for the calendar year ending December 31, 2007.³ The sixteenth independent monitors' report was submitted to the court in August of 2007.

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

- Official New Jersey State Police documents prepared in the normal course of business;⁴ and/or
- Electronic documents prepared by the State or components of state government during the normal course of business.

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

³ Motor vehicle stop activity was assessed through December 31, 2007, the last available date for complete electronic records for motor vehicle stops in order for the monitoring team to begin reviews in March 2008.

⁴ 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.

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, constitutionally relevant 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. For tasks not directly related to constitutional issues, e.g., recording of specific motor vehicle stop events, the parties and the monitors have agreed to hold the state to a 90 percent standard.

1.3.4 Compliance with a Hypothetical Task

Task nn	1	2	3	4	...	8	9	10	11	12	13	14
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 was attained in the twelfth reporting period, much later than required by the Decree, and thus *did* seriously threaten the State’s successful compliance with the Decree.

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 focuses on issues of operational compliance and institutionalizing change into the day-to-day operations of the agency.

In preparing previous reports, the independent monitors developed and employed specific methods and practices to determine compliance with the Consent Decree. Because the Consent Decree remains in effect and the independent monitors will review and approve a draft of the seventeenth report prepared by the Office of State Police Affairs before its submission to the federal court, the monitoring team closely adhered to the methods and practices previously implemented by the independent monitors to assess motor vehicle stops including critical incidents (Tasks 26 through 39), Management Awareness and Personnel Performance System (Tasks 40 through 54) and training (Tasks 97 through 109). The following is a brief outline of the methods and practices

implemented by the independent monitors in previous reports and utilized by the monitoring team in preparing the seventeenth report:

Motor Vehicle Stops

The Consent Decree mandates that all incidents defined as critical by the State and the independent monitors be reviewed for compliance with the Decree.⁵ Each review of a critical incident consists of two phases. In the first phase, an examination is conducted of all of the reports prepared as a result of the incident (stop report, arrest report, etc.). In the second phase, the tape produced by the motor vehicle recorder during the stop is examined. The review serves two purposes. First, each review determines whether the actions of the State Police were consistent with federal and State constitutional law. Second, each review determines whether the actions of the State Police were consistent with the provisions of the Consent Decree and specific rules and regulations adopted by the State Police.

The Office of State Police Affairs continued the practices outlined above. A total of 184 reviews of critical incidents were conducted during the preparation of this report. The number of critical reviews is higher than the number of critical incidents reviewed by the independent monitors in previous reports. The higher number of critical incidents for this report is attributable to the fact that this reporting period encompasses entire calendar year rather than the more typical six month reporting period. Some critical incidents included more than one law enforcement activity (e.g., consent request, canine deployment, etc.).

In addition to the incidents outlined above, the independent monitors also examined a sizable number of incidents that were drawn from a larger number of motor vehicle stops in which other significant law enforcement activity took place.⁶ A review of all reports associated with these stops would be conducted by the independent monitors. In addition, a review of the tapes produced by the motor vehicle recorders during these stops would be conducted for a selected number of stops. For this report, 192 of these more routine motor vehicle stops were chosen for review by the Office of State Police Affairs. The reviews

⁵ The State and the independent monitors have agreed that the following law enforcement activities constitute critical incidents in the context of a motor vehicle stop: a) a consent to search request is made; b) physical, mechanical or deadly force is used; or c) a canine deployment occurs.

⁶ The significant law enforcement activities specified by the decree include probable cause arrests, probable cause searches, frisks of the person and the seizure of contraband.

undertaken by the monitoring team utilized the same practices and statistical analyses implemented by the independent monitors in previous reports.

Management Awareness and Personnel Performance System

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

Training

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

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 sixteenth Monitors' Report contain a detailed assessment of the degree to which the State has complied with the tasks to which it agreed on December 30, 1999. The reporting period for this report deals with actions of the State to comply with the Decree between October 1, 2006 through March 31, 2007.

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 seventeenth site visit, members of the Office of State Police (OSPA) monitoring team conducted structured reviews of the operations of sampled New Jersey State Police Road Stations for all troops, with the exception of Troop B. These reviews were conducted of motor vehicle stop operations reported during the dates January 1, 2007 through December 31, 2007, inclusive (the last month for which electronic data were available).⁷ As part of this review, members of

⁷ The seventeenth reporting period is the only period in which a full year of data were analyzed, a fact that led to higher numbers of reported post-stop activities.

the monitoring team collected and/or reviewed course-of-business data on 376 New Jersey State Police motor vehicle stop incidents. In addition, the team reviewed 272 motor vehicle stop incidents involving law enforcement procedures stipulated in the Decree through mobile video recordings (MVRs), available from cameras mounted in patrol cars and microphones attached to troopers on scene. Supporting documentation was reviewed for each of the motor vehicle stops assessed by the monitoring team. The following paragraphs describe the monitoring team's methodology for data collection and analysis 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 beginning reviews in March 2008, the monitoring team requested of the New Jersey State Police electronic and hard copy (non-electronic) data regarding State Police operations. These data requests included the following electronic-format data:

- Electronic data for all motor vehicle stop activity for the troops selected relating to an incident in which personnel engaged in one of the eight articulated post-stop law enforcement procedures of interest to the Decree, i.e., request for permission to search; conduct of a consensual or non-consensual search of a person or vehicle; ordering occupants out of a vehicle; frisks of vehicle occupants; deployment of a drug-detection canine; seizure of contraband; arrest of the occupants of the vehicle; or use of deadly, physical, mechanical or chemical force.
- Electronic data for all trooper-initiated motor vehicle stop "communications center call-ins" for the stations selected, including time of completion of the stop and results of the stop.
- The monitoring team also requested copies of documentation created for all consent search requests, canine deployments, and incidents involving use or force by New Jersey State Police personnel statewide, where such events took place in conjunction with a motor vehicle stop, as defined by the Decree. The request covered all these events in 2007.

Based on these data requests, the monitoring team was provided with all motor vehicle stop (MVS) records for Troops A, C, D and E (taken from the State's motor vehicle stop report entry system) referred to by the New Jersey State Police as motor vehicle stop "event" records. Computer Assisted Dispatch (CAD) System records were also requested by the monitors for all motor vehicle stop activity for

the selected stations from July 1, 2007 through December 31, 2007. This selection process differed from previous reporting periods.⁸

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

Table One: Incidents Reviewed by Monitoring Team
For Seventeenth Site Visit
(January 1, 2007 through December 31, 2007)

Type of Activity	Report Reviews	Tape Reviews ⁹
Selected MVS Incidents	376	272
MVS Involving Consent Search Requests	142	141
MVS Involving Canine Deployment	55	54
MVS Involving Use of Force	30	30
Probable Cause Searches of Vehicles	157	103
Probable Cause Searches of Persons	61	59

Motor Vehicle Stops

Based on the data provided by the New Jersey State Police, 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 of person or vehicle; ordering occupants out of a vehicle; frisks of vehicle occupants; deployment of a drug-detection canine; seizure of contraband; arrest of the occupants of the vehicle; or use of deadly, physical, mechanical or

⁸ Past monitoring reports drew sample events for the same time period as for the incidents involving consent requests, canine deployments and uses of force, and, from only two troops on a rotating basis. Because only one monitoring report is being produced for calendar year 2007, all four troops that would have comprised the universe for events in two monitoring periods were sampled. These events were chosen from the latter half of 2007 to insure review of the most recent data possible and to expedite retrieval of motor vehicle recordings.

⁹ Tape and report reviews total more than 376 due to the fact that *all* tapes and *most* reports reviewed included more than a single class of law enforcement activity.

chemical force, for each road station assessed. These events were identified using the CAD records provided by the New Jersey State Police.

The overall *sample* of 376 drivers includes all 184 drivers who were subjected to a critical post-stop interaction, i.e., a consent search request, canine deployment or use of force. In addition, the monitors selected 192 other drivers as part of the seventeenth report's driver sample. These drivers were selected from Troops A, C, D, and E based on their status as having had a non-critical post-stop interaction performed during their traffic stop, e.g., exit from a vehicle, frisk, probable cause search of a person, probable cause search of a vehicle, or arrest. In effect, then, 48.9 percent of the seventeenth report's drivers sample was selected in response to a given New Jersey State Police action and produced a statewide sample, and 51.1 percent was selected by the monitors, and produced a Troops A, C, D, and E sample.

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;
- 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 113 events that resulted in consent search requests were from the stations selected for review this reporting period, and 29 such events were from other units (stations in Troop B or other, non-road station units), for a total of 142 consent search requests.¹⁰ All incidents involving consent search requests were assessed by reviewing New Jersey State Police reports documenting the consent and execution of the search, and by reviewing the available video tape records for those consent requests. All but one consent

¹⁰ Drivers declined 32 consent requests during the reporting period.

searches conducted was subjected to both documentation and video recording review by the monitoring team.¹¹

Similarly, the New Jersey State Police deployed drug detection canine units 55 times during the reporting period. The monitoring team reviewed reports from 55 of these events, and the monitoring team also reviewed videos from 54 of those events. New Jersey State Police personnel reportedly used force in 30 motor vehicle stop incidents during the reporting period, and the monitoring team reviewed all reports from those incidents. 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.

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

Type I Event Reviews

A Type I event review consisted of reviewing all available hard-copy and electronic documentation of an event. For example, an event review could consist of reviewing the motor vehicle stop report, associated records in the patrol log, a supporting consent to search report, and associated summonses or arrest records. Each post-stop event consisting of law enforcement procedure of interest to the Decree, i.e., request for permission to search; conduct of a consensual or non-consensual search; ordering occupants out of a vehicle; frisks of vehicle occupants; deployment of a drug-detection canine; seizure of contraband; arrest of the occupants of the vehicle; or use of deadly, physical, mechanical or chemical force was subjected to a structured analysis using a form developed by the monitoring team. Problems with the reporting process were noted and tallied using this form. These data were shared with the New Jersey State 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 376 Type I reviews were conducted this period.

¹¹ One consent request (which was denied) was not recorded due to a malfunction of the video recorder. This event also included a canine deployment.

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 272 Type II reviews was conducted this period.

Table Two: Distribution of Monitoring Events

Station	Type I Reviews	Type II Reviews	Type III Reviews
A040 Bridgeton	19	14	0
A050 Woodbine	6	0	0
A090 Buena Vista	5	3	0
A100 Port Norris	7	5	0
A140 Woodstown	18	13	0
A160 Atlantic City Exp.	43	17	0
A310 Bellmawr	17	11	0
C020 Bordentown	17	10	0
C030 Allenwood	12	12	0
C040 Kingwood	3	1	0
C060 Hamilton	13	4	0
C080 Red Lion	11	9	0
C120 Tuckerton	7	4	0
D010 Cranbury	33	28	0
D020 Moorestown	43	36	0
D030 Newark	21	19	0
E030 Bass River	15	10	0
E040 Bloomfield	9	8	0
E050 Sayreville	12	11	0
Other	65	57	0
Total	376	272	0

Type III Event Review

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

Status

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. In past reports, the vast majority of all sampled searches of persons and vehicles conducted by members of the State Police were "non-discretionary," e.g., searches incidental to arrest. Based on revised New Jersey case law,¹² effective the fifteenth reporting period, the search of a vehicle can no longer be conducted as incidental to arrest, leading to a substantial change in the nature of searches of vehicles. "Consent request" now is the number one reason for a search of a vehicle, with 53.6 percent of all sampled searches of vehicles based on a request for consent to search in the monitoring team's review sample. [This rate is calculated as 142 consent requests divided by 265 vehicle searches---an event calculation; some events had more than one type of vehicle search.] Of the 244 searches of persons reviewed this reporting period, 183 were "non-discretionary" searches incidental to arrest.

As with the fifteenth and sixteenth reporting periods, two activities this period were conducted frequently enough to lend themselves to statistical analysis for indications of race- or ethnicity-based decision making on the part of the New Jersey State Police: consent requests (n=142) and canine deployments (n=55). Table Three, below, depicts consent request activity for the last nine reporting periods. Figure One depicts these data graphically. The current reporting period is divided into two six-month groupings to adjust for the full-year reporting period examined for consent requests, making each group equivalent to the

¹² State v. Eckel, 185 N.J. 523 (2006).

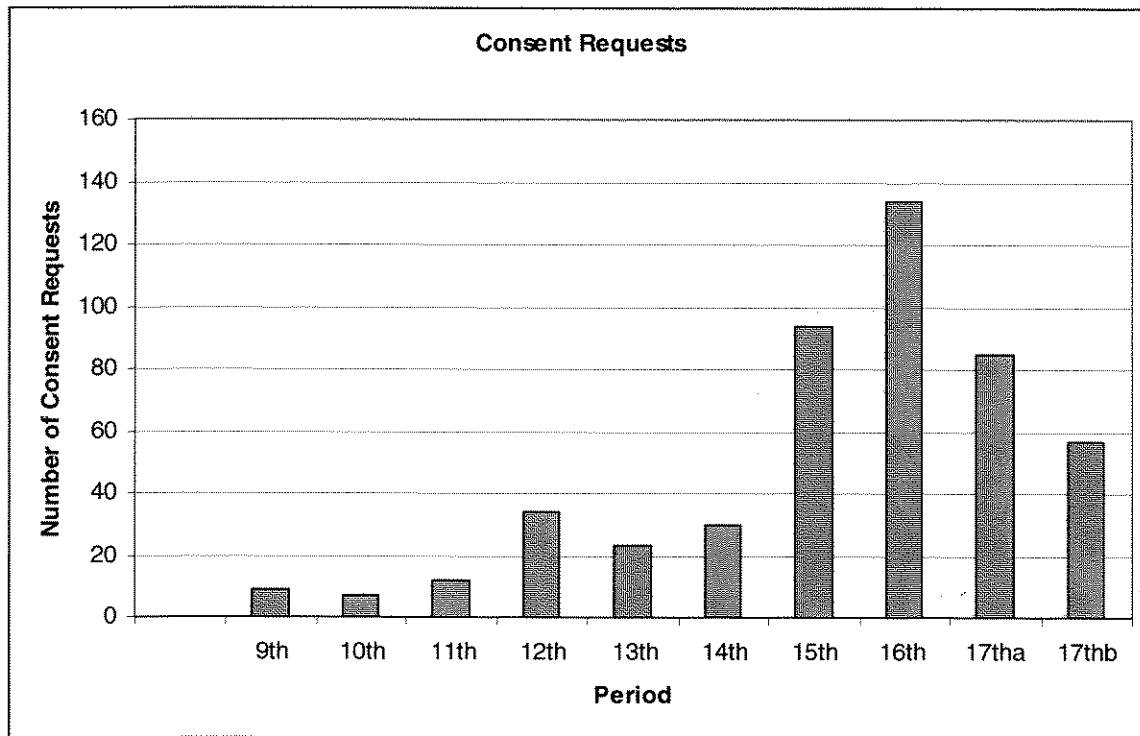
length of the 16th reporting period. The data show a continued decrease in the number of consent requests, which peaked in the previous reporting period.

Table Three: Consent Requests for Past Nine Reporting Periods

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

¹³ During the fifteenth reporting period, the decision in State v. Eckel (185 NJ 523 (2006)) removed "search incidental to arrest" as a legal justification for search of vehicle.

¹⁴ The 17th reporting period is divided into two, six-month periods.

Figure One: Consent Search Requests by Reporting Period¹⁵

Data in Table Four depict the total number of drivers by race, who were and were not asked for consent to search in the overall sample of 376, and the percentage of drivers by race (in parentheses) for each group. For example, Table Four depicts a sample of drivers *not asked* for a consent to search for this period of 234, with 63, or 26.9 percent being white. Similarly, Table Four depicts consent search requests for 72 black drivers, or 50.7 percent of the total of 142 drivers who were *asked* for permission to search their vehicles.¹⁶ The data in Table Four thus show that the highest proportion of consent requests were of black drivers, (by a factor of as much as more than two times that of white and Hispanic drivers). Black drivers comprised a higher percentage of consent requests in this period compared to the sixteenth period, when they were 39.6 percent of consent requests. The proportion of consent requests made of Hispanic drivers decreased from the previous period when it was more similar to that for black drivers. As in sixteenth report, these data are statistically significant at the 0.05 level, indicating that the differences are not attributable to

¹⁵ The 17th reporting period is divided into two, six-month periods.

¹⁶ A total of 32 drivers refused consent.

chance.¹⁷ A statistically significant result does not "prove" that the differences observed in post-stop law enforcement actions were attributable to race or ethnicity. The result simply indicates that the outcomes observed this reporting period relating to consent requests have a five-percent (or less) probability that they were due to chance.

Table Four: Consent Requests by Race-Ethnicity of Driver
17th Reporting Period

Race/Ethnicity	No Consent Request (%)	Consent Request (%)
White	63 (26.9)	34 (23.9)
Black	90 (38.5)	72 (50.7)
Hispanic	81 (34.6)	33 (23.2)
Asian Indian	0 (0.0)	1 (0.7)
Other	0 (0.0)	2 (1.4)
Total	234 (100.0)	142 (100.0)

Similarly, as shown in Table Five, black drivers also comprised the highest proportion of drivers in events involving canine deployments, (by a factor of over two). Table Five depicts a canine deployment occurred for 30 black drivers, or for 54.5 percent of the total of 55 drivers who had a canine unit deployed for *drug detection* purposes during their motor vehicle stop. The same table depicts a total sample of drivers in events *without* a canine deployment for this period of 321, with 132 drivers, or 41.1 percent, being black. Thus, black drivers predominate among those events with and without a canine deployment. Unlike the distribution in the sixteenth report, these data are then *not* statistically significant at the 0.05 level, indicating that the differences may be attributable to chance.¹⁸

¹⁷ *Chi-Square* analysis of consent request data yielded a *Chi-Square* of 7.149 with two degrees of freedom, and a *p*-value 0.028. The distribution was statistically significant at the 0.05 level. See Annex Two for a brief description of degrees of freedom and *p*-values. The *Chi-Square* test was run on **white versus black and Hispanic drivers only**, as inclusion of other categories generated at least one expected frequency less than "5."

¹⁸ *Chi-Square* analysis of these data yielded a *Chi-Square* of 3.942 with two degrees of freedom, and a *p*-value of 0.139. The distribution was not statistically significant at the 0.05 level. See Annex Two for a brief description of degrees of freedom and *p*-values. ***The Chi-Square test was run on white versus black and Hispanic drivers only, as inclusion of other categories generated at least one expected frequency less than "5."*** See Annex Two, for the data table reporting these data.

Table Five: Canine Deployments by Race-Ethnicity of Driver,
17th Reporting Period

Race/Ethnicity	No Canine Deployment (%)	Canine Deployment (%)
White	87 (27.1)	10 (18.2)
Black	132 (41.1)	30 (54.5)
Hispanic	100 (31.2)	14 (25.5)
Asian Indian	1 (0.3)	0 (0.00)
Other	1 (0.3)	1 (1.8)
Total	321 (100.0)	55 (100.0)

The reader should note that Tables Four and Five compare drivers who are subjected to consent requests and canine deployments to the sampled drivers who *were not* subjected to such post-stop activities, by race and ethnicity and the *Chi-square* analysis assessed whether or not the comparison was strong enough to be statistically significant. As noted previously, the overall sample of 376 drivers includes all 184 drivers who were subjected to a critical post-stop interaction, e.g., a consent search request, canine deployment or use of force. In addition, the monitors selected 192 other drivers as part of the seventeenth report's driver sample, based on their status as having had a non-critical post-stop interaction performed during their traffic stop, e.g., exit from a vehicle, frisk, probable cause search of a person, probable cause search of a vehicle, or arrest.

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

2.2.1 Qualitative Analysis of Stop and Interaction Data

Background

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

For example, in the sample for the seventeenth reporting period, New Jersey State Police personnel arrested 1.3 times more white drivers than black drivers. Table Six depicts arrest data by race and ethnicity. The distribution of arrest by race and ethnicity is statistically significant, i.e., not attributable to chance. (See Annex Two for statistical data tables.) In reviewing these data, we find that 76 percent of white drivers stopped by New Jersey State Police personnel and in this sample were arrested, compared with only 59 percent of black drivers and 57 percent of Hispanics drivers sampled. An analysis of the qualitative differences in the arrests—or more specifically the *reason* for the arrests—partially illustrates *why* these differences in arrest rates were observed.

Table Six depicts the results of the *qualitative* analysis of arrest data, and indicates the execution of non-discretionary arrests 15 percent of the time with white drivers' vehicles because they (or a passenger) had outstanding warrants, non-discretionary arrests 40 percent of the time with black drivers' vehicles because they (or a passenger) had outstanding warrants, and non-discretionary arrests of 19 percent of Hispanic drivers' vehicles because they (or a passenger) had outstanding warrants. Taking that fact into consideration, the operative question then becomes "How did New Jersey State Police troopers make decisions in the *discretionary aspects* of their interactions with drivers?"

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

Table Six: Arrest Data by Race-Ethnicity of Driver,
17th Reporting Period¹⁹

Race/ Ethnicity	a. All Drivers Stopped (% of Total)	b. No Arrest (% of a)	c. Arrest (% of a)	d. Warrant- Based Arrests (% of c)	e. Probable Cause-Based Arrests (% of c)
White	97 (25.8)	23 (23.7)	74 (76.3)	11 (14.9)	63 (85.1)
Black	162 (43.1)	67 (41.4)	95 (58.6)	38 (40.0)	57 (60.0)
Hispanic	114 (30.3)	49 (43.0)	65 (57.0)	12 (18.5)	53 (81.5)
Asian Indian	1 (0.3)	1 (100.0)	0	0	0
Other	2 (0.5)	1 (50.0)	1 (50.0)	0	1 (100.0)
Total	376 (100.0)	141 (37.5)	235 (62.5)	61 (26.0)	174 (74.0)

The majority of arrests made by New Jersey State Police troopers in the data sampled by the monitors this period were non-discretionary. Over one-quarter of the arrests (26 percent) were arrests only for outstanding warrants. Of the probable cause arrests, 94 of the 174 were drunk driving arrests and the remainder were for possession of contraband or overt criminal activity in view of the arresting trooper. Thus, while arrest rates *are* different, by race, it appears that they are different based on the *nature* of the interaction and the criminal offenses committed in the troopers' presence, not based on *race*.

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

¹⁹ *Chi-Square* analysis of these data yielded a *Chi-Square* of 10.377 with two degrees of freedom, and a *p* value of 0.006. The distribution was statistically significant at the 0.05 level. See Annex Two for a brief description of degrees of freedom and *p*-values. *The Chi-Square test was run on white versus black and Hispanic drivers only, as inclusion of other categories generated at least one expected frequency less than "5."* See Annex Two, for the data table reporting these data.

2.2.2 Theoretical Bases for Analysis of Post-Stop

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

2.2.2.1 A Discretionary Model of Policing

Constructing the model of discretionary policing is straightforward:

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

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

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

*The universe of variables leading to execution of outcome variables (stop, detention, arrest, etc.) are the events commonly referred to as "reason for the stop." These events are considered "input variables," in that they are the events that give rise to the use of law enforcement powers and can be classified into three groups, depending on the amount of discretion associated with them. Theoretically, some activities **will almost always** result in a law enforcement response if they are observed by the police (low discretion); other activities **usually will** result in a law enforcement response if they are observed by the police (median discretion); and, a third class of violations **will less often** result in a law enforcement response if they are observed by the police (high discretion). Annex One contains a categorical list of reasons for law enforcement stops.²⁰*

²⁰ The independent monitors previously discussed with New Jersey State Police personnel the nature of the "reason for stop" offenses. While there remain some differences in opinion regarding high versus low discretion incidents, the framework presented above is the best available framework obtainable, in the monitors' opinion, to assess the exercise of discretion in studied traffic stops. Further work in this area *may require* revision of the reason for stop continuum. For example, motorist aids are non-discretionary, and are often dispatched rather

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

The critical decision point is the decision point in deciding to take enforcement action on a highly discretionary violations or activity. If discretion will be abused to any significant degree, it will be in areas of enforcement in which high levels of discretion are present.

- Define abuse of discretion; and

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

- Test for abuse of discretion.

If there is no abuse of discretion, there would be no difference in stop rates of drivers sampled this reporting period (by race or ethnicity), for highly discretionary violations. There would also be no difference in outcome variables (stop, detention, warning, citation, release, frisk, arrest, search, use of force, and seizure) by race and ethnicity for these highly discretionary violations.²¹

Table Seven, below, depicts the results of the analysis for sampled drivers stopped by the New Jersey State Police this reporting period and eventually asked for consent to search the vehicle by the *reason* for the traffic stop. The results of the *Chi*-Square analysis are ***not significant***, yielding a test statistic of 2.889 with two degrees of freedom. The test statistic is not significant at the 0.05 level.

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

²¹ After controlling for intervening variables such as lack of identification, proof of ownership, etc.

Table Seven:
Consent Request by Race-Ethnicity of Driver and
Reason for Stop (Level of Discretion)
17th Reporting Period²²

Race/Ethnicity	High Discretion Stops (1)	Median Discretion Stops (2)	Low Discretion Stops (3)	Mean
White	16	6	12	1.88
Black	26	7	39	2.18
Hispanic	12	6	15	2.09
Asian Indian	0	0	1	--
Other	1	0	1	--
Total	55	19	68	2.09

Higher scores for each driver group (white, black and Hispanic) indicate less use of discretion, i.e., higher scores demonstrate less of a tendency to stop drivers for highly discretionary violations and then request consent to search. The intragroup mean (arithmetical average) is a statistic that allows the inference of the *direction* of any potential bias, as the *Chi-Square* statistic does not impute the direction of any group differences. While the mean is not dispositive of bias, it *does allow* the reader to impute the *direction* of any potential bias. Thus, the *Chi-Square* and the mean, taken together, can be used to determine whether any potential bias was observed (based on race and/or ethnicity) and the *direction* of that potential bias. The *direction* of any potential bias demonstrated by the data in Table Seven actually favors black drivers, i.e., black drivers stopped and eventually asked for consent to search, were stopped for *less* discretionary reasons than white and Hispanic drivers. The same pattern was observed in the previous reporting period. Thus, as in the sixteenth report, any suggestion that troopers were stopping minority drivers for more discretionary reasons, i.e., abusing their discretion is *not* supported by the analysis. The "drivers sampled" for this test statistic consisted of all drivers stopped by the New Jersey State Police this reporting period who were asked for consent to search and for whom a reason for the traffic stop was known.

²² A *Chi-Square* analysis was run on **white versus non-white drivers**, since the data for white, black and Hispanic drivers yielded cell sizes too small to produce a valid test statistic. The statistic of 2.889, with two degrees of freedom is not significant at the 0.05 level. See Annex Two for a brief description of degrees of freedom and p-values, and for statistical data tables.

Table Eight, below, depicts the results of the *Chi-Square* analysis for canine deployment stops by reason for the stop for the seventeenth reporting period. The drivers sampled for this table included *all* drivers stopped who eventually had a drug-detection canine deployed during their stops. The *Chi-Square* analysis for this table was ***not significant***, yielding a test statistic of 0.330 with two degrees of freedom. The result indicates that the differences observed in the data were likely attributable to chance. The test statistic is not significant at the 0.05 level.

Table Eight:
Canine Deployments by Reason for Stop (Level of Discretion)
17th Reporting Period²³

Race/Ethnicity	High Discretion Stops (1)	Median Discretion Stops (2)	Low Discretion Stops (3)	Mean
White	4	2	4	2.00
Black	14	4	12	1.93
Hispanic	4	2	8	2.29
Asian Indian	--	--	--	--
Other	--	--	1	--
Total	22	8	25	2.05

Again, the *Chi-Square* and the mean, taken together, can be used to determine whether any potential bias was observed (based on race and/or ethnicity) and the *direction* of that potential bias. The *direction* of any potential bias in this reporting period favors Hispanic drivers, with black and white drivers stopped and subject to canine deployments stopped for *more* discretionary reasons than Hispanic drivers. Thirteen black drivers had canines deployed in conjunction with a denied consent request, as did seven white drivers. In the previous reporting period, the difference in stop reason discretion across driver groups was also not statistically significant, but the means indicated bias favoring white drivers. The findings for black drivers are consistent across the periods, indicating somewhat more discretionary reasons for stops among black drivers whose vehicles were later subject to canine deployments.

²³ A *Chi-Square* analysis was run on *white versus non-white drivers*, since the data for white, black and Hispanic drivers were too small to produce a valid test statistic. A *Chi-Square* statistic of 0.330, with two degrees of freedom is not significant at the 0.05 level. See Annex Two for a brief description of degrees of freedom and p-values, and for statistical data tables.

Table Nine, below, depicts the results of the *Chi-Square* analysis for all motor vehicle stops by reason for the stop. The analysis, as in the 16th reporting period, is ***not significant*** at the 0.05 level, indicating that any differences in scores among races and ethnicities are attributable to chance. The results of the *Chi-Square* analysis yield a test statistic of 0.635 with four degrees of freedom. There is no statistically significant support for the hypothesis that troopers represented in this sample of stopped drivers are stopping vehicles at a higher rate, or engaging in articulated post-stop activities, based on the race or ethnicity of the drivers. The *direction* of the analysis favors white drivers, as did the analysis in the previous reporting period, i.e., white drivers stopped were stopped for *less* discretionary reasons than black and Hispanic drivers. Any suggestion that troopers were stopping minority drivers for more discretionary reasons, i.e., abusing their discretion is again *not* supported by the statistical analysis.

Table Nine:
Sampled Vehicle Stop Rates by Reason for Stop (Level of Discretion)
17th Reporting Period^{24,25}

Race/Ethnicity	High Discretion (1)	Median Discretion (2)	Low Discretion (3)	Mean
White	32	27	38	2.06
Black	61	41	60	1.99
Hispanic	41	31	42	2.01
Asian Indian	0	0	1	--
Other	1	0	1	--
Total	135	99	142	2.02

Table Ten, below, depicts the results of the *Chi-Square* analysis for the *reason* for consent request. As with the reason for the stop, reason for consent request was classified into three groups: intangible, tangible, and probative. Intangible reasons included observations such as nervousness, failure to make eye contact, uncertainty in answers, and conflicting statements. Tangible reasons included the existence of air fresheners, modifications to vehicle interiors, "boost" cell phones, etc. Probative reasons included artifacts of gang membership (such as tattoos, admitted membership), odor of burnt or raw marijuana in the vehicle, admissions

²⁴ A *Chi-Square* statistic of 0.635, with four degrees of freedom is not significant at the 0.05 level. See Annex Two for a brief description of degrees of freedom and p-values, and for statistical data tables.

²⁵ ***Other race and ethnicity classifications were deleted from the Chi-Square table as they generate expected frequencies below "5".***

against self-interest, criminal histories related to a tangible crime. The results of the *Chi-Square* analysis yielded a test statistic of 3.368 with two degrees of freedom. The data are ***not significant*** at the 0.05 level, indicating **no** statistical difference in reason for consent request by race and/or ethnicity. The statistical outcome was different in the sixteenth reporting period, when the differences in reasons for consent requests by race and ethnicity yielded a statistically significant *Chi-Square* test.

Table Ten:
Reason for Consent Request by Race and Ethnicity
17th Reporting Period²⁶

Race/Ethnicity	Intangible (1)	Tangible (2)	Probative (3)	Mean
White	2	3	29	2.79
Black	4	12	56	2.72
Hispanic	7	8	18	2.33
Asian Indian	0	0	1	--
Other	0	2	0	--
Total	13	25	104	2.64

As with the scores for discretion in the reason for stop, *higher* scores above for any driver group (white, black and Hispanic) indicate less use of discretion. Here, higher scores demonstrate a tendency to request consent for more probative reasons. The intragroup mean (arithmetical average) is a statistic that allows the inference of the *direction* of any potential racial or ethnic bias, as the *Chi-Square* statistic does not impute the direction of any group differences. While the mean is not dispositive of bias, it *does allow* the reader to impute the *direction* of any potential bias. Thus, the *Chi-Square* and the mean, taken together, can be used to determine whether any potential bias was observed (based on race and/or ethnicity) and the *direction* of that potential bias. The *direction* of any potential bias actually somewhat favors white and black drivers, i.e., white and black drivers stopped and eventually asked for consent to search were asked for *less* discretionary reasons than Hispanic drivers. In the previous reporting period, the direction of any potential bias favored black drivers. Hispanic drivers in both reporting periods were least likely to have consent requested for probative reasons.

²⁶ A *Chi-Square* analysis was run on ***white versus non-white drivers***, since the data for white, black and Hispanic yielded cell sizes too small to produce a valid test statistic. A *Chi-Square* statistic of 3.368, with two degrees of freedom is not significant at the 0.05 level. See Annex Two for a brief description of degrees of freedom and p-values, and for statistical data tables.

Table Eleven, below, depicts the result of the analysis of the *outcome* of consent requests, by race and ethnicity. Consent requests were characterized as either appropriate (meeting all requirements of the Consent Decree) or inappropriate (*not* meeting Consent Decree requirements). The results of the *Chi-Square* analysis are ***not significant*** at the 0.05 level, yielding a test statistic of 1.401 with one degree of freedom. Intragroup means indicate that *white* drivers' consent requests tended to be classified as "appropriate" more often than non-white drivers; black drivers' and Hispanic drivers' consent requests tended to be classified as "inappropriate" more often than those of white drivers.

The reader should note that *all but four* inappropriate consent request errors were caught by New Jersey State Police and corrected by supervisory and management processes prior to the time that the monitors selected their traffic stops for review this reporting period.

Table Eleven:
Outcome for Consent Request by Race and Ethnicity
17th Reporting Period^{27,28}

Race/Ethnicity	Inappropriate (1)	Appropriate (2)	Mean
White	2	32	1.94
Black	10	62	1.86
Hispanic	6	27	1.82
Asian Indian	0	1	--
Other	1	1	--
Total	19	123	1.87

Higher intragroup mean scores for any driver group (white, black and Hispanic) here indicate fewer procedural or Constitutional problems, i.e., higher scores demonstrate less of a tendency to improperly use the consent request process available to enforcement personnel. While the mean is not dispositive of bias, it *does allow* the reader to impute the *direction* of any potential bias. The *direction* of any potential bias actually favors white drivers, i.e., white drivers stopped and

²⁷ A *Chi-Square* statistic of 1.401, with one degree of freedom is not significant at the 0.05 level. See Annex Two for a brief description of degrees of freedom and p-values, and for statistical data tables.

²⁸ A *Chi-Square* analysis was run on ***white versus non-white drivers***, since the data for white, black and Hispanic yielded cell sizes too small to produce a valid test statistic. *Chi-square* statistic reported with Yates' correction for a table with two categories only for both row and column values.

eventually asked for consent to search, were subjected to fewer procedural or Constitutional problems than black and Hispanic drivers. In the sixteenth reporting period, black drivers' consent requests were more likely to be classified as "appropriate," and, those of Hispanic drivers were also least likely to be so classified. However, the means in the current reporting period are more similar than in the previous period, indicating less difference between driver groups.

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

Table Twelve, below, depicts the daytime and nighttime distributions of consent requests for New Jersey State Police troopers during the seventeenth reporting period, according to the discretion in the initial reason for the stop. If troopers effecting the stops covered in this table were abusing their discretion, one would expect the daytime consent requests to show a tendency to follow stops for more discretionary infractions (high discretion stops) with non-white drivers than nighttime consent requests, yielding a *lower mean* for drivers of color than for white drivers. Conversely, the nighttime stops would be expected to show *no difference* in stop rates vis-à-vis levels of discretion. In fact, Table Twelve indicates, the *direction* of discretion in reasons for daytime stops that led to a consent request tends to indicate more discretionary stops of whites than minorities (i.e., minorities have a higher mean stop score, indicating fewer stops of minorities for high discretionary events than for whites), and the *direction* of the means for nighttime stops tends to indicate the same pattern. In the sixteenth report, daytime stops showed lower discretion in the reason for stops leading to consent requests of white drivers; night-time patterns were somewhat different, but comparisons were hampered by the relative few number of consent requests at night.

Table Twelve:
Daytime v. Nighttime Consent Requests by Reason for the Stop,
17th Reporting Period²⁹

Race/Ethnicity	Daytime Stops				Nighttime Stops			
	High Discretion (1)	Median (2)	Low Discretion (3)	Mean	High Discretion (1)	Median (2)	Low Discretion (3)	Mean
White	7	3	5	1.87	9	3	7	1.89
Black	12	1	16	2.14	14	6	23	2.21
Hispanic	7	2	10	2.15	5	4	5	2.00
Asian Indian	--	--	1	--	--	--	--	--
Other	--	--	--	--	1	--	1	--
Total	26	6	32	2.09	29	13	36	2.09

After the qualitative assessment of the input and outcome variables regarding traffic stops this reporting period, the monitors could find *no statistical support suggesting* consistent bias in the way various groups of drivers were treated during post-stop law enforcement activities. As in the sixteenth report, a statistically significant difference was found in the rate of consent requests in the monitors' sample by race and ethnicity. While the number of consent requests has been declining since their peak in the previous reporting period, there remained sufficient numbers of requests in the year-sample to produce a valid statistical result and then to pursue further, qualitative analyses to assess if race or ethnicity could lead to bias in trooper decision-making. (The statistically significant difference by race and ethnicity for canine requests found in the last report was not repeated in the current period.) And, in the sixteenth report, there was also a statistically significant difference in the reasons for the consent requests by race and ethnicity, which was not found in the data reported here. Arrest rates again were significantly different by race and ethnicity. However, further examination here showed little discretion in the arrests of blacks as many were made because of outstanding warrants and that the probable cause leading to the arrests for all groups often came from evidence of drunk driving. For the full monitors' sample there was no significant difference by race and ethnicity in the level of discretion exercised in the decision to make the stop. When the discretion in the reason for stop was examined in stops leading to

²⁹ The data did not yield a valid *Chi-square* statistic, as the cells produced at least 30 percent of expected frequencies that were less than five, for white versus nonwhite.

consent requests, there also were no statistically significant differences by race and ethnicity. That said, the direction of discretion at various decision points did vary, sometimes showing somewhat more highly discretionary reasons for minorities.

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

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. Video reviews of motor vehicle stops resulting in law enforcement procedures were conducted by State Police supervisors in 300 of 376 motor vehicle stops selected by the monitors this period, constituting a supervisory review rate of 79.8 percent. New Jersey State Police policy for video reviews includes provisions for an initial, standard review, geared to a supervisor in the trooper's chain of command, and for management reviews of the supervisor's assessment. The majority of the initial supervisory reviews conducted in the ninth reporting period were conducted by secondary supervisory sources—quality assurance reviews, reviews by enlisted personnel assigned to OSPA or by other non-station sources. Station-level supervisors conducted the majority of initial reviews conducted during the tenth through sixteenth reporting periods, although a much larger than usual number of problematic stops *were caught and corrected* at the troop-review level and the OSPA-review level in the sixteenth reporting period than during prior reporting periods. A total of 134 initial supervisory reviews, or about 45 percent, were conducted by non-station sources in the seventeenth reporting period.³⁰ Thus, many errors caught by supervisory video review in this reporting period were caught by outside sources, and not by the trooper's first-line supervisor.³¹

Members of the monitoring team noted that field supervisors were present in 34.0 percent of monitored activity this reporting period. This percentage continued a further drop in the level of in-field supervision noted in the last reporting period, which followed the highest level of in-field supervision since the inception of the Consent Decree (in the fifteenth reporting period).

As noted above, supervisors reviewed video tapes in 79.8 percent of all incidents reviewed by the monitors this period.³² This supervisory review rate yielded 109

³⁰ The majority of critical events received both an initial supervisory review and a management review.

³¹ The monitoring team also noted that only about 10 percent of the 300 events received an initial supervisory video review from the same supervisors approving the Motor Vehicle Stop Report.

³² These reviews are now conducted routinely, although the State moved to a more focused and less universal method of stop review in the sixteenth period. All reviews conducted were conducted *before* the monitors notified New Jersey State Police of which MVS incidents would be selected by the monitors.

events in which New Jersey State Police personnel committed errors related to procedure or the Consent Decree. Supervisors counseled, retrained or otherwise responded to those violations, prior to being notified by the monitoring team of the motor vehicle stops that would be reviewed this period. In reviewing the *same* documents and video tapes, the monitors noted 120 errors in procedure related to the Consent Decree. New Jersey State Police supervisory personnel noted *all but fourteen* of these violations. The errors remaining in these fourteen events³³ involved:

1. Failure to note lack of reasonable articulable suspicion to warrant consent requests (four events);
2. Failure to note lack of reasonable articulable suspicion for canine deployments (three events);
3. Failure to note a credential search that was improperly conducted and recorded as a probable cause search (one event);
4. Failure to note other lack of probable cause to conduct search (two events), e.g., the presence of EZ wider paper absent other elements;
5. Failure to note problems with a search of a cell phone on a person (one event);
6. Failure to note that a search was not video taped (one event); and,
7. Failure to note frisk of a person not based on reasonable suspicion (four events).

It is clear that the New Jersey State Police have engaged supervisory personnel in their attempts to ensure compliance with the Decree. As a result of its revised supervisory process, the New Jersey State Police have noted and corrected 109 Decree-related errors that the monitoring team would have noted after the fact. With the current supervisory system, these 109 Decree-related errors were noted and corrected before the monitors called them to the attention of the State Police. The supervisory system, did, however, fail to note and correct errors in sixteen events that should have been caught by supervisory review.³⁴ Two errors were in events not subject to prior supervisory video review:

³³ Some events had multiple errors that were not caught by supervisory review.

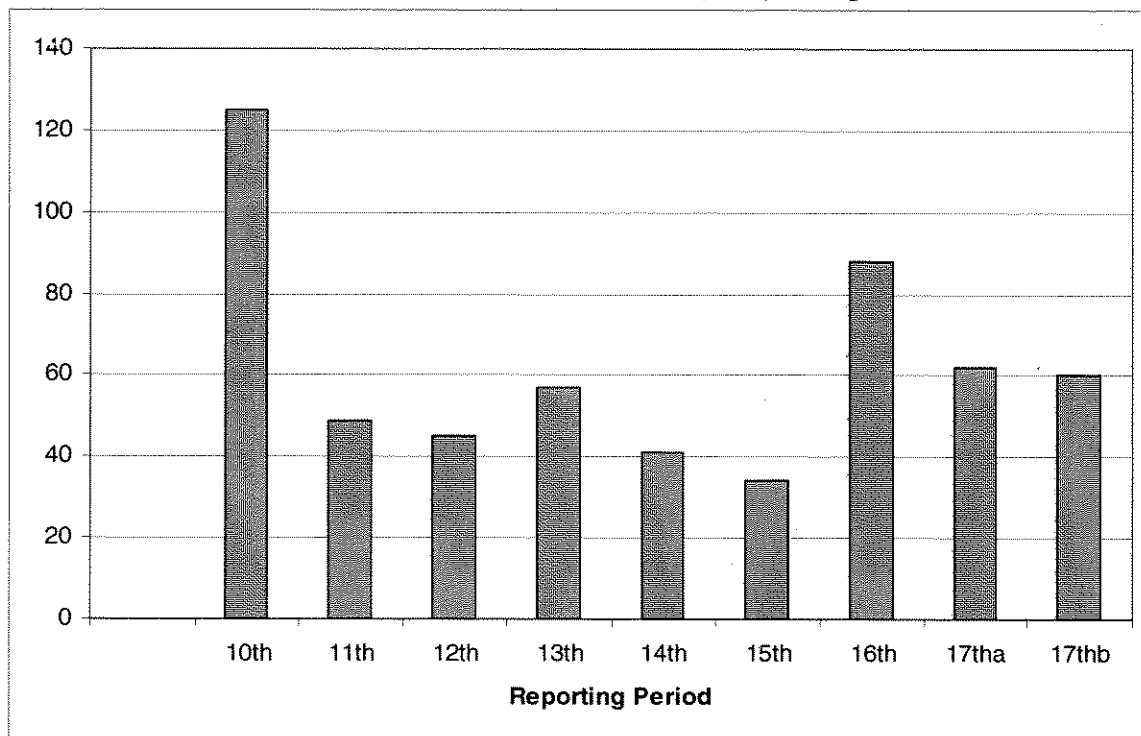
³⁴ Two of these events were reviewed only by the monitoring team and not by supervisory personnel under the revised policy implemented in the sixteenth reporting period that allows less than 100-percent review of all motor vehicle stops with post-stop interactions.

1. Failure to note that a search was not video taped (one event); and,
2. Failure to note discrepancy in reporting occupants and their activity on stop report (one 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.

The total number of errors this reporting period, at 122, is higher than in any period since the tenth, when 125 procedural or Constitutional errors were noted by the monitoring team. However, this reporting period is *twice* the length of any previous periods. Figure Two depicts the error rates for the last eight reporting periods, with 62 errors in the current reporting period reported for January through June 2007 ("17tha") and with 60 errors for July through December 2007 ("17thb"). Viewed this way, the number of errors has returned to the levels noted in the thirteenth report. It should be remembered that the monitors' sample for the first six months consists only of events most critical to the Decree, i.e., consent requests, canine requests, and uses of force. Had the monitors' sample included other events for this six-month period, the total errors might have been somewhat higher. For the second six months ("17thb") when all types of events were sampled, just 39 errors were attributable to critical events.

Figure Two:
Procedural or Constitutional Errors, by Reporting Period³⁵



Many of the problems encountered this reporting period, and those noted in the last two reporting periods, remain, in the monitors' opinion, attributable to the early 2006 training described in detail in the fifteenth monitors' report: the "drug interdiction" training offered to New Jersey State Police personnel in early 2006 by the Department of Homeland Security (DHS) and the Department of Transportation (DOT).³⁶

Figure Three, below, depicts the number of consent request activities and drug detection canine deployments, by month, for seventeenth reporting period. Preliminary data through April 2007 were presented in the sixteenth report to show the impact of remedial measures to correct the "message" delivered by this training since 2006.³⁷ Such efforts take time, and the New Jersey State Police

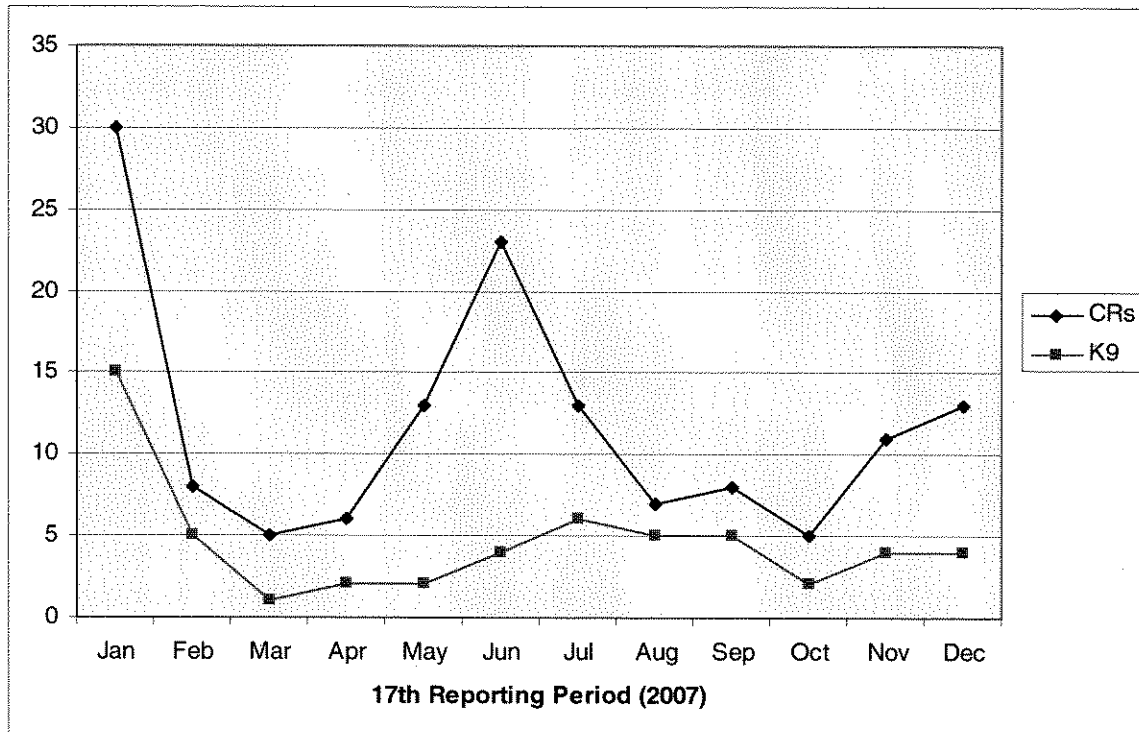
³⁵ The 17th reporting period is divided into two, six-month periods.

³⁶ The reader is referred to the Fifteenth Independent Monitors' Report, section 2.4 for a complete treatment of the issues related to DHS and DOT drug interdiction training.

³⁷ The reader is referred to the Sixteenth Independent Monitors' Report, section 2.3 for a complete timeline of the remedial measures undertaken by the New Jersey State Police.

continued these measures in its 2007 in-service training, which took place in the fall of 2007.

Figure Three:
Consent Request and Drug Detection Canine
Deployments by Month,³⁸
Seventeenth Reporting
Period



The sixteenth report depicted a *projected* relationship between management responses to the consent request problems noted in the fifteenth monitors' report and consent requests and drug interdiction canine deployments from November, 2005 through April, 2007.³⁹ Thus, Figure 3 here picks up the trend. January was the month of the highest volume for both consent requests and

³⁸ In the sixteenth report, Figure Three included Consent Requests for November 2005 through January 2006 that were interpolated from average numbers for the reporting period, data from the sixteenth reporting period, as well as preliminary numbers for January through April 2007. The January through April data reported here thus link the figures in this report to the previous reporting period.

³⁹ The data available for the sixteenth monitors' report ended in December; however, the monitors' reviewed the *number* of consent requests for January through April, 2007 to determine the *direction* of the volume of consent requests by New Jersey State Police troopers.

canine deployments in 2007, which continued the high volume noted in the previous report for the end of 2006. With the exception of a one-month spike, consent requests and canine deployments post-January 2007 remained well below the levels evidenced coming into the year, suggesting further success of the management responses to the issues raised by the 2006 training.

Thus, the data for the full year of 2007 confirm what the monitors noted in previous report: that the *frequency* of consent requests has returned to normal rates, consistent with those observed prior to the external drug interdiction training. The monitoring team can now also comment on the *quality* of the post-December 2006 consent search requests, and here, too, improvement is seen through 2007. For example, in seven of the 30 consent requests in January, problems with the reasonable suspicion leading to the request were noted. Further training on developing reasonable suspicion was incorporated into the annual in-service lesson plan delivered in the last quarter of the year. See comments under Tasks 100 and 101 below. Only three issues with reasonable suspicion were noted for the total of 29 consent requests occurring in the last three months of the year.

Status

A review of the policies developed, the training provided to date and the implemented MAPPS process indicates that the agency is compliance with the requirements of this task. The New Jersey State Police continues to review, independently of the monitors, Motor Vehicle Stop Reports (MVSRs) submitted by Division personnel, and continues to note deficiencies in operationalization of the training provided. Retraining to address these deficiencies has been delivered. The central point of the Consent Decree is for the New Jersey State Police to identify, analyze and respond to issues related to in-field enforcement. The organization's continuing response to the issues raised in the last several reports shows the organization is capable of correcting issues that arise from unauthorized training. Sixteen incidents, from among the 376 reviewed, included errors not caught and remedied by field supervisors prior to the monitoring team selecting cases for review this reporting period.

An error rate of 16 of 376 motor vehicle stop incidents, or 4.2 percent, is within the allowable margin of error of five percent. Compliance for this task is defined as "greater than 94 percent."

Compliance

Phase I: In Compliance

Phase II: 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 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 142 law enforcement actions involving consent requests conducted during the seventeenth report's operational dates. Thirty-two of these involved consent search requests that were declined. A description of consent request events, by race of driver, is presented in Table Thirteen below.

Tables Thirteen through Seventeen depict data from the 376 incidents reviewed this reporting period by the monitoring team. "Number of Drivers" depicts the number of drivers, by race, in the 376 incidents. The number in parentheses in this column depicts the *percentage* of drivers in the total sample, by race. Thus, for Tables Thirteen through Seventeen, there were 97 white drivers of the total of 376 drivers involved in motor vehicle stops reviewed by the monitoring team this period, constituting 25.8 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 Thirteen depicts 34 consent requests of white drivers, 72 requests of black drivers, 33 requests of Hispanic drivers, and three requests of drivers in other categories of race/ethnicity. The last column, "Percent" depicts the percent of drivers of a given race or ethnicity, who were subjected to a given law enforcement procedures. This column will not total to 100 percent. The reviews depicted in this table constituted documentation and/or video tape reviews.

The reader should note that the New Jersey State Police has increased substantially the number of consent search requests, with an all-time high of 134 in the previous, six-month reporting period. With 142 requests for this current, year-long reporting period, the numbers reported in Table Thirteen become statistically meaningful when reported vis-à-vis race and ethnicity for all drivers sampled v. drivers requested to consent to search.

All but 26 of the 142 consent searches were completed in conformance with the requirements of this task.⁴⁰ Absence of reasonable articulable suspicion accounted for errors in 19 of the problematic consent requests. All but four of these were caught and corrected by supervisory personnel. In addition, eight incidents exhibited problems with notification to the person authorizing consent of the right to refuse consent and to be present during the search (five events), or, with limiting the scope of the search to area for which consent was given (three events). These eight errors were all caught by supervisors prior to the monitoring team's review.

An error rate of four of 142 consent searches constitutes 2.8 percent, falling within the >94 percent compliance rate agreed to by the parties as the standard for critical tasks outlined by the Consent Decree.

Table Thirteen—Consent Request Activity by Race and Ethnicity

Race/Ethnicity	a. Number of Drivers (% of Total)	b. Number of Requests for Search ⁴¹	c. Percent Consent Request by Race/Ethnicity (b as % of a)
White	97 (25.8)	34	35.1
Black	162 (43.1)	72	44.4
Hispanic	114 (30.3)	33	28.9
Asian Indian	1 (0.3)	1	100.0
Other	2 (0.5)	2	100.0
Total	376 (100.0)	142	37.8

The data in Table Thirteen indicate that consent requests constitute 37.8 percent of the incidents in the monitoring team's sample. The highest rate of consent requests was observed for blacks in this reporting period, whereas the data in the previous reporting period showed higher consent request rates for *both* blacks and Hispanics (by a factor of as much as 2.2). The consent request rates for whites, blacks and Hispanics are much more similar in this reporting period, with the rate of consent requests of Hispanics the lowest of all sampled drivers.⁴²

⁴⁰ Thirty-two drivers refused consent requests.

⁴¹ Thirty-two consent search requests were refused.

⁴² The reader should note that the consent request rates reported do not reflect the consent request rates for all stopped drivers, but rather the rates for sampled events. Some variation in the rates from reporting period to reporting period no doubt reflects the fact that the monitors always review all consent requests (as well all canine requests and uses of force), but vary the

These data, as reported in Table Four, in Task 26 above, are statistically significant at the 0.05 level, indicating that the differences are not attributable to chance.⁴³ A qualitative analysis, triggered because of the statistically significant *Chi-Square* result, indicates that the results of the consent request processes again in this reporting period **were likely attributable to the qualitative differences in stop characteristics rather than a racial bias on the part of New Jersey State Police personnel** (see Section 2.2, pp. 7-18). There were no statistically significant differences by race or ethnicity in the reasons for stops of vehicles, or the levels of discretion used in making stops and deploying drug detection canines. And, in contrast to the previous reporting period, there **was no** statistically significant difference by race and ethnicity in the reason for consent requests. See Tables Nine through Twelve, pages 25-29.

The monitors continue to note several significant changes in the consent request processes of the New Jersey State Police this reporting period. The *number and tenor* of consent requests continued to be of concern in the previous period, but the rate of consent requests fell during this reporting period, after jumping more than 42 percent in last reporting period. The 42-percent rise followed a rise of more than *200 percent* in fifteenth reporting period (see Table Three, page 15).⁴⁴ As noted previously, the monitors reviewed 19 consent requests that were deemed inappropriate this reporting period. All of these included *some* problems related to reasonable articulable suspicion. All but four of these problematic consent requests were noted and corrected by supervisory review *prior* to the monitors noting problems with the stops. The problematic consent requests were not distributed equally among drivers' race and ethnicity. Two white drivers' consent requests were problematic (5.6 percent of all consent requests of whites), while ten black drivers' consent request were of concern (13.8 percent of all consent requests of blacks). Six Hispanic drivers had problematic requests (18.1 percent of all consent requests of Hispanics), as did one driver in the "other" race classification. (See Table Eleven, p. 27).

As noted in Section 2.3, above, the New Jersey State Police has addressed some of the issues giving rise to these problematic consent requests; however, the

composition (e.g., by troop) of the other sampled events with post-stop interactions each period against which the rates are calculated.

⁴³ *Chi-Square* analysis of these data yielded a *Chi-Square* of 7.149 with two degrees of freedom, $p < 0.05$. The distribution was statistically significant. The other categories of race and ethnicity were omitted as they produced expected frequencies less than "5." See Annex Two for a brief description of degrees of freedom and p-values, and for statistical data tables.

⁴⁴ The rise in consent requests was at least partially attributable to the loss of the ability to conduct a search of a motor vehicle as a "search incidental to arrest." See *State v. Eckel*, 185 N.J. 523 (2006), which eliminated these searches for all New Jersey law enforcement officers.

monitors expect that continuing remedial steps implemented by the New Jersey State Police will further reduce problematic consent requests. Thus, the continuing decrease in the *number* of total consent requests is viewed as positive by the monitors.

Compliance

Phase I: In Compliance

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 New Jersey State Police's compliance with this task.

Status

The review of State Police policies, forms, training, data entry systems, and CAD 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.

Use of the Motor Vehicle Stop Report was monitored for 376 incidents involving a post-stop law enforcement activity of interest to the Decree. Use of force, deployment of canines and non-consensual searches received special attention from the monitoring team. The results of these reviews are depicted in Tables Fourteen through Seventeen, below.

Use of Force

New Jersey State Police personnel reported using force 30 times during the reporting period. This number is substantially higher than the single incident reported in the previous, albeit six-month, reporting period and translates into a use of force in eight percent of the sampled incidents. Members of the monitoring team reviewed the reports for use of force by personnel from the New Jersey State Police. Members of the monitoring team found *no* problems with the reporting process.⁴⁵ When confirmed by tape review, the use of force in all instances was found to be appropriate and appropriately reported. There were

⁴⁵ Members of the monitoring team assessed use of force reports and incidents for reasonable application of force and compliance with elements 17 and 17a of this requirement of the decree.

16 uses of physical force, eight uses of chemical force and six incidents in which both chemical force and physical force were used.

Table Fourteen depicts the data for the 376 incidents reviewed this reporting period by the monitoring team and presents the number and percent of uses of force for each category of drivers' race and ethnicity. The data show that the greatest number of uses of force (14) occurred in incidents with black drivers; there were 11 incidents in which white drivers (or their occupants) were subjected to a use of force and five incidents with Hispanic drivers. The number of use-of-force incidents with white drivers, however, yielded the highest percentage of incidents for any group involving a use of force: 11.3 percent. In contrast, uses of force occurred in 8.6 percent of sampled incidents with black drivers and in 4.4 percent of the incidents with Hispanic drivers.

Table Fourteen: Uses of Force
17th Reporting Period

Race/Ethnicity	a. Number of Drivers (% of Total)	b. Incidents of Use of Force	c. Percent Use of Force by Race/Ethnicity (b as % of a)
White	97 (25.8)	11	11.3
Black	162 (43.1)	14	8.6
Hispanic	115 (30.3)	5	4.4
Asian Indian	1 (0.3)	0	--
Other	2 (0.5)	0	--
Total	376 (100.0)	30	8.0

Canine Deployments

The New Jersey State Police deployed drug detection canine units 55 times during the reporting period. Members of the monitoring team reviewed all available documentation for each canine deployment, and reviewed video tapes of all but one canine deployment.⁴⁶

The data in Table Fifteen indicate somewhat higher canine "deployment rates" for blacks and Hispanics than for whites. Unlike the distribution in the previous reporting period, these data are not statistically significant at the 0.05 level, (See

⁴⁶ One video tape was not able to be reviewed because of a video recorder malfunction. See footnote 11 above.

Table Five, p.18).⁴⁷ The rate for whites in this reporting period is higher than in the previous period, while the rates for blacks and Hispanics have decreased. All but seven of the 55 canine deployments were based on reasonable articulable suspicion. Five of the problematic canine deployments were for Hispanic drivers' vehicles, and two were for vehicles with black drivers. New Jersey State Police supervisors caught and corrected four of these prior to the monitors' review, leaving errors in three that were first caught by the monitors. A qualitative review of these stops shows no statistically significant test statistics for levels of discretion in the reason for stop related to canine deployments. See Tables Nine through Twelve, pages 25-29, above.

Table Fifteen: Canine Deployments
17th Reporting Period

Race/Ethnicity	a. Number of Drivers (% of Total)	b. Canine Deployments	c. Percent Canine Deployment by Race/Ethnicity (b as % of a)
White	97 (25.8)	10	10.3
Black	162 (43.1)	30	18.5
Hispanic	116 (30.3)	14	12.3
Asian Indian	1 (0.3)	0	--
Other	2 (0.5)	1	50.0
Total	376 (100.0)	55	14.6

An error rate of three of 55 canine deployments constitutes 5.5 percent, falling just within the >94 percent compliance rate agreed to by the parties as the standard for critical tasks outlined by the Consent Decree.

Non-Consensual Searches

Table Sixteen depicts the results, by race/ethnicity and type of non-consensual vehicle search for the sample of 376 incidents reviewed by the monitoring team this reporting period. The table depicts the types of non-consensual searches, by race/ethnicity of the 173 incidents involving a non-consensual vehicle search. For example, 57 white drivers' vehicles were subjected to non-consensual searches during this reporting period, with 51 subjected to probable cause searches, etc. Numbers in parentheses reflect the percentage of type of search, by race. For example, the 51 probable cause searches constitute 89.5 percent of all searches

⁴⁷ *Chi-Square* analysis of these data yielded a *Chi-Square* of 3.942 with two degrees of freedom, $p > 0.05$. The distribution was not statistically significant.

of white drivers' vehicles. The reviews depicted in this table constituted video tape and/or documentation reviews.

Of the 173 MVSRs reviewed that entailed non-consensual searches of vehicles, members of the monitoring team found three problems that were not first caught and remedied by New Jersey State Police supervisory personnel. An error rate of three of 173 events is 1.8 percent, falling within the >94 percent compliance rate agreed to by the parties as the standard for critical tasks.

Table Sixteen: Reasons for Non-Consensual Searches of
Vehicles, by Race/Ethnicity of Driver
17th Reporting Period

Race/ Ethnicity	a. Number of Drivers (% of Total)	b. Non- Consensual Vehicle Search (% of a)	c. Probable Cause (% of b)	d. Plain View (% of b)	e. Proof of Ownership (% of b)	f. Other Reason (% of b)
White	97 (25.8)	57 (58.8)	51 (89.5)	4 (7.0)	1 (1.8)	1 (1.8)
Black	162 (43.1)	63 (38.9)	57 (90.5)	1 (1.6)	1 (1.6)	2 (3.2)
Hispanic	114 (30.3)	53 (46.5)	49 (92.5)	0	0	4 (7.5)
Asian Indian	1 (0.3)	0	0	0	0	0
Other	2 (0.5)	0	0	0	0	0
Total	376 (100.0)	17 (46.0)	157 (90.8)	5 (2.9)	2 (1.2)	7 (5.0)

Table Seventeen depicts non-consensual search-of-person activity by race, specifically for probable cause searches. Five of the 61 searches of a person were conducted by a trooper in the absence of the necessary PC. Members of the monitoring team found one problem that was not first caught and remedied by New Jersey State Police supervisory personnel.

Table Seventeen: Probable Cause Searches of Persons,
by Race/Ethnicity of Driver
17th Reporting Period

Race/Ethnicity	a. Number of Drivers (% of Total)	b. Probable Cause Searches	c. Percent by Race/Ethnicity (b as % of a)
White	97 (25.8)	18	18.5
Black	162 (43.1)	34	21.0
Hispanic	114 (30.3)	9	7.9
Asian Indian	1 (0.3)	0	--
Other	2 (0.5)	0	--
Total	376 (100.0)	61	16.2

An error rate of one in 61 events is 1.6 percent, again falling within the >94 percent compliance rate agreed to by the parties as the standard for the critical tasks of the Consent Decree.

In all, members of the monitoring team noted 122 separate incidents in which constitutional, procedural, reporting, or review issues were evident (see section 2.3, above, for a complete listing of the errors in these motor vehicle stop incidents). A total of 109 of these problematic incidents were noted and corrected by retraining or other form of intervention prior to the monitor's noting the behavior. The monitors *noted* a shift in the locus of these self-corrections in the sixteenth reporting period, away from on-scene and station-level review to management (Troop) and OSPA-assigned enlisted personnel review. This shift continued in the seventeenth reporting period. The New Jersey State Police continues in compliance with this task for the seventeenth reporting period.

Compliance

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

The records reviewed by the monitors all included the names of drivers subjected to post-stop law enforcement procedures of interest to the Decree, i.e., request for permission to search; conduct of a consensual or non-consensual search; ordering occupants out of a vehicle; frisks of vehicle occupants; deployment of a drug-detection canine; seizure of contraband; arrest of the occupants of the vehicle; or use of deadly, physical, mechanical or chemical force. All of these records included the race of the individual subjected to a post-stop law enforcement procedure of interest to the Decree. All of the records included a

CAD incident number. In addition, all had the date of the stop, time of the stop, time the stop cleared, and reason for the stop. All records included the gender and race of the driver, whether a summons or warning was issued (and the category of the violation), and the reason for the motor vehicle stop.

The data analyzed for this reporting period included only those data generated by the electronic reporting process, but including hard-copy output. Accuracy rates for these data, overall, are within the acceptable margin for error for this task. The earliest available electronic data in the New Jersey State Police's database, provided to the monitors, was September 2, 2000. In the opinion of the monitors, this qualifies as "expeditious" 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

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

Task 29c stipulates that:

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

Methodology

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

Status

Forms to support execution of tasks 31-33 have been developed and disseminated. The New Jersey State Police has finalized automated data entry at road stations. Conformance to the policies supporting these forms 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.

Compliance

Phase I: In Compliance

Phase II: In Compliance

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

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

Task 29e stipulates that:

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

Methodology

Members of the monitoring team have reviewed and approved all protocols and forms provided by the New Jersey State Police, and have been notified in advance of planned changes to those protocols and forms. All changes to protocols and forms have also been approved by the United States.

Status

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

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.6 Compliance with Task 30: Communications Center Call-Ins

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

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. Compliance with these tasks has been measured under a revised standard for several reporting periods, based on an agreement of the parties and the monitors. The compliance standard for data reporting and recording of traffic stop processes was established at 90 percent.

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. Revisions to New Jersey State Police SOPs, implemented several reporting periods ago, have formed the basis for supervisory review and control of these processes.

For the past twelve reporting periods, the New Jersey State Police has been in compliance with this requirement, based on the monitors' review of electronic CAD data. In addition, 272⁴⁸ video recordings and documentation from 376 vehicle stops were reviewed this period, as were supporting documents, such as CAD abstracts, etc. Compliance with this task was assessed using both the electronic, video, and paper documentation. All data required by paragraphs 29 a, are recorded within the CAD records for vehicle stops, or within associated MVSRS.

Of the 376 incidents reviewed by the monitors, only one included an error in call-in or documentation of a motor vehicle stop. An error rate of one incident of 376 constitutes 0.003 percent, within the revised parameter of >90 percent.

Compliance

Phase I:	In Compliance
Phase II:	In Compliance

⁴⁸ Some video taped incidents included more than one post-stop activity of interest to the decree. For example, 43 of the 142 consent requests also included a canine deployment.

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 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

Members of the monitoring team also reviewed 272 video tapes of motor vehicle stops to assess the time of the call in. Data indicate that 100 percent of all stops were assigned an incident number and 100 percent list the driver's race and gender; the few call-in errors regarding reason for the stop⁴⁹ and for completing

⁴⁹ The reason for stop is noted as "moving" or "non-moving," different from the reason for stop categories discussed in Task 26, Section 2.2, above, where the discretion in the specific reason for stop was analyzed.

the stop were all caught by supervisors prior to the monitors' reviews. The New Jersey State Police is in compliance with this task.

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
Phase I												
Phase II												

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

This section (regarding notice prior to search of a vehicle) applies only to probable cause and consent searches.⁵⁰ Of the 158 probable cause search events and 142 consent searches reported (with 245 of the 300 events reviewed by video tape), twenty-three were not called in to New Jersey State Police communications prior to the initiation of the search. Supervisory personnel noted and corrected all of these omissions. This constitutes an error rate of zero percent, within the >94 percent established as the criterion for this task.

⁵⁰ New Jersey case law (*State v. Eckel*, 185 N.J. 523 (2006)) has changed the requirements and practices of "search incidental to arrest" of a motor vehicle. New Jersey State Police policy now precludes searches of vehicles incidental to arrest.

Compliance

Phase I: In Compliance

Phase II: 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												

Task 30c stipulates that:

c. At the conclusion of the stop, before the trooper leaves the scene, the trooper shall notify the communications center that the stop has been concluded, notify the center whether any summons or written warning was issued or custodial arrest was made, communicate any information that is required to be provided by the protocols listed in paragraph 29(a) that was not previously provided, and correct any information previously provided that was inaccurate. If circumstances make it unsafe or impractical to notify the communications center of this information immediately at the conclusion of the stop, the information shall be provided to the communications center as soon as practicable.

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. Of the 272 stops reviewed by video tape, all complete tapes without audio difficulty were found to have clearance codes. Of

the 376 stops reviewed by document review, these call-ins were present in the CAD abstract, indicating that they had been made by the trooper and contemporaneously recorded. The New Jersey State Police is in compliance with this task.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.6.4 Compliance with Task 30d: CADS Incident Number Notification

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

Task 30d stipulates that:

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

Methodology

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.

Computer Assisted Dispatch (CAD) records were also requested by the monitors for all motor vehicle stop activity for the selected stations. A sample of CAD records was reviewed electronically, and all were found to have "CAD Incident Numbers" indicating a CAD incident number. Of the 376 stops reviewed by the monitoring team this reporting period, CAD numbers were present in documentation for all video tapes reviewed, and in 100 percent of all hard copy documents reviewed by the monitoring team that required a CAD number.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.7 Compliance with Task 31: Reporting Consent to Search Requests

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

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 in all 142 motor vehicle stop reports that included a consent search request this reporting period. Thirty-two of the incidents involved consent requests that were denied. A "consent to search form" was utilized in all 142 events with a consent request. The information required to be presented to the driver was so presented in all but six cases. Supervisors caught and corrected these errors.

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 142 consent requests and 110 consent searches,⁵¹ and reviewed video tape recordings of all but one⁵² motor vehicle stop involving consent requests. Supporting documentation for all consent search requests was reviewed, and the events depicted on 141 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

The monitoring team reviewed 142 consent request activities required by this section of the Consent Decree. Of the 142 consent requests, 13 incidents had had errors corrected by supervisory personnel with regard to recording of information.

Compliance

Phase I:	In Compliance
Phase II:	In Compliance

⁵¹ Thirty-two consent requests were refused.

⁵² The tape for one consent request incident was not reviewed due to malfunction of equipment; the consent request was denied. See footnote 11.

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 157 MVSRS reviewed which entailed probable cause searches of vehicles,⁵³ members of the monitoring team found problems with 20 incidents in which the troopers failed to call in the search prior to conducting it. This error was noted and corrected by supervisory personnel prior to the monitoring team's review. All but two incidents in which the monitors found issues with probable cause were addressed prior to the selection of the events for review by the monitors. The monitors also noted eight incidents in which the search was not taped. Supervisory review caught all but two of these errors. One of these two events was not subject to video review prior to that of the monitoring team. An error rate of four in 157 events is 2.5 percent, well within compliance levels for this task. The New Jersey State Police remains in compliance with this task.

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;**

⁵³ Five plain view searches, two ownership searches and seven other non-consensual searches were also conducted this reporting period.

- 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, 55 reported drug detection canine deployments effected by the New Jersey State Police. Members of the monitoring team found 12 of the canine deployments to have been deployed or reported in a manner inconsistent with the requirements of procedures and the Decree. Supervisors caught and corrected four of the seven deployments on less than adequate articulable suspicion prior to the monitoring team's review, as well as the other five deployments with taping errors. An error rate of 3 in 55 events is just within the >94 percent compliance level for this task.

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 272 events known to have occurred during the current reporting period.

Status

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

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 incident selected for review this reporting period (see above), members of the monitoring team pulled for review a sample of 376 post-stop law enforcement actions of interest to the Decree. These included 376 events selected from New Jersey State Police databases, and 272 events assessed by reviewing video tapes.⁵⁴

Status

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

A review of the 272 video tapes selected by the monitoring team indicates that the agency has effectively resolved problems noted in earlier reports concerning "out of tape" issues and troopers patrolling with inoperative video units (only seven of 272 incidents reviewed via video tape resulted in an "out of tape" finding). The agency has, it appears, achieved general compliance with the requirements of the 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 272 stops reviewed via video tape this period, 48 exhibited some form of audio difficulty (a substantial increase over the sixteenth reporting period), and 19 exhibited some form of video difficulty. These incidents may reflect the age and maintenance of the equipment, rather than trooper-error. The New Jersey State Police's planned new digital video systems may reduce these numbers even further. Troopers activate microphones during traffic stops, with the monitoring team noting no events (of 272 reviewed) in which activation was delayed for a reason other than technical difficulties. This constitutes an error rate of zero percent, within the established 90 percent requirement for this task. The New Jersey State Police remains in compliance with this task.

Compliance

Phase I:	In Compliance
Phase II:	In Compliance

⁵⁴ All 272 events reviewed by video-tape were included in the 376 MVSRS reviewed.

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 all selected events had their supporting MVSRs reviewed by supervisory personnel. The monitors assessed all electronic records for MVSRs, and determined that greater than 98 percent of all MVSRs received initial supervisory review within 14 days of the event reported in the MVSR. However, only 86 percent of all stop reports are approved within that period.

The monitoring team reviewed all completed MVSRs for the 376 selected stops reviewed this period for evidence of reporting or procedural errors that should have been noted by supervisory personnel. Supervisory personnel, prior to the monitors' review, also reviewed all but 76 tapes reviewed by the monitors. From those 300 events also reviewed by supervisors, the monitors noted none that exhibited any form of substantial reporting problem that should have been noted by supervisory review, but was not.

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

Compliance

Phase I: In Compliance

Phase II: 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

SOP F19 was revised during the reporting period, changing the scheduling of MVR reviews and management reviews. During electronic reviews of Supervisors Review of Motor Vehicle Contact Recordings, members of the monitoring team reviewed 300 supervisors' MVR review reports. The monitors noted above in Section 2.3 that non-station personnel conducted about 45 percent of the initial video reviews. Management reviews were conducted both by station-level, troop-level and OSPA-assigned enlisted personnel. Thus, many supervisory corrections noted in this reporting period occurred at the Troop level or through review by enlisted members assigned to OSPA.

Fourteen errors were not caught by supervisors among the 300 incidents with MVR reviews. The monitors noted that seven of the fourteen errors were in events initially reviewed by non-station personnel, although if management reviews were conducted, these were done by station personnel. The overall error rate for supervisory video review of 14 errors in 300 reviews is 4.7 percent, within the acceptable error rate of five percent.

Compliance

Phase I: In Compliance

Phase II: 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

The monitors have observed "course-of-business" records of continual referrals to OPS of actions or omissions by road personnel, although such referrals have become more rare in recent reporting periods. This is, in the monitors' opinions, directly due to the increased levels of routine supervision, which have reduced errors on the part of road personnel. The New Jersey State Police is judged to remain in compliance with this task. No incidents were noted in this reporting period.

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. Training for all supervisory personnel included a discussion of the requirement to "copy" to the Office of State Police Affairs any referrals to OPS by supervisory personnel.

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

Status

No incidents were noted, during the seventeenth monitoring period that should have been referred to OPS. The New Jersey State Police remains in compliance with this task.

Compliance

Phase I: In Compliance

Phase II: 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

Members of the monitoring team reviewed 144 motor vehicle stop reports that recorded an event at which a New Jersey State Police sergeant was present, constituting field activity in 38.3 percent of all 376 stops selected this period,

down from 49.4 percent in the sixteenth reporting period and 61.0 percent in the fifteenth report.⁵⁵ For events involving a consent request, a canine deployment, or a use of force during this reporting period, there was a supervisory presence in 63.0 percent of these incidents, while a supervisor was present in just 14.6 percent of all other incidents. Thus supervisory presence in the field remains high for critical incidents.

Status

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

Compliance:

Phase I: In Compliance

Phase II: 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").

⁵⁵ On May 16, 2007, Field Operations issued a memorandum restricting which personnel can be considered a "supervisor" on scene. Prior to that date, a Trooper I on scene who had completed the First Line Supervision course in anticipation of promotion to Sergeant could act in a supervisory capacity. After this date that was no longer true. The change in policy might help explain the further decline in supervisory rates between the 16th and 17th reporting periods.

Methodology

This reporting period, the monitors assessed the MAPPS information system to ensure that MAPPS is being used appropriately as a personnel management tool. In all, the monitors noted MAPPS system functionalities for the 376 incidents comprising the monitors' sample described above in Section 2.2., and with several independent tests. In addition, members of OSPA attended and observed all risk management meetings, which use MAPPS data and information to assess risks to the agency that might require changes in training, supervision, policy or leadership. The results of these process tests are discussed below, in the analysis of tasks 41-52.

MAPPS has been implemented as an operational system, and as implemented, has all of the individual system capabilities required by the Decree. The live data in MAPPS are the full spectrum of system data anticipated for MAPPS. The application of benchmarking criteria and implementation of the capacities for conducting long-term analyses continue to be observed for the fourth consecutive reporting period.

Compliance

Phase I: In Compliance

Phase II: 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, continue to be found in the MAPPS system. In addition, the five non-primary requirements, identified as "narrative elements" were reasonably available through other systems. The monitors continue to find the system to be capable of processing the required data in reasonable ways. The system continues to be reasonably user-friendly and usable. 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. Data for these subsystems have been ported to the MAPPS system, and managers use these systems on a daily basis.

Compliance:

Phase I: In Compliance

Phase II: 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 have been completed. The monitors have reviewed these policies, and have approved them as written. During the seventeenth reporting period, the monitors reviewed a pending policy change to give troopers routine and direct access to most of their own MAPPS data.

Compliance:

Phase I: In Compliance

Phase II: 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 are accessing the system on a day-to-day basis.

Compliance:

Phase I: In Compliance

Phase II: 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" (CIN) 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 operations instructions and supporting documentation.

Implementation of these procedures has been accomplished, and the system works as designed relative to the requirements of this task. One issue arose in the seventeenth reporting period in which the lack of timely data in MAPPS threatened compliance with Task 53. This issue highlights the need for the New Jersey State Police to maintain routine auditing protocols of MAPPS data and of the source data systems that provide the information available through MAPPS. (See details under Task 53.)

Compliance

Phase I: In Compliance

Phase II: 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 during the tenth reporting period, the State has effectuated its MAPPS plan.

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 operations instructions and supporting documentation. Implementation of these functions began in January 2004.

For the past six reporting periods, the monitors have been carefully reviewing the use of supervisory review processes regarding instances in which supervisors have noted a problem with a motor vehicle stop, and had created narratives in MAPPS identifying a problem with trooper actions, noting in the MAPPS the action taken regarding the problems as "No Further Action." The monitors discussed this issue in detail with the State, and reviewed MAPPS training documents regarding this process. MAPPS developed and implemented, during the fourteenth reporting period, a "trooper centric" data query system that deals with this issue. The monitoring team continues to note "No Further Action" for motor vehicle stops where problems are noted in narratives and to look for repeated problems that are not addressed. None were found in this reporting period.

Compliance

Phase I: In Compliance

Phase II: 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 operations instructions and supporting documentation. Implementation of these procedures has been executed. The monitors have reviewed reports generated in response to this section of the Decree, and find them to be responsive to the requirements of the Decree and to be used effectively as management tools.

Compliance

Phase I: In Compliance

Phase II: 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 operations instructions and supporting documentation. Implementation of these has been executed. For the seventeenth reporting period, the monitors reviewed MAPPS reports created in response to this section of the Decree and found them to be effective management tools. The State remains in compliance with this requirement of the Decree.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.27 Compliance with Task 50: Comparisons Using Benchmarks

Task 50	1	2	3	4	5	6	...	10	11	12	13	14	15
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

During the thirteenth site visit, MAPPS personnel presented to the monitors detailed documentation regarding benchmarking and trend analysis. The activities related to Task 50 were organized into two separate functions: detailed data analysis using external and internal benchmarking processes, and high-level analysis and decision making regarding issues identified by the analysis by the Risk Management Core Group (RACG), in which key command staff review and discuss MAPPS data reports and take key decisions to move the organization forward regarding motor vehicle stop (and other) critical issues. Data analysis and the RACG meeting process for the New Jersey State Police continue to be up to date and timely. Members of the monitoring team attend RACG meetings and find them to be dealing effectively with substantive issues and to be focused on the future inputs and outputs of the RACG process.

The issues of workload, staffing, technology, and information access factors noted during the fifteenth site visit have each been addressed. The MAPPS/RACG system remains fully supported and functioning at a high level in the seventeenth reporting period.

Compliance

The State has returned to full compliance in this area.

Phase I: In Compliance

Phase II: In Compliance

2.28 Compliance with Task 51: Analysis of Trends

Task 50	1	2	3	4	5	6	...	10	11	12	13	14	15
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

The central point of the Consent Decree is for the New Jersey State Police to identify, analyze and respond to issues related to in-field enforcement. During the course of the fifteenth reporting period, the New Jersey State Police evolved in its use of the MAPPS/RACG process, moving beyond what was *required* by the Decree to more advanced problem-analytic and problem solving processes using MAPPS and portions of the RACG structure. The organization's response to the issues raised in that period showed a strong response to identifying the issues generated by the training, analyzing the reasons those issues surfaced, and responding with a supervisory and managerial response that, eventually, resolved those issues.

During the seventeenth reporting period, the MAPPS/RACG process continued to be asked to respond to issues of in-field enforcement and off-duty misconduct. MAPPS developed and now maintains a database on all consent requests (with

canine deployments added after the reporting period) from which the RACG compiles a quarterly report. Work also began during the seventeenth reporting period on developing a new module for MAPPS (and its associated policies), capturing use of force for reporting purposes. And, growing out of one of the issues raised in the fifteenth reporting period, the RACG has worked with the Office of Professional Standards to enhance flagging of alleged off-duty misconduct within its database to facilitate further RACG analyses. The MAPPS/RACG process also offers support to that office's complaint reduction initiatives.

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

Compliance

The New Jersey State Police re-attained compliance with this task in the sixteenth reporting period, and continued to issue all required reports and analyses in the seventeenth period. OSPA reviewed staffing and support for the seventeenth reporting period and find it to be sufficient to maintain a high level of performance. The support for MAPPS/RACG analytic capabilities within the New Jersey State Police must remain a high priority so that sufficient and appropriately trained civilian and enlisted personnel are able to maintain routine functions at this level---as well to perform an increasing array of new analytic tasks in an organization with escalating data needs to inform its decisions.

Phase I: In Compliance

Phase II: 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 seventeenth reporting period, members of the monitoring team noted 109 instances of supervisory personnel issuing "performance notices" or taking other interventions for actions taken by division personnel inconsistent with policy or established practice. Evidence exists to support the fact that supervisory personnel are carefully reviewing trooper activity and issuing performance notices or other "interventions" when inappropriate behavior occurs. The monitoring team did note sixteen instances, however, where supervisors failed to take corrective action. In addition, the monitors continued to note the high proportion of corrective action taken by non-station personnel. This trend runs counter to the Consent Decree emphasis on providing first-line supervisors with the tools to manage subordinate troopers in "real time."

Compliance

Phase I: In Compliance

Phase II: 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.

Status

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

During the seventeenth reporting period, the protocol for these meetings and their subsequent documentation in MAPPS changed. OSPA's review of the MAPPS system for the seventeenth period uncovered a problem with the interface that should link the OPS reviews to supervisors, and to recording any meetings on these reviews in MAPPS. MAPPS Unit personnel were apprized of the problem. In July 2008, the data for the 2007 OPS meaningful reviews required by this task were entered into the MAPPS system, some for reviews OPS conducted a year earlier; none of the reviews resulted in supervisors being required to meet with subordinates. The failure to maintain timely OPS data as required by Task 45 threatened compliance with this task. However, because no further supervisory action was required by the OPS reviews, the New Jersey State Police remains in compliance with this task.

Compliance

Phase I: In Compliance
Phase II: 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 Office of Professional Standards Requirements

Based on more than two years of successful performance regarding OPS-related Decree requirements, and the agreement of the parties and the monitors, the Department of Justice joined with the State in a petition to the Court to release OPS from those requirements of the Consent Decree relating to internal investigations. This motion was granted by the Court, and, as such, the independent monitors discontinued monitoring activities for OPS requirements as of July, 2004 (the twelfth reporting period), with the exception of specifically articulated continuing requirements remaining under monitoring activities (i.e., tasks 87 and 90). Nonetheless, the Office of State Police Affairs continues to take specific actions designed to evaluate the receipt, investigation and resolution of misconduct complaints filed against members of the State Police.

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

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

Second, the Office of State Police Affairs conducts audits of OPS investigations on a semi-annual basis. The audits encompass a broad range of the complaints including not just substantiated complaints but also unsubstantiated and unfounded complaints. The audits involve a review of all complaints involving racial profiling, disparate treatment, excessive force, illegal or improper searches and domestic violence. In addition to a review of the foregoing complaints, a random sample of all other complaints received by the State Police is selected for review. For each complaint, a complete review of the written investigative file is conducted. Those reviews lead in some instances to a review of all investigative evidence including the audio and video tapes assembled by OPS.

During the reporting period, the Office of State Police Affairs reviewed a total of 239 investigations conducted by OPS. Of that total, 124 investigations consisted of complaints involving racial profiling, disparate treatment, excessive force, illegal or improper searches and domestic violence. The remaining investigations consisted of a random sample of all other complaints investigated by OPS. A review of the written files were conducted for all 239 investigations. An additional review of the file (audio and video tapes, etc.) was conducted in 29 investigations.

2.33 Training Assessment

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

The seventeenth reporting period for Tasks 93 through 109 consists of the period between April 1, 2007 and May 31, 2008. Actions noted during the monitors' seventeenth site visit are discussed in some detail in the paragraphs below.

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

Task 93	1	2	3	4	5	...	9	10	11	12	13	14
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

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

Status

The Academy continues to refine its ability to provide effective and meaningful training.

In a departure from its previous methodology for developing training programs, the Academy prepared an organizational needs assessment. The purpose of the assessment was to move the development of training programs away from the piecemeal approach of having individual instructors prepare training courses based on what they perceive as training needs and towards an integrated approach that requires instructor to consider the organization's mission in the development of curriculum. In other words, lesson plans are developed within the parameters of the needs assessment. Data are collected from several sources including Office of Professional Standards ("OPS"), Equal Employment Office/Affirmative Action ("EEO/AA") Management Awareness Personnel Performance System ("MAPPS"), the Academy Training Committee and various other committees and focus groups throughout the Division. Course curricula are now being evaluated as a whole, and the instructors are responsible to report how their training course fits the organization's strategic plan.

In addition, the Academy now serves as the central repository for all training requests and evaluations. A course approval and evaluation process is currently in place based on the organizational needs assessment outlined above. No training will be approved unless it comports with the Division's strategic plan. This new course approval and evaluation process outlines the responsibilities of the Academy staff, instructors and Field Training Officers ("FTO's") in their respective roles as it relates to the seven-step training cycle. The submission and review of lesson plans has been streamlined and S.O.P. C-25 is being modified to reflect this process. The goal is to establish a link between training and overall Division performance with an eye towards maintaining the quality of training and complying with the established training standards.

Quality control is further enhanced through course critiques which have been standardized and are being expanded to capture information on all courses taught throughout the Division, not just those courses taught at the Academy. The purpose of the critique is to determine whether the training elicited the desired behavioral response or had unintended consequences.

The Academy further seeks to determine the long-term impact of training – identifying the goals, setting up measures, collecting data and determining where the data fall on those measures. Any courses deemed to be underperforming receive further evaluation. Metrics That Matters ("MTM") is the analytical software program utilized at the Academy to evaluate and assess training. The outcome can be compared against standardized results available with the software or against other courses that have been delivered throughout the Division. In addition, quantifiable performance measures for the same subject matter can be tracked over time. The Academy staff is currently working with an "MTM" representative to enhance the company's software program to suit the Academy's needs. An examination of the enhanced program will be conducted during the next review period.

In response to a recommendation in the sixteenth Monitors' report, the Academy presented the Commandant with a comprehensive Academy Instructor Certification Course Lesson Plan. The lesson plan includes a review of the most current IMT report with particular attention to those improvements that have been made and those specific tasks that need to be addressed. The lesson plan is directed toward ensuring instructors have a clear understanding of the tasks and the processes that must be followed to maintain oversight for the quality of all training within the Division because those members currently assigned to the Academy as faculty were not present during the years that the Consent Decree process was being developed and implemented. This certification course will be submitted through the proper channels and is anticipated to be approved during the next monitoring period. In addition, an Instructor Observation Form has been incorporated into the MTM database in order to evaluate the instructors on their knowledge of the subject matter, presentation of course materials and demeanor.

In the past two monitoring periods, the IMT expressed concerns about the drug interdiction training. Those concerns prompted the Academy staff to draft an "Outside Training Protocol" in addition to an "Off-Duty Training Appraisal Report" that will be incorporated into S.O.P. C-25.

In March 2007, the Office of State Police Affairs recommended that the Academy implement a system to track, review and monitor training received by members of the Division from outside agencies. In response, the Academy developed an Off-Duty Training Appraisal Report to track training received by a member who attends training on their own time. It is the Academy's intention to collect course materials from the attendee for review. If an attendee does not complete an Off-Duty Training Appraisal Report and fails to submit the course materials, the training will not be entered into the ACTS or appear in the member's personnel file.

During this monitoring period, the Academy demonstrated its concern as to the type of training received by its membership and its ability to recognize training that may be contrary to the training mandated by the Consent Decree. In February 2008, a request was received by the Academy to review a brief course description relating to a week-long Criminal Contraband Detection and Recognition Training Seminar presented by a third party vendor who utilized retired and federal law enforcement officials as instructors. Without the benefit of materials that would detail the course content or its targeted goals, the Academy's Commandant, as well as his supervisor, would not sanction this training.

Nevertheless, eight members of the Division attended the seminar. Four troopers assigned to the Commercial Carrier/Safety Inspection Unit attended the course while on-duty; four troopers assigned to Field Operations attended while off-duty. Travel request were submitted and approved only for those four troopers assigned to the Commercial Carrier/Safety Inspection Unit.⁵⁶ The Field Training Officer was directed to debrief those members who attended while off-duty to make sure that they understand their responsibilities as they relate to the Division's S.O.P.'s and the training received under the mandates of the Consent Decree.

⁵⁶ Members of the Commercial Carrier/Safety Inspection Unit are responsible for enforcing federal statutes governing commercial transportation. See, United States Code Title 49. Because the constitutional provisions governing search and seizure for commercial vehicles differs from the constitutional provisions governing search and seizure for privately owned motor vehicles, members of the unit are given the latitude to receive training geared for that type of enforcement, whereas other members of the Division are not.

At the time this training occurred, the Academy believed that it had no control over what training a member attended, when the training took place during off-duty hours and at personal expense. Consequently, the Office of State Police Affairs provided the Academy with clarification as it relates to the Department of Law & Public Safety policy for the authorization of training and travel. Under the Department policy, attendance at a conference or seminar is subject to review and approval by the member's chain of command and the Division's Ethics Officer, even when the training takes place during off-duty hours or the member pays the costs of attending the program so long as attendance is predicated on the member's status as a law enforcement officer and/or the conference or seminar is related to the member's job duties. The Academy has since taken the appropriate steps to implement the Department's policy and procedure throughout the Division.

While we firmly believe that the Academy and the executive leadership of the State Police are firmly committed to the training function including the delivery of training that is consistent with the Decree, more must be done. The Academy must continue to be vigilant in its efforts to maintain oversight of the training function. In addition, the executive leadership must continue to support the Academy in its mission to ensure that the members of the State Police receive training that is consistent with the Consent Decree. Because this is the second time members of the State Police have attended a training program delivered by third party vendors that had the potential to cause significant problems for the Division vis-à-vis the requirements set forth by the Decree, the Division will be placed on warning if it happens for a third time.

Phase I: In Compliance

Phase II: In Compliance

2.35 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

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

Status

In October of 2007, a comprehensive staffing study was issued by the Training Bureau to the command staff based on the current and projected needs subject to the following criteria:

- Current Unit Benchmarks
- Training Calendar
- Analysis/Impact of November 2006 Training Bureau Re-Organization
- Current Staffing Levels
- Obligated/Non-Obligated Training Hours
- Instructor/Student Ratios

As a result, the Training Bureau requested 12 detachments to supplement their enlisted member staff. Currently, the organizational chart reflects a total of 65 sworn personnel and nine civilians assigned to the Academy. Based on discussions with the Academy staff, it would appear that the training function is adequately staffed at this time.

With respect to the trooper coach program, the Academy is seeking to relax the requirements for candidates seeking to apply for trooper coach assignments. In 2006, it was anticipated that trooper coach candidates would have a minimum of three years experience commencing January 1, 2007, and four years of experience commencing January 1, 2008. This time frame was developed in anticipation of smaller graduating class sizes in the years ahead. With a larger number of probationary troopers expected to graduate in June of 2008 (approx. 160-165), Field Operations requested permission to delay implementation of the requirement of four years of experience to increase the number of trooper coach candidates. According to Academy staff, the trooper coach program will not be adversely impacted by delaying the implementation of the four year requirement.

It would appear that the Academy will be able to gather a full compliment of Trooper Coaches if they remain at the three-year eligibility standard. As previously mentioned, this would require a waiver from what is mandated in S.O.P. F-12. A proposal will be submitted amending the current eligibility requirements from four years to three years in the S.O.P. In the interim, the IMT has granted a waiver of the four-year eligibility requirement for the current Trooper Coach recruiting process in this reporting period.

Since the last monitoring period, a web-based computerized system to track Trooper Coach assignments and the progress of the probationary troopers has been designed and is being implemented Division-wide. See Task 102 for details.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.36 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

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

Status

The criteria stipulated by this section of the Consent Decree are being met with the exception of the Trooper Coach eligibility requirements outlined above. All individuals applying for Academy, Post Academy or Trooper Coach positions must undergo a meaningful review, that includes an examination of the members' work history, to determine whether they have been compliant with the Division's mandates and S.O.P.'s. This review is conducted through the Office of Professional Standards and the Office of Equal Employment Opportunity.

Status

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

2.37 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

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

Status

The Academy continues to provide training that requires certification and re-certification in a myriad of disciplines for instructors and continues to provide Trooper Coach training. Two blocks of Trooper Coach training will be conducted in May of 2008. The Academy tracks the dates the training is delivered and those members in attendance. Refresher courses are offered and proficiency is tracked through test scores maintained in the ACTS Database.

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

2.38 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

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

Status

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

The annual In-Service training program was conducted during the months of October, November, and December of 2007. The topics included search and seizure, leadership, cultural awareness and ethics. The 2007 curriculum was based on the organization needs identified in a comprehensive evaluation of the previous (2006) In-Service Training. Information was also gathered from Field Operations, Office of Professional Standards, and included the Superintendent's Strategic Goals (Intelligence Led-Policing). The majority of the training was interactive and scenario based. The scenarios required that the participants utilize skills relating to leadership, cultural awareness, ethics and search and seizure.

The Academy staff offered an example of how training was modified to address an emerging problem. The curriculum was modified to include five scenarios where actors engaged the participants in practical exercises that reflected various enforcement activities captured on videos recorded during motor vehicle stops. Scenarios were developed from the videos with a set of measurable objectives:

- Reduction in elongated critical motor vehicle interactions
- Increase in hit rate (evidence seized) on consent searches
- Increase in confidence and understanding of Search & Seizure
- Reduction of Office of Professional Standards Complaints

According to the Academy staff, the training was successful. Preliminary feedback from Field Operations was positive. A marked difference has been seen in the troopers' ability to develop and articulate reasonable suspicion as well as an improvement in the judgment of those first-line supervisors who conduct MVR reviews.

Moving forward, it is recommended that the Academy staff continue to submit a written data collection plan that can be reviewed by supervisory personnel to ensure that the assessment of In-Service training programs is consistent from year to year. The Academy put forward a request to have personnel, preferably civilian, assigned to the Academy for the express purpose of collecting, analyzing and measuring data that would provide continuity and unit stability. Due to budgetary constraints, the proposal was denied.

The Office of State Police Affairs has noted the significant progress made by the

Academy in its ability to measure implementation of training and to sustain compliance with the terms of the Consent Decree. For these reasons and in an effort to maintain the momentum established by the Academy, it is recommended that the State Police revisit the proposal to hire an additional civilian staffer to collect and analyze data during the next fiscal year.

Compliance

	Cultural Diversity	Ethics	Leadership
Phase I:	In compliance	In compliance	In compliance
Phase II:	In compliance	In compliance	In compliance

2.39 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

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

Status

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

The Academy continues to provide recruit and annual in-service training on Fourth Amendment requirements, including training on drug-interdiction, motor vehicle stops and searches and seizures. The Law Enforcement Science Unit is responsible for maintaining and updating lesson plans used in the instruction of recruits when new case law is issued by the courts, revisions are made to S.O.P.'s and/or problems present themselves in Field Operation.

Compliance: In-Service Recruit

Phase I:	In Compliance	In Compliance
Phase II:	In Compliance	In Compliance

2.40 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

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

Status

A web-based application system to track Trooper Coach assignments and the progress of the probationary troopers has been designed and is being implemented Division-wide. The forms currently found in S.O.P. F-12 "Trooper Coach Evaluation Program" are now maintained and retrievable from the database. The program has a flag system -"real time alarms"- so that any necessary remedial training can be delivered to the probationary trooper promptly (e.g., probationary trooper not responding to training or performing unsatisfactorily on the road.)

The database is being populated with information relating to individuals who are interested in becoming Trooper Coaches. It is the Academy's intention to enter historical information on Trooper Coaches who have already been approved and are participating in the program. Other databases linked to this application include those containing information from the Human Resources database and the S.O.P. database.

The Academy continues to revise S.O.P. F-12 governing the Trooper Coach program to include amending the current eligibility requirements from four years to three years and to institute a "Reserve Trooper Coach" program. Reserve Coaches will be required to attend a one-day training program. Thereafter, they will be permitted to substitute for a regularly assigned coach if one is not available on a particular day.

Compliance:

Phase I:	In Compliance
Phase II:	In Compliance

2.41 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.

Compliance

Phase I: In Compliance
Phase II: In Compliance

Methodology

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

Status

The New Jersey State Police achieved compliance for this task in September 2000. Any Decree-related information, including the issuance of new orders or recently enacted legislation, is forwarded to its membership through the "Read & Acknowledge Program," an electronic database used to provide notification as well as to receipt acknowledgement from its membership. The administrative officers at the section level are able to monitor member compliance through this program and a check of the database will reveal non-compliant members.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.42 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

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

Status

The Academy has completed the 2008 Training Needs Assessment report. Data used to conduct this assessment were collected from various bureaus, committees and training units throughout the Division. Areas in need of improvement were identified in the report, which is used by instructors to develop specific training programs.

Compliance:

Phase I: In Compliance

Phase II: In Compliance

2.43 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 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

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

Status

Supervisory and Leadership Training continues to be delivered and evaluated according to the seven-step training cycle. During the last IMT review, there was discussion of scheduling the 40-hour Sergeant-First Class training as five one-day sessions over the course of several weeks in an effort to allow a more effective implementation of the knowledge gained. As a consequence of logistics, manpower and staffing, the Academy determined that training is more efficient if it is delivered on consecutive days to maintain continuity.

The Academy conducted an evaluation of supervisory related training that has been incorporated in the 2008 Division-Wide Needs Assessment.

Compliance:

Phase I: In Compliance
Phase II: In Compliance

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

Task 106	1	2	3	4	...	8	9	10	11	12	13	14
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 seven months of the promoted trooper's service in his or her new rank.

Methodology

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

Status

The Academy continues to provide post-Academy training for those troopers who advance in rank. Since the last IMT visit, there were two Mid-Level Management Courses and two Executive Leadership Courses presented for a total of 110 individuals trained. These courses conform to the seven-step training cycle and are evaluated immediately after presentation and again approximately 45 days after initial presentation in order to measure the impact the training is having in the field.

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

Captains and Above

Phase I: In Compliance
Phase II: In Compliance

Sergeants and Lieutenants

Phase I: In Compliance
Phase II: In Compliance

2.45 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

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

Status

As per the Sixth Report, Task 107 applies to those troopers who returned to patrol from specialized assignment. As previously reported, training processes for post-Academy training for "newly assigned" troopers were implemented during the seventh reporting period. Evaluation processes related to the impact in the field of this training were implemented during the fourteenth reporting period. All instructors external to the Academy complete the Instructor Training Program to insure the delivery of quality training. In addition, an operational guide is issued to instructors and Field Training Officers to assist them in their role of training the newly assigned troopers and troopers are required to keep any certifications they may have up to date. The State Police remain in compliance with this task.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.46 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 MAPPS, the State Police will track all training information, including name of the course, date started, date completed, and training location for each member receiving training. The MAPPS will maintain current and historical training information.

Methodology

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

Status

Discussions are currently underway to formulate a method by which the data in Geo-Learning can be linked to ACTS and MAPPS. The Programming Unit has been tasked with developing such a system and trial runs are currently being conducted. As previously noted in the sixteenth Monitors' report, accessing this information in a global fashion will further assist personnel in managing their responsibilities at every level in the organization.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.47 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

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

Status

During the sixteenth Monitor's visit, it was noted that an enhancement to the ACTS database was approved but not implemented resulting in a significant impact on manpower related to data management and data entry for firearms qualification. Since that time, a Firearms Application Program has been developed that is linked to the various Division databases. The program captures all information relating to firearms qualification that was traditionally maintained on data cards and includes qualification scores, types of weapons used, and attendance. This application can be queried in a variety of ways and a historical search can be done on an individual member. The regional command is now able to enter the information from remote sites as qualifications are completed thereby streamlining the process without burdening clerical staff saving man-hours and having information available in real time.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.48 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.

Status

As was previously indicated, this report marks the tentative assumption by the State of New Jersey and the Office of State Police Affairs of the duties previously performed by the independent monitors. More specifically, with this report the Office of State Police Affairs has undertaken the steps necessary to review and assess the efforts of the State Police to maintain compliance with the Consent Decree and to report the results of its assessment and review to the independent monitors and the Department of Justice.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.49 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

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

Status

The Office of State Police Affairs conducted two motorist surveys during the reporting period. More than two thousand surveys were mailed to affected motorists. Almost five hundred completed surveys were returned to the office for review. From that review, more than two dozen motorists were contacted for additional information and, when appropriate, complaints were forwarded to the Office of Professional Standards for investigation. The State remains in compliance with this task.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.50 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

Data regarding task 112 indicate that the State Police continues to perform this task in a satisfactory manner. OSPA audits the hotline as part of its semi-annual audits of OPS. For 2007, these audits revealed 110 calls were received on the hotline and OSPA chose 18 calls randomly for review. All were classified correctly and had case files opened.

Status

The State remains in compliance with this task.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.51 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.

Status

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

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.52 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.

Status

The Office of State Police Affairs filed aggregate data reports with the United States District Court for New Jersey on June 28, 2007, and January 11, 2008, for the reporting period governed by this report. The reports are available for inspection at www.nj.gov/lps/decreehome.htm.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.53 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.

Status

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

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.54 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

The independent monitors were accorded full and unrestricted access while on-site with personnel from the New Jersey State Police and the Office of State Police Affairs.

Status

All documents requested by the independent monitors 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

2.55 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 seven months thereafter until this Consent Decree is terminated, the State shall file with the Court and the Monitor, with a copy to the United States, a status report delineating all steps taken during the reporting period to comply with each provision of this Consent Decree.

Status

Status reports were filed by the State with the United States District Court of New Jersey in April and November of the reporting period. The reports set forth the steps taken by the State to comply with the provisions of the Consent Decree. Copies of the reports are available for inspection at www.nj.gov/lps/decreehome.htm.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.56 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 an pending misconduct investigation or a civil or criminal proceeding shall be maintained at least until the misconduct investigation or the civil or criminal proceeding is finally resolved. Any MVR tape that records an incident that is the subject of a substantiated misconduct investigation, or an incident that gave rise to any finding of criminal or civil liability, shall be maintained during the employment of the troopers whose conduct is recorded on the tape.

Methodology

Members of the Office of State Police Affairs have requested and reviewed in excess of one thousand documents, records and recordings in preparing this report.

Status

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

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.57 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.

Status

The Office of State Police Affairs was advised by the Department of Justice that the State of New Jersey was in compliance with this task during the reporting period.

Compliance

Phase I: In Compliance
Phase II: In Compliance

3.0 Summary

The seventeenth independent monitors' report documents the continuing evolution of the consent decree with respect to the State Police. The sixteenth report noted that the State Police had become "self-monitoring" and that as agency it possessed the ability to "analyze and correct" problematic law enforcement procedures on a "real time" basis. The report further noted that the goal of the Consent Decree was to encourage the development of law enforcement organizations that were "self-aware" and could adapt to a changing environment. The report concluded that the State Police had achieved that goal.

The evolution of the consent decree process continues with the designation of the Office of State Police Affairs (OSPA) as the agency to monitor and evaluate the efforts of the State Police to comply with the mandates of the consent decree. In the past, independent monitors designated by the Department of Justice were responsible for evaluating the implementation of the consent decree by the State Police. With this report, the torch is passed in that the State of New Jersey begins to establish a mechanism to move from federal oversight of the consent decree to self-regulation. This transition takes shape as OSPA begins to assume the duties and responsibilities of the independent monitors.

Following the completion of the independent monitors' Sixteenth Report on November 1, 2007, the New Jersey Advisory Committee on Police Standards completed its work and issued a final report. To briefly review, the committee was created by Governor Jon Corzine in August of 2006 by Executive Order No. 26. The committee was directed by the governor to recommend whether and under what circumstances the State of New Jersey should join with the Department of Justice in filing a motion with this Court seeking to terminate the consent decree. The committee also was asked to make recommendations concerning the measures necessary to ensure that the practice of racial profiling did not occur in the event that the consent decree is terminated by this Court.

In its final report, the Advisory Committee indicated that the State of New Jersey should join in a motion to terminate the consent decree provided a mechanism was developed to ensure that the progress made by the State Police under the consent decree continues in the months and years ahead. In outlining its view of what needed to be done by the State to terminate the Decree, the Committee specifically recommended that the Office of State Police Affairs be assigned the responsibility to: 1) audit the Office of Professional Standards within the Division of State Police; 2) collect and analyze data with the Division of State Police and assess the adequacy of data collection; 3) review the functions of the Field Operations Section of the Division of State Police; and 4) exercise oversight of the Management Awareness Personal Performance System implemented by the Division of State Police.

Following the release of committee's final report on December 7, 2007, the independent monitors discussed the findings and recommendations of the Advisory Committee report with the State of New Jersey. Following those discussions and subsequent consultation with the Department of Justice resulted in a decision that the monitors would assist in preparing the State of New Jersey, the Office of State Police Affairs and the State Police for the termination of the consent decree. It was further agreed that the monitors would work with OSPA to ensure that the office developed the protocol and procedures necessary to effectively evaluate the issues addressed by the consent decree. The monitors also agreed to mentor personnel assigned to the OSPA to ensure that they developed the knowledge, skills and abilities needed to the undertake duties and responsibilities heretofore performed by the monitors.

This report marks the culmination of those efforts. In preparing the seventeenth report, staff assigned to the Office of State Police Affairs reviewed 376 motor vehicle stops including videotape reviews of 272 of the stops, gathered statistical data from those reviews and conducted an analysis of the data to determine whether the law enforcement activity undertaken by the State Police during motor vehicle stops was attributable to race. In addition, the staff evaluated the efforts of management at the State Police to supervise the activities of subordinate troopers through the Management Awareness Personnel Performance System and other mechanisms. Furthermore, the staff performed audits of the internal affairs function and the training function to determine compliance with the consent decree. All these activities were performed in accordance with protocol established by the independent monitors and with their guidance and assistance.

Training

The State Police continue to comply with every consent decree requirement applicable to the training function in the seventeenth reporting period. The New Jersey State Police Academy continues to refine and improve its ability to provide effective and meaningful training. More importantly, the Academy has initiated a process whereby each training program will comport with the strategic mission of the State Police and reflect the best practices of the law enforcement community.

As noted in the sixteenth report, the Academy had initiated an assessment to identify issues within the organization that could be addressed by training programs. With the seventeenth report, the assessment is complete and the State Police have moved to incorporate the findings of the assessment into the development and implementation of training programs.

Previously, training programs and the curricula supporting those programs were developed by instructors based on what the instructors deemed to be important.

During the seventeenth reporting period, the Academy discarded this approach to developing training programs. Moving forward training programs and the curricula supporting those programs will be developed based on the organization's strategic plan (intelligence-led policing), best practices identified as relevant to the topic of instruction and any issues identified by the organizational assessment. Instructors developing individual programs will be responsible for integrating the agency's strategic plan, relevant best practices and issues identified by the organizational assessment into the curricula supporting the programs. This process marks a significant improvement in the development of training programs and together with the post-implementation evaluation of training should serve to enhance and improve the training function within the State Police.

In addition, the Academy has taken steps to become the central repository for records concerning all requests by individual troopers to attend training programs, the delivery of training to all troopers whether by the State Police or a third party and the post-delivery evaluation of those programs. In the past, the Academy was not always advised that individual members of the State Police were attending training programs conducted by third party vendors. As a result, the Academy could not maintain "quality control" over the training delivered to members of the State Police. By establishing itself as the central repository for records regarding training requests and mandating the post-delivery evaluation of those programs, the Academy can implement a measure of quality control that ensures members of the State Police do not receive training that is inconsistent with the mission and goals of the organization and the consent decree.

Supervision

Three levels of review are utilized by the State Police to monitor the activities of individual troopers during motor vehicle stops. An initial review of each stop may be conducted within the trooper's immediate chain of command. The initial review and any subsequent reviews may include an examination of all paper documents generated by the incident as well as the video tape created by the mobile video recorder. Ideally, the initial review is conducted by the trooper's immediate supervisor. A second review may be conducted by management within the State Police. The purpose of the second review is to provide an element of quality control to the supervisory reviews conducted within the chain of command. A tertiary review is conducted by staff assigned to the Office of State Police Affairs.

In the past, State Police policy dictated that all incidents in which a law enforcement action was taken following the stop of a motor vehicle would be subject to a video tape review. That policy was modified during the fifteenth reporting period to require a mandatory review of all incidents in which there was a request for consent to search a vehicle, a canine deployment or a use of force. All other incidents were not subject to a mandatory review. During this reporting period, 376 incidents were examined for by

the Office of State Police Affairs. Of those incidents, OSPA noted a supervisory or management video tape review by the State Police in 300 incidents yielding a rate of review of approximately eighty percent. Those 300 reviews yielded 109 events in which State Police supervisory or management reviews noted errors by the troopers conducting the motor vehicle stop.

Error rates by supervisors and management in this reporting period remained consistent with error rates in previous reporting periods. Of the 376 incidents it reviewed, OSPA found that the State Police failed to identify and remedy errors in 16 of the incidents. This translates into an error rate of a little more than four percent, which satisfies the benchmark established for this process.

Two issues with respect to supervision may require further attention moving forward. First, 45 percent of the initial video tape reviews that were conducted of motor vehicle stops were conducted by someone outside the trooper's immediate chain of command. The independent monitors have previously noted that the initial reviews are most effective when performed by the trooper's immediate supervisor. Shifting the responsibility for these reviews away from the immediate supervisors may dampen the effectiveness of the supervisory process as it moves forward. Second, field supervision of motor vehicle stops reviewed by OSPA fell to 34 percent and continues a trend of decreasing field supervision noted in the sixteenth report. Field supervision of critical incidents remains at very high levels. However, field supervision of non-critical incidents has decreased. Lower levels of field supervision may compromise the ability of the State Police to effectively supervise the law enforcement activities of individual troopers during motor vehicle stops. Both issues will be examined in the next report to determine whether the effectiveness of the supervisory process is being compromised.

A third issue deserves mention for a different reason. During the seventeenth reporting period, the State Police appear to have finally resolved the issues that arose following the delivery of search and seizure training by third party vendors in 2006. The issues raised by the training programs were discussed in detail in the fifteenth report. For the purposes of this report it bears repeating that the programs led to a significant increase in problematic law enforcement activities, particularly consent requests, during motor vehicle stops.

It appears that during the seventeenth reporting period effective supervision of motor vehicle stops together with in-service training programs designed to address the issues created by the third party training programs have returned consent requests to levels consistent with reporting periods prior to the program. Supervisory and management reviews focused on correcting mistakes by individual troopers during the development of reasonable suspicion during motor vehicle stops. The New Jersey State Police Academy developed in-service training programs designed to address the principles of search and seizure during motor vehicle stops. These responses to an emerging

problem provide direct support for the conclusion that the State Police has evolved into an organization that can analyze and correct problematic law enforcement activities on a "real time" basis. The State Police should be lauded for its response to this issue.

MAPPS Development

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

The evolution of the use of the MAPPS data system into a proactive problem identification and problem solving system commenced during the fifteenth reporting period. Initially, MAPPS was intended to provide the State Police with information that focused on motor vehicle stops. During the fifteenth reporting period, the State Police moved beyond that narrow focus in its use of MAPPS to focus on systemic organizational issues and to craft solutions to those issues before they negatively impact the organization in any significant way. During this reporting period, the State Police used MAPPS and its affiliated processes to respond to issues of in-field enforcement and off-duty misconduct. MAPPS developed and now maintains a database on all consent requests (with canine deployments added after the reporting period) from which the Risk Assessment Core Group (RACG) compiles a quarterly report. Work also began during the seventeenth reporting period on developing a new module for MAPPS (and its associated policies), capturing use of force for reporting purposes. And, growing out of one of the issues raised in the fifteenth reporting period, the RACG has worked with the Office of Professional Standards to enhance flagging of alleged off-duty misconduct within its database to facilitate further RACG analyses.

With respect to resources and capabilities, the MAPPS and RACG functions are adequately staffed at this point in time to address the workload presented by the consent decree. Both functions possess the technological capacity to generate and analyze data in response to issues posed by the consent decree and the organizational demands of the State Police. In addition, both functions have access to the data and

information necessary to execute their responsibilities. Thus both functions remain in compliance with the consent decree.

Inspections, Audit and Quality Control

Inspections and Audit personnel from Field Operations and the Office of State Police Affairs continue to review motor vehicle stop reports and video tapes elements for conformance to the requirements of the consent decree. These quality control procedures yielded a consistency in the application of law enforcement procedures throughout the seventeenth reporting period. OSPA continues to provide the State Police with an additional tier of review for law enforcement activities related to the consent decree.

Overall Compliance Status

Compliance in all areas has met and continues to meet the requirements established by the Consent Decree. All functions subject to review under the decree including training, supervision, inspections, audits and MAPPS processes are fully staffed and functioning. In the opinion of the OSPA, the State Police continue to function as an organization that is able to "analyze and correct" problematic law enforcement procedures on a "real time" basis. This accomplishment is consistent with the goal of the Consent Decree which was to encourage the development of a law enforcement organization that was monitor its activities and adapt to changes in the legal and criminal justice environments.

ANNEX ONE
High, Median and Low Discretionary Violations¹

High Discretion:

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

Median Discretion:

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

Low Discretion:

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

¹ The monitors engaged in multiple, substantial discussions with New Jersey State Police personnel regarding the nature of the "reason for stop" offenses. While there remain some differences in opinion regarding high versus low discretion incidents, the framework presented above is the best available framework obtainable, in the monitors' opinion, to assess the exercise of discretion in studied traffic stops. Further work in this area *may require* revision of the reason for stop continuum.

Annex Two
Data Tables for *Chi-Square* Analyses

Table Four: Consent Requests by Race-Ethnicity of Driver, 17th Reporting Period

	White	Black	Hispanic	n=
No Consent Request	63	90	81	234
Consent Request	34	72	33	139
Total	97	162	114	373 ¹

$\chi^2 = 7.149$, df= 2²

p= 0.028³

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

Table Five: Canine Deployments by Race-Ethnicity of Driver, 17th Reporting Period

	White	Black	Hispanic	n=
No Canine Deployment	87	132	100	319
Canine Deployment	10	30	14	54
Total	97	162	114	373 ⁴

$\chi^2 = 3.942$, df= 2

p= 0.139

¹ The "Total" does not equal 376 because three drivers were in the other categories of race or ethnicity.

² "Degrees of freedom" (df) refer to the how much about the observed data needs to be known (or can "be free" to vary) before all the observations would be determined. The size of a statistic needed to achieve a particular level of significance ("p") is determined by the degrees of freedom. For the *Chi-square* statistic, the degrees of freedom translate into the number of cells in a table for which the data distribution needs to be known before all the cells are determined.

³ A "p" level indicates the probability that a statistical relationship could reflect only chance. The smaller the size of p, the smaller the probability the relationship happened by chance. A p level of 0.05 was chosen here as the level at which statistical significance will be determined, consistent with most research studies. If a reported *Chi-square* statistic reaches a p level of 0.05 (or smaller), there is no more than a five-percent probability that the distribution of the data in that table happened by chance, and therefore any differences across groups seen in the table are considered statistically significant.

⁴ The "Total" does not equal 376 because three drivers were in the other categories of race or ethnicity.

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

Table Six: Arrest Data by Race-Ethnicity of Driver, 17th Reporting Period

	White	Black	Hispanic	n=
No Arrest	23	67	49	139
Arrest	74	95	65	234
Total	97	162	114	373 ⁵

$\chi^2 = 10.377$, df = 2

p = 0.006

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

Table Seven: Consent Request Stop Rates by Reason for Stop (Level of Discretion), 17th Reporting Period

	White	Non-White	n=
High Discretion (1)	16	39	55
Median Discretion (2)	6	13	19
Low Discretion (3)	12	56	68
Total	34	108	142

$\chi^2 = 2.889$, df = 2

p = 0.236

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

⁵ The "Total" does not equal 376 because three drivers were in the other categories of race or ethnicity.

Table Eight: Canine Deployment Rates by Reason for Stop (Level of Discretion), 17th Reporting Period

	White	Non-White	n=
High Discretion (1)	4	18	22
Median Discretion (2)	2	6	8
Low Discretion (3)	4	21	25
Total	10	45	55

$$\chi^2=0.330, df= 2$$

$$p= 0.848$$

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

Table Nine:

Sampled Vehicle Stop Rates by Reason for Stop (Level of Discretion), 17th Reporting Period

	White	Black	Hispanic	n=
High Discretion (1)	32	61	41	134
Median Discretion (2)	27	41	31	99
Low Discretion (3)	38	60	42	140
Total	97	162	114	373 ⁶

$$\chi^2=0.635, df= 4$$

$$p= 0.959$$

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

⁶ The "Total" does not equal 376 because three drivers were in the other categories of race or ethnicity.

Table Ten:

Reason for Consent Request by Race and Ethnicity, 17th Reporting Period

	White	Non-White	n=
Intangible (1)	2	11	13
Tangible (2)	3	22	25
Probative (3)	29	75	104
Total	34	108	142

 $\chi^2=3.368$, df= 2

p= 0.186

This test statistic is *not significant* at the 0.05 level.Table Eleven: Outcome for Consent Request by Race and Ethnicity,
17th Reporting Period

	White	Non-White	n=
Inappropriate (1)	2	17	19
Appropriate (2)	32	91	123
Total	34	108	142

 χ^2 (Yates)⁷ = 1.401, df= 1

p= 0.237

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

⁷ *Chi-square* statistics reported with Yates' correction for a table with two categories only for both row and column values.