

Monitors' Sixteenth 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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Table of Contents

Topic	Page No.
Executive Summary	iv
1 Introduction	1
1.1 Overall Status Assessment	1
1.2 Format for Compliance Assessment	1
1.3 Compliance Assessment Processes	2
1.4 Flow of the Monitoring Process	4
1.5 Summary of Compliance Activities	4
2 Assessment of Compliance	7
2.1 Methodology	7
2.2 Compliance with Task 26: Prohibition from Using Race-Ethnicity in Decision Making	8
2.3 Compliance with Task 27: Monitor and Evaluate Implementation of the Motor Vehicle Stop Criteria	29
2.4 Compliance with Task 28: Request for Consent to Search only upon Reasonable Suspicion	35
2.5 Compliance with Task 29a: Recording Requirements for Motor Vehicle Stops	38
2.6 Compliance with Task 30: Communications Center Call-Ins	46
2.7 Compliance with Task 31: Reporting Consent to Search Requests	52
2.8 Compliance with Task 32: Recording and Reporting of Non-Consensual Searches	54
2.9 Compliance with Task 33: Recording and Reporting Deployment of Drug Detection Canines	55
2.10 Compliance with Task 34a: Use of Mobile Video Recording Equipment	56
2.11 Compliance with Task 34b-c: Training in MVR Operation and Procedures	57
2.12 Compliance with Task 35: Supervisory Review of Trooper Reports	59
2.13 Compliance with Task 36: Supervisory Review of MVR Tapes	60
2.14 Compliance with Task 37: Supervisory Referral to PSB of Observed Inappropriate Trooper Conduct	61
2.15 Compliance with Task 38: Periodic Reviews of Referral Decisions	62
2.16 Compliance with Task 39: Regular Supervisory Activity in the Field	63
2.17 Compliance with Task 40: Development of a Management Awareness and Personnel Performance System	64
2.18 Compliance with Task 41: Data Included in the MAPS System	65
2.19 Compliance with Task 42: Annual Access to Troopers' Personal MAPPS Data	66
Table of Contents	p. i

2.20 Compliance with Task 43: Production of “Counts”	67
2.21 Compliance with Task 44: Common Control Numbers	68
2.22 Compliance with Task 45: Timely Access to MAPPS	69
2.23 Compliance with Task 46: Development of a MAPPS Plan	69
2.24 Compliance with Task 47: Supervisory and Management Reviews	70
2.25 Compliance with Task 48: Quarterly Reviews of MAPPS Data	71
2.26 Compliance with Task 49: Reporting Capabilities of MAPPS	72
2.27 Compliance with Task 50: Comparisons Using Benchmarks	73
2.28 Compliance with Task 51: Analysis of Trends	74
2.29 Compliance with Task 52: Supervisors to Implement Necessary Changes	75
2.30 Compliance with Task 53: Supervisory Review of Troopers with More than Two Misconduct Investigations in Two Years	76
2.31 Compliance with Task 54: Drivers Survey of the New Jersey Turnpike	77
2.32 Office of Professional Standards Requirements	78
2.33 Training Assessment	78
2.34 Compliance with Task 93: Development and Evaluation of Quality of Training Programs	79
2.35 Compliance with Task 97: Encourage Superior Troopers to Apply for Academy	81
2.36 Compliance with Task 98: Formal Eligibility Criteria for Training Personnel	82
2.37 Compliance with Task 99: Training for Academy Instructors	83
2.38 Compliance with Task 100: Training in Cultural Diversity	84
2.39 Compliance with Task 101: Recruit and In-Service Training on Fourth Amendment Requirements	86
2.40 Compliance with Task 102: Training Protocols for the Trooper Coach Process	87
2.41 Compliance with Task 103: Provision of Copies of the Decree to all State Troopers	88
2.42 Compliance with Task 104: Systems Improvement Processes for Police Training	89
2.43 Compliance with Task 105: Provision of Training for Supervisors	90
2.44 Compliance with Task 106: Training for Newly Promoted State Troopers	91
2.45 Compliance with Task 107: Provision of Specialized Training	92
2.46 Compliance with Task 108: Inclusion of Training Data in MAPPS0 Program	92
2.47 Compliance with Task 109: Establishment of a Central Repository for Training Records	93
2.48 Compliance with Task 110: Creation of the Office of State Police Affairs	94
2.49 Compliance with Task 111: Audits of Motorists Subjected to Motor Vehicle Stops	96

2.50 Compliance with Task 112: Internal Audits of Citizen Complaint Processes	96
2.51 Compliance with Task 113: Full and Unrestricted Access for the Office of State Police Affairs	97
2.52 Compliance with Task 114: Publication of Semi-Annual Reports of Aggregate Traffic Stop Statistics	98
2.53 Compliance with Task 115: Appointment of Independent Monitor	99
2.54 Compliance with Task 118: Full and Unrestricted Access for Monitor	100
2.55 Compliance with Task 122: State to File Routine Progress Reports	101
2.56 Compliance with Task 123: State to Maintain all Necessary Records	102
2.57 Compliance with Task 124: Unrestricted Access for the Department of Justice	103
3.0 Summary	105
Annex One: High, Median and Low Discretionary Violations	110
Annex Two: Data Tables for <i>Chi-Square</i> Analyses	111

Executive Summary

Summary of Compliance Activities

The New Jersey State Police appear to have reached a watershed moment during the last two reporting periods. Ample evidence exists to suggest that the agency has become self-monitoring and self-correcting to a degree not often observed in American law enforcement. In January and February 2006, agency training pre-delivery monitoring processes "slipped," allowing unapproved training to be delivered by two outside vendors unfamiliar with the New Jersey State Police consent decree. These two trainings created a serious spike in the number of consent search requests observed during the fifteenth and sixteenth reporting periods. In addition, they created a substantial spike in the number of problematic law enforcement procedures observed by the monitors, jumping from approximately 17 per reporting period to 84 this reporting period.

The response of the New Jersey State Police was anything but typical. In March 2006 the Office of State Police Affairs was tasked to develop a special study relating to the spike in consent requests. By May 2006, the Office of State Police Affairs and the New Jersey State Police developed a field supervisors' checklist for managing consent requests in the field. By June 2006, OSPA had worked with legal advisors to develop corrective processes to control many of the issues identified by the monitors during their May site visits related to the "tone and timbre" of the consent requests observed during the site visit. By July 2006, enhanced troop-level (executive) and OSPA review systems had been implemented. By August 2006, in-service field supervisor training was modified to address issues raised by the drug interdiction training. By October 2006 global supervisory and managerial reviews began to note and correct problematic consent requests by field personnel using a "best practices" remedial policy.

The New Jersey State Police response to the unapproved training depicts an agency that has become self-monitoring and adaptive, able to note, analyze and correct problems with the delivery of field services in real time. The essential characteristic designed into the current crop of consent decrees strives for just that type of self-awareness and adaptivity on the part of American law enforcement agencies. It appears the ultimate goal has been attained.

Training

Compliance levels continued to be maintained in training for the sixteenth reporting period. The Academy continues to assess performance in the area of training, and is currently conducting a unit-wide evaluative process to update and refine program procedures, curricula and training techniques. Technological

innovations continue to streamline processes and improve efficiency. Workload analysis and planning processes continue to monitor the training environment for potential stressors on staffing levels and plan for adaptation to ebbs and flows in workload. Training certifications are routinely monitored, and coordination with field units regarding training topics is routine. As with the agency as a whole, the Academy appears to have become self-monitoring and adaptive.

Supervision

Error rates in field supervision jumped during the fifteenth and sixteenth reporting periods, with on-scene and first-level supervisors missing procedural errors on the part of field personnel, and relying instead on management and OSPA reviews to catch and correct in-field errors. This is directly attributable to the unapproved provision of two separate training events by vendors unfamiliar with the New Jersey State Police consent decree. As a result of this training, field personnel began implementing consent search and vehicle stop processes that were at the margins of New Jersey State Police policies and procedures, and, when counseled concerning these practices, often advised their supervisors "that's how we were trained." The New Jersey State Police noted the divergence of training for field supervisors and field personnel, changed their supervisory in-service training practices, and, by August 2007, had updated the field supervisory in-service training to conform to their "best practices" model of supervision. Again, the agency appears to have become self-monitoring and self adaptive.

MAPPS Development

Full compliance has been reattained 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 currently being used in performance evaluations and positive disciplinary processes, such as verbal counselings, performance notices, and retraining. High-level risk analysis processes, using MAPPS data, were commenced during the thirteenth reporting period. The monitors reviewed the operational MAPPS database, and found it to contain active data from January 1, 2004.

The evolution of the New Jersey State Police's use of the MAPPS data system into a *proactive problem identification and problem solving system* emerged this reporting period. In effect, the New Jersey State Police have taken the MAPPS system *beyond* the requirements of the consent decree, using it for more than a tracking and control device for motor vehicle stops, use of force, and complaints, and instead using it to identify systemic organizational issues and to craft solutions to those issues before they negatively impact the organization in any significant way. In the past year, using MAPPS-based tools, the leadership of the New Jersey State Police identified two issues of concern: a perceived rise in allegations of off-duty misconduct incidents among Division personnel and a significant increase in the number of *consent search requests* made by Division personnel.

Within six months of noting the potential impact of these two issues, the New Jersey State Police planned, developed and executed two separate data-centric and data-analytic problem solving actions designed to identify the nature and scope of the problems, assess their impact on the organization, and develop recommendations to *deal with* the issues in a real-time manner. Elements from the Office of Strategic Initiatives, MAPPS and the Risk Assessment Core Group (RACG) were melded to deal with these two issues.

The faults noted last reporting period in the areas of workload, staffing, technology and information access have now been addressed. MAPPS and RACG are now in full compliance, staffed to a sufficient level with technological capacity and information access regimens suitable for the workload facing MAPPS and RACG.

Inspections, Audit and Quality Control

Inspections and Audit personnel from Field Operations and the Office of State Police Affairs continue to review MVSR and MVR elements for conformance to the requirements of the consent decree. As noted above, the quality control process has yielded remarkable improvements for six consecutive periods. OSPA continues to be an important and integral part of the systems improvement process, and continues to offer an important tier of review of state police functions related to the consent decree.

Overall Compliance Status

Compliance requirements in all areas are now at 100 percent levels. Policy, training, supervision, inspections and audit, and MAPPS processes are fully staffed, fully functioning, and, in the opinion of the monitors, fully capable of self-monitoring and self-adaptation.

Independent Monitors' Sixteenth Report Period Ending May 30, 2007

1 Introduction

This document represents the sixteenth "Independent Monitors' Report" (IMR) assessing the levels of compliance of the State of New Jersey (the State) with the requirements of a consent decree (decree) entered into between the State and the United States Department of Justice on December 30, 1999. This document reflects the findings of the monitoring team regarding compliance monitoring for the period October 1, 2006 through March 31, 2007.

The report is organized into three sections, identified below:

- Introduction;
- Compliance Assessment; and
- Summary.

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

1.1 Overall Status Assessment

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

1.2 Format for Compliance Assessment

The IMR is organized to be congruent with the structure of the consent decree. It reports on the State's compliance using the individual requirements of the decree. For example, the first section, the compliance assessment, deals with the requirements, in paragraph 26 of the decree, relating to a specific prohibition against using "to any degree the race or national or ethnic origin of civilian drivers or passengers in deciding which vehicles to subject to any motor vehicle stop" (Decree at para 26). The following

components of the decree are treated similarly. Compliance is classified as "Phase I," and "Phase II," with the definitions specified in Section 1.4, below.

1.3 Compliance Assessment Processes

1.3.1 Structure of the Task Assessment Process

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

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

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

The monitoring team assessed the performance of the New Jersey State Police on each task outlined in the consent decree during the period ending March 31, 2007¹. The sixteenth independent monitors' report was submitted to the court during the month of August.

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;² 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

¹ Motor vehicle stop activity was assessed through December 31, 2006, the last available date for complete electronic records for motor vehicle stops.

² 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.

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

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

1.3.3 Standards for "Compliance"

The parties have agreed to a quantitative standard for "compliance" to be used for assessing compliance for all critical, 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. This change to compliance standards is discussed in more detail in section 2.3, below.

1.3.4 Compliance with a Hypothetical Task

<i>Task nn</i>	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, represented by this report and future reports, focuses on issues of operational compliance—institutionalizing change into the day-to-day operations of the agency.

1.5 Summary of Compliance Activities

The New Jersey State Police appear to have reached a watershed moment during the last two reporting periods. Ample evidence exists to suggest that the agency has become self-monitoring and self-correcting to a degree not often observed in American law enforcement. In January and February 2006, agency training pre-delivery monitoring processes “slipped,” allowing unapproved training to be delivered by two outside vendors unfamiliar with the New Jersey State Police consent decree. These two trainings created a serious spike in the number of consent search requests observed during the fifteenth and sixteenth reporting periods. In addition, they created a substantial spike in the number of problematic law enforcement procedures observed

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Overall Compliance Status

Compliance requirements in all areas are now at 100 percent levels. Policy, training, supervision, inspections and audit, and MAPPS processes are fully staffed, fully functioning, and, in the opinion of the monitors, fully capable of self-monitoring and self-adaptation.

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 sixteenth site visit, members of the monitoring team conducted structured on-site reviews of the operations of ten New Jersey State Police Road Stations. These reviews were conducted of motor vehicle stop operations reported during the dates July 1, 2006 through December 31, 2006, inclusive (the last month for which electronic data were available).³ The team conducted these reviews of Troops B and E. As part of this review, members of the monitoring team collected and or reviewed course-of-business data on 269 New Jersey State Police motor vehicle stop incidents. In addition, the team reviewed video recordings of 200 motor vehicle stop incidents involving law enforcement procedures stipulated in the decree. Supporting documentation was reviewed for each of the motor vehicle stops assessed by the monitoring team. The following paragraphs describe the monitoring team's methodology for data collection and analysis of the structured site visits. These descriptions apply to the assessment of compliance of

³ The sixteenth reporting period was the first period in which a full six months of data were available for analysis, a fact that led to higher numbers of reported post-stop activities.

various tasks required by the decree, and are critically important in the assessment of tasks 26 through 36.

Data Requests

Prior to its site visits in May 2007, the monitoring team requested of the State electronic and hard copy data regarding State Police operations. These data requests included the following electronic-format data, in addition to other non-electronic data requests:

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

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

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

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

Type of Activity	Report Reviews	Tape Reviews ⁴
Selected MVS Incidents	269	151
MVS Involving Consent Search Requests	134	134
MVS Involving Canine Deployment	60	56
MVS Involving Use of Force	1	1
Probable Cause Searches of Vehicles	99	100
Probable Cause Searches of Persons	59	58

Motor Vehicle Stops

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

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

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

⁴ Tape and report reviews total more than 269 due to the fact that *all* tapes and *most* reports reviewed included more than a single class of law enforcement activity.

- 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 41 events that resulted in consent search requests from the stations selected for review this reporting period, and 93 events from other stations resulting in consent search requests, for a total of 134 consent search requests.⁵ 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 consent searches conducted were subjected to both documentation and video recording review by the monitoring team.

Similarly, the New Jersey State Police deployed drug detection canine units 60 times during the reporting period. The monitoring team reviewed reports from all 60 of these events, and the monitoring team also reviewed videos from 56 of those events. New Jersey State Police personnel in one motor vehicle stop incident reportedly used force during the reporting period, and the monitoring team reviewed all reports from that incident. 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

⁵ Drivers declined 20 consent requests during the reporting period.

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 269 Type I reviews were conducted this period.

Table Two: Distribution of Monitoring Events

Station	Type I Reviews	Type II Reviews	Type III Reviews
B20—Hope	11	3	0
B50—Sussex	10	1	0
B60—Totawa	14	4	0
B80—Netcong	17	3	0
B110—Perryville	12	3	0
B130—Sommerville	16	5	0
B150—Washington	7	1	0
E30—Bass River	13	0	0
E40—Bloomfield	34	18	0
E50—Sayerville	18	6	0
Other	117	107	0
Total	269	151⁶	0

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 151 Type II reviews were conducted this period.

Type III Event Review

⁶ The monitors reviewed 151 tapes of motor vehicle stops; however, these 151 tapes included more than 151 post-stop actions of interest to the decree. For example, the 134 consent request tapes reviewed also included 45 canine deployments.

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 the State's past performance, eleven consecutive periods in which no unreported events were discovered, no Type III reviews were conducted this reporting period.

Status

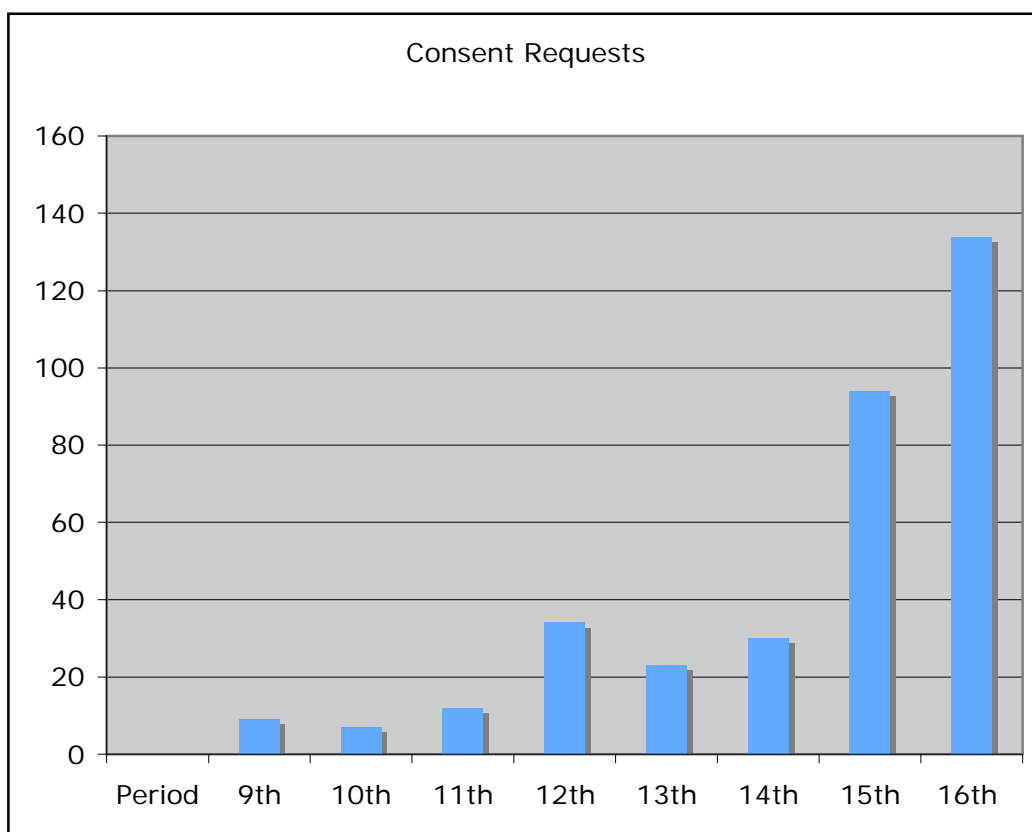
The monitors continue to review State Police activity for processes that indicate that relatively minor infractions serve as the only precursory violation resulting in requests for consent searches, requests to exit the vehicle, frisks, or other law enforcement procedures. In past reports, the vast majority of all searches of persons and vehicles conducted by members of the State Police were "non-discretionary," e.g., searches incidental to arrest, with searches of vehicles being conducted "incidental to arrest." Based on revised New Jersey case law⁷, 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 for this reporting period. As a result, "consent request" now replaces "incidental to arrest" as the number one reason for a search of a vehicle, with 51.8 percent of all searches of vehicles based on a request for consent to search. Of the 167 searches of persons reviewed this reporting period, 153 were "non-discretionary" searches incidental to arrest. As with the fifteenth reporting period, two activities this reporting 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=134) and canine deployments (n=60). Table Three, below, depicts consent request activity for the last eight reporting periods. Figure One depicts these data graphically.

⁷ State v. Eckel, 185 N.J. 523 (2006).

Table Three: Consent Requests for Past Eight 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 ⁸
16 th	134	42.5

Figure One: Consent Search Requests by Period



⁸ 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.

The data in Table Four indicate higher consent request rates for blacks and Hispanics (by a factor of as much as 1.5). Data in Table Four depict the total number of drivers *who were not asked for consent to search* in the overall sample of 269, by race, and the percentage of drivers by race (in parentheses). Data for drivers who were *asked* for consent to search their vehicles are presented in a similar manner. For example, Table Four depicts a sample of drivers *not asked* for a consent to search for this period of 135, with 70, or 51.9 percent being white. Similarly, Table Four depicts consent search requests for 53 black drivers, or 39.6 percent of the total of 134 drivers who were *asked* for permission to search their vehicles.⁹ For the first time, these data are statistically significant at the 0.05 level, indicating that the differences are not attributable to chance.¹⁰

Table Four: Consent Requests by Race-Ethnicity of Driver
16th Reporting Period

Race/Ethnicity	No Consent Request	Consent Request
White	70 (51.9)	36 (26.9)
Black	68 (28.1)	53 (39.6)
Hispanic	26 (19.3)	42 (31.3)
Asian Indian	1 (0.7)	2 (1.5)
Other	0 (0.0)	1 (0.7)
	135	134

Similarly, deployments of canines, as shown in Table Five, were also indicated at a higher rate for blacks and Hispanics (by a factor of as much as 6.4). Table Five depicts a total sample of drivers *not experiencing* a canine deployment for this period of 209, with 101, or 48.3 percent being white. Similarly, Table Five depicts a canine deployment for 32 black drivers, or 53.3 percent of the total of 60 drivers who had a canine unit deployed for *drug detection* purposes during their motor vehicle stop. These data are also statistically significant at the 0.05 level, indicating that the differences are not attributable to chance.¹¹

⁹ A total of 20 drivers refused consent.

¹⁰ *Chi-Square* analysis of consent request data yielded a *Chi-Square* of 23.26 with two degrees of freedom, and a *p*-value 0.0000089. 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 "1."

¹¹ *Chi-Square* analysis of these data yielded a *Chi-Square* of 30.271 with two degrees of freedom, and a *p*-value of 0.000000027. The distribution was statistically significant at the 0.05 level. See Annex Two for

Table Five: Canine Deployments by Race-Ethnicity of Driver
16th Reporting Period

Race/Ethnicity	No Canine Deployment	Canine Deployment
White	101 (48.3)	5 (8.3)
Black	59 (28.2)	32 (53.3)
Hispanic	48 (23.0)	20 (33.3)
Asian Indian	1 (0.05)	2 (0.33)
Other	0 (0.0)	1 (0.16)
	209	60

A statistically significant result does not “prove” that the difference 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 and canine deployments were *not attributable to chance*.

The reader should note that Tables Four and Five compare drivers who are subjected to consent requests and canine deployments to the drivers who *were not* subjected to such post-stop activities, by race and ethnicity. The overall *sample* of 269 drivers consists of all drivers who were subjected to a critical post-stop interaction, e.g., a consent search request, canine deployment or use of force. A total of 151 drivers were selected as a result of a critical post-stop interaction. In addition, the monitors selected 114 other drivers as part of the sixteenth report’s drivers sample. These drivers were selected from Troops B 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, 56.1 percent of the sixteenth report’s drivers sample was selected in response to a given New Jersey State Police action and produced a statewide sample, and 43.9 percent was selected by the monitors, and produced a Troops B and E sample.

To determine whether or not these consent request and canine deployment data are related to race or ethnicity—or are attributable to other factors

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 “1.”* See Annex Two, for the data table reporting these data.

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, not conducted or reported in previous monitors' reports due to the fact that previous reports did not have statistically significant test statistics related to post-stop interactions by race.

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, New Jersey State Police personnel arrested 1.6 times more white drivers than black drivers during the sixteenth reporting period. Table Six depicts arrest data by race and ethnicity. The distribution of arrest is statistically significant, i.e., not attributable to chance (See Annex Two for data tables). In reviewing these data, we find that 68 percent of white drivers stopped by New Jersey State Police personnel were arrested, compared with only 57 percent of black drivers and 37 percent of Hispanic drivers. An analysis of the qualitative differences in the arrests—or more specifically the *reason* for the arrests—partially illustrates *why* these differences in arrest rates were observed.

Table Six depicts the results of the *qualitative* analysis of arrest data, and indicates, not a over-sampling of white drivers, but, in the first tier of post-stop actions, the execution of non-discretionary arrests 24 percent of the time with white drivers' vehicles because they (or a passenger) had outstanding warrants, non-discretionary arrests of 39 percent of the time with black drivers' vehicles because they (or a passenger) had outstanding warrants and non-discretionary arrests of 12 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 *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

drivers are arrested less frequently for warrant violations, but *more frequently* for probable cause, usually criminal activity conducted in view of the arresting trooper.

Table Six: Arrest Data for Black and White Drivers
16th Reporting Period¹²

Race/Ethnicity	All Drivers Stopped	Arrest	No Arrest	Warrant-Based Arrests	Probable Cause Based Arrests
White	106 (39.4)	72 (67.9)	34 (28.3)	17 (23.6)	55 (76.4)
Black	91 (33.8)	52 (57.1)	39 (32.5)	20 (38.5)	32 (61.6)
Hispanic	68 (25.3)	25 (36.8)	43 (35.8)	3 (12.0)	22 (88.0)
Asian Indian	3 (1.1)	0	3 (2.5)	0	0
Other	1 (0.4)	0	1 (0.8)	0	0
	269	149	120	40	109

The majority of arrests made by New Jersey State Police troopers in the data sampled by the monitors this period were non-discretionary, i.e., arrests for warrants, 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 and canine deployments 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. The following pages identify the model used for the qualitative analysis.

¹² *Chi-Square* analysis of these data yielded a *Chi-Square* of 16.389 with two degrees of freedom, and a *p* value of 0.00027. 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 "1."* See Annex Two, for the data table reporting these data.

2.2.2 Theoretical Bases for Analysis of Post-Stop Activity

The “background” analysis, though laborious, is demonstrative of the key component of determining whether race- and ethnicity-based decision making is being employed in a police agency: reviewing the highly discretionary tasks and determining if similarly situated individuals are being similarly treated. Kenneth Culp Davis identified this concept clearly in a 1975 theoretical analysis titled *Police Discretion*.¹³ Noting in the preface, “The central fact is that police falsely pretend to enforce all criminal law...but they are unable to.”¹⁴ The central question is not whether this is true or not; it is *how* decisions *not to enforce* are distributed within and among protected classes. If the answer to that central question is “equally and legally,” then the issue of race- and ethnicity based policing is resolved clearly in favor of the law enforcement agency. If the answer to that central question is either “unequally” or “illegally,” it is not, and corrective action is essential.

Such a simple and effective concept begs for operationalization: clearly defining the terms used to determine “bias” or “bias-free” policing. The key to operationalization is determining where to look to find the artifacts of biased policing, how to define it, and how to “test” for it. Surprisingly, a model that accomplishes those tasks is relatively easy to conceptualize and test.

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;
- Identify and define the levels of discretion associated with each of these critical tasks and their respective sub-elements;
- Identify the critical decision point associated with each level of discretion;
- Define abuse of discretion; and
- Test for abuse of discretion.

Each of these elements is discussed in some detail below.

¹³ Kenneth Culp Davis, *Police Discretion*, St. Paul, Minnesota, 1975.

¹⁴ *Ibid*, p. iii.

Routine Tasks

While policing in general is more complex, the policing activities of interest to the decree are clearly identified: the powers of stop, detention, warning, citation, release, frisk, arrest, search, use of force, and seizure are stipulated as activities subject to the scrutiny of the monitoring process. 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. For example, one individual may be stopped and detained for five minutes, another for 50. Some individuals may be stopped and cited, others stopped and warned.

Levels of Discretion¹⁵

In the discretionary model applied to the New Jersey State Police for the purposes of determining if the agency's interaction with motorist related to consent requests and canine deployments is based to any significant extent on issues of race or ethnicity, 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 reasons consist of the infractions or events that lead a given driver to come to the attention of law enforcement, events such as speeding, illegal lane change, criminal activity, etc. These events are considered "input variables," in that they are the events that give rise to the use of law enforcement powers. Generally, these events can be classified into three groups, depending on the amount of discretion associated with them: high discretionary, median discretionary, and low discretionary.

Theoretically, some activities *will almost always result* in a law enforcement response if they are observed by the police, e.g., criminal activity, driving under the influence, reckless driving, etc. These events are classified as low discretion events. Other activities *usually* will result in a law enforcement response if they are observed by the police, e.g., following too closely, aggressive driving (multiple minor violations), undocumented vehicles (expired registration, no insurance, expired inspection sticker). Finally, a third class of violations will *less often* result in a law enforcement response if they are observed by the police, e.g., equipment violations (cracked windshield, poorly maintained lamps, illegal lane change, failure to signal lane change, view obstruction,

¹⁵ 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. For example, motorist aids are non-discretionary, and are often dispatched rather than being "on-site" events. Activities at rest stop (rest stop overstays, etc.) are often called in by the rest stop managers, not initiated by troopers.

etc.). These activities are considered to be highly discretionary. Appendix One contains a categorical list of reasons for law enforcement stops.

Critical Decision Point

The critical decision point when assessing decision-making related to potential abuse of discretion, it can be argued, is the decision point in deciding to take enforcement action on a highly discretionary violations or activity. If action will *almost always* be taken on low discretionary events, one would expect virtually no margin for abuse of discretion on the basis of race or ethnicity. If action will *usually* be taken on median discretionary events, one would expect at most marginal abuse of discretion on the basis of race or ethnicity. If discretion will be abused to any significant degree, it will be in areas of enforcement in which high levels of discretion are present.

Defining Abuse of Discretion

Law enforcement discretion is abused when it is used differently in relation to protected classes such as race and ethnicity. For example, if one were to see a higher rate of stops for a given race or ethnicity for high discretionary violations, but not for low discretionary violations, it would support the assumption that discretion was being abused. If this were coupled with a variance in outcome variables (length of detention, search, etc.) a strong case could be made for the presence of an abuse of discretionary powers on the part of the enforcing agent.

Testing for Abuse of Discretion

The test for abuse of discretion, then, becomes somewhat straightforward. 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.¹⁶

Tables Seven through Twelve reflect the analysis for abuse of discretion by reason for stop.

Table Seven, below, depicts the results of the analysis for *all* drivers stopped by the New Jersey State Police this reporting period and eventually asked for consent to search the

¹⁶ After controlling for intervening variables such as lack of identification, proof of ownership, etc.

vehicle by the *reason* for the traffic stop¹⁷. The results of the *Chi*-Square analysis are ***not significant***, yielding a test statistic of 1.032 with two degrees of freedom. The test statistic is not significant at the 0.05 level

A *higher* score for each driver class (white, black and Hispanic) indicates less use of discretion, i.e., higher scores demonstrate less of a tendency stop drivers for highly discretionary violations and then request consent to search. The intergroup 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 bias. 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

Table Seven:
Consent Request Stop Rates by Reason for Stop (Level of Discretion)
16th Reporting Period^{18,19}

Race/Ethnicity	High Discretion Stops (1)	Median Discretion Stops (2)	Low Discretion Stops (3)	Mean
White	10	5	17	2.22
Black	17	5	29	2.24
Hispanic	18	5	15	1.92
Asian Indian	1	0	1	--
Other	1	0	0	--

eventually asked for consent to search, were stopped for *less* discretionary reasons than white and Hispanic drivers. Any suggestion that troopers were stopping minority drivers for more discretionary reasons, i.e., abusing their discretion is certainly *not* supported by the analysis. The “drivers sampled” for this test statistic consisted of all drivers stopped

¹⁷ Not all stops had a known reason for the stop that could be used in this analysis. Some were simply described, as required by the consent decree, as “moving” or “non-moving”

¹⁸ A *Chi-Square* analysis was run on ***white versus non-white drivers***, since the data for white, black and Hispanic yielded too small a data table to produce a valid test statistic. The statistic of 1.032, 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. See Annex Two for data tables.

¹⁹ Numbers do not total 134 because not all incidents had a knowable reason for stop. Some were listed, as required by the decree as “moving” or “non-moving.”

by the New Jersey State Police this reporting period who were asked for consent to search *and for whom a reason for the traffic stop was known*.

Table Eight, below, depicts the results of the *Chi-Square* analysis for canine deployment stops by reason for the stop for the sixteenth reporting. 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 3.263 with two degrees of freedom. The result indicates that the differences observed in the data were attributable to chance. The test statistic is not significant at the 0.05 level.

Table Eight:
Canine Deployment Rates by Reason for Stop (Level of Discretion)
16th Reporting Period^{20,21}

Race/Ethnicity	High Discretion Stops (1)	Median Discretion Stops (2)	Low Discretion Stops (3)	Mean
White	1	0	4	2.60
Black	13	2	14	2.03
Hispanic	13	1	3	1.41
Asian Indian			1	--
Other				--

A *higher* score for each driver class (white, black and Hispanic) indicates less use of discretion, i.e., higher scores demonstrate less of a tendency to stop drivers for highly discretionary reasons and then subject them to canine deployments. The intergroup 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 potential bias. 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 favors white drivers, i.e., minority drivers stopped and experiencing

²⁰A *Chi-Square* analysis was run on ***white versus non-white drivers***, since the data for white, black and Hispanic yielded too small a data table to produce a valid test statistic. A *Chi-Square* statistic of 3.263, 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. See Annex Two for data tables.

²¹ Numbers do not total 60 because not all incidents had a knowable reason for stop that could be used in this analysis. Some reasons for stop were listed, as required by the decree, as "moving" or "non-moving."

canine deployments, were stopped for *more* discretionary reasons than white drivers. Fourteen black drivers had canines deployed in conjunction with a denied consent request.

Table Nine, below, depicts the results of the *Chi-Square* analysis for all motor vehicle stops by reason for the stop. The analysis 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 4.656 with four degrees of freedom. There is no statistical 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.

Table Nine:
Sampled Vehicle Stop Rates by Reason for Stop (Level of Discretion)
16th Reporting Period^{22,23}

Race/Ethnicity	High Discretion	Median Discretion	Low Discretion	Mean
White	32	17	43	2.12
Black	35	8	41	2.07
Hispanic	28	11	24	1.94
Asian Indian	1	1	1	--
Other	1	0	0	--

A *higher* score for each driver class (white, black and Hispanic) indicates less use of discretion, i.e., higher scores demonstrate less of a tendency to stop drivers of different races or ethnicities for more, or less, discretionary reasons. The intergroup 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 potential bias. 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 favors white drivers, i.e., white drivers stopped were stopped for *less*

²² A *Chi-Square* statistic of 4.656, 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. See Annex Two for data tables.

²³ Numbers do not total 269 because not all incidents had a knowable reason for stop. ***Asian Indian and "Other" classifications were deleted from the Chi-Square table as they generate expected frequencies below "1".***

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 certainly *not* supported by the statistical analysis.

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 against self-interest, criminal histories related to a tangible crime. The results of the *Chi-Square* analysis yielded a test statistic of 12.516 with two degrees of freedom. The data are statistically *significant* at the 0.05 level, indicating a difference in reason for consent request by race and/or ethnicity.

Table Ten:
Reason for Consent Request by Race and Ethnicity
16th Reporting Period²⁴

Race/Ethnicity	Intangible	Tangible	Probative	Mean
White	7	2	24	2.52
Black	1	6	46	2.85
Hispanic	5	24	12	2.17
Asian Indian			2	--
Other		1		--

A *higher* score for each driver class (white, black and Hispanic) indicates less use of discretion, i.e., higher scores demonstrate less of a tendency to request consent for less probative reasons for Hispanics than for whites or blacks. The intergroup 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 potential bias. While the mean is not dispositive of bias, it *does allow* the reader to impute the

²⁴ A *Chi-Square* analysis was run on *white versus non-white drivers*, since the data for white, black and Hispanic yielded too small a data table to produce a valid test statistic. A *Chi-Square* statistic of 12.516, with two degrees of freedom is significant at the 0.05 level. Degrees of freedom is a statistical measure of the level of *precision* a statistical estimate has. See Annex Two for a brief description of degrees of freedom and p-values. See Annex Two for data tables.

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 favors black drivers, i.e., black drivers stopped and eventually asked for consent to search were asked for *less* discretionary reasons than white and Hispanic drivers.

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 0.53 with one degree of freedom. Intergroup means indicate that *white* drivers' consent requests tended to be classified as "inappropriate" more often than black drivers, and Hispanic drivers' consent requests tended to be classified as "inappropriate" more often than white drivers.

The reader should note that *all* inappropriate consent requests 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
16th Reporting Period^{25,26}

Race/Ethnicity	Inappropriate	Appropriate	Mean
White	7	29	1.81
Black	2	52	1.96
Hispanic	11	30	1.73
Asian Indian		2	--
Other	1		--

A *higher* score for each driver class (white, black and Hispanic) indicates 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. The intergroup mean (arithmetical average) is a statistic that allows the

²⁵ A *Chi-Square* statistic of 0.53, with one degrees of freedom is not significant at the 0.05 level. Degrees of freedom is a statistical measure of the level of *precision* a statistical estimate has. See Annex Two for a brief description of degrees of freedom and p-values. See Annex Two for data tables.

²⁶ A *Chi-Square* analysis was run on ***white versus non-white drivers***, since the data for white, black and Hispanic yielded too small a data table to produce a valid test statistic.

inference of the *direction* of any potential bias, as the *Chi-Square* statistic does not impute the direction of any potential bias. 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 favors black drivers, i.e., black drivers stopped and eventually asked for consent to search, were subjected to fewer procedural or Constitutional problems than white and Hispanic drivers.

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.²⁷

Table Twelve, below, depicts the results of the day- v. night- stop rates for New Jersey State Police troopers during the sixteenth reporting period. If troopers effecting the stops covered in this table were abusing their discretion, one would expect the daytime stops to show a tendency to stop drivers of color for more discretionary infractions (high discretion stops) at a higher rate during daytime hours than nighttime hours, 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. As Table Twelve indicates, the *direction* of daytime stops tends to indicate more discretionary stops of minorities than whites (i.e., whites have a higher mean stop score, indicating fewer stops of whites for high discretionary events than for minorities), and the *direction* of nighttime stops tends to indicate the opposite (i.e., minorities have higher mean stop scores, indicating fewer stops of *minorities* for high discretion events than whites). A comparison of day- versus night-time stops was not possible, as night-time stop numbers were too small to allow the comparison.

²⁷ After reviewing nearly three thousand New Jersey State Police motor vehicle stops over the past seven years, the monitors have *never* observed a member pull along side a suspect vehicle, allowing the trooper to assess the race or ethnicity of occupants, unless an exigent tactical issue required such action in order to effect the stop. Those exigent tactical issues are exceedingly rare in the monitors' experience.

Table Twelve:
Daytime v. Nighttime Stops by Reason for the Stop
16th Reporting Period²⁸

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	6	2	9	2.18	5	1	5	2.00
Black	13	5	14	2.03	5	1	13	2.42
Hispanic	13	3	10	1.88	3	0	6	2.33
Asian Indian	1	--	1	1.0	--	--	--	--
Other	1	--	--	--	--	--	--	--

After an in-depth 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. Only one test proved to be statistically significant (reason for consent request). In this category, *black drivers* had their consent search requests more appropriately grounded in tangible and probative facts, than white and Hispanic drivers. Although intergroup means are not dispositive of law enforcement actions based on race or ethnicities, the *means* for stop activities this reporting period indicate that, while black and white drivers in the current sample were equally distributed in findings of treatment, e.g., stopped for less discretionary reasons or asked for consent for less discretionary reasons, Hispanic drivers' means for the current sample of drivers were most consistently impacted by more discretionary decisions on the part of New Jersey State Police troopers.

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 State is judged to remain in compliance with this task.

²⁸ The data did not yield a valid statistic, as the cells produced at least 20 percent of expected frequencies that were less than five.

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. Supervisory reviews of motor vehicle stops resulting in a law enforcement procedures were effected in 179 of 269 motor vehicle stops selected by the monitors this period, constituting a supervisory review rate of 66.5 percent.²⁹ The majority of the supervisory reviews conducted in the ninth reporting period were conducted by secondary supervisory sources—quality assurance reviews, OSPA reviews or 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*

²⁹ 66.5 percent MVSRs reviewed by the monitoring team had been reviewed by either first line supervisors or subjected to "management review." The majority had received both.

and corrected at the troop (executive) review level and the OSPA review level this reporting period than during prior reporting periods).

Members of the monitoring team have noted that field supervisors were present in 49.4 percent of monitored activity this reporting period. This constitutes a drop in the level of in-field supervision from last reporting period, which, it was noted, was the highest level of in-field supervision since the inception of the consent decree, seven years ago. First- and second-line supervisors reviewed video tapes in 84.5 percent of all incidents reviewed by the monitors this period.³⁰ This supervisory review rate yielded 88 instances in which New Jersey State Police personnel committed errors related to procedure or the consent decree. In reviewing the same documents and video tapes, the monitors noted 88 errors in procedure related to the consent decree. New Jersey State Police supervisory personnel noted *all* of these violations of New Jersey State Police SOPs and 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.

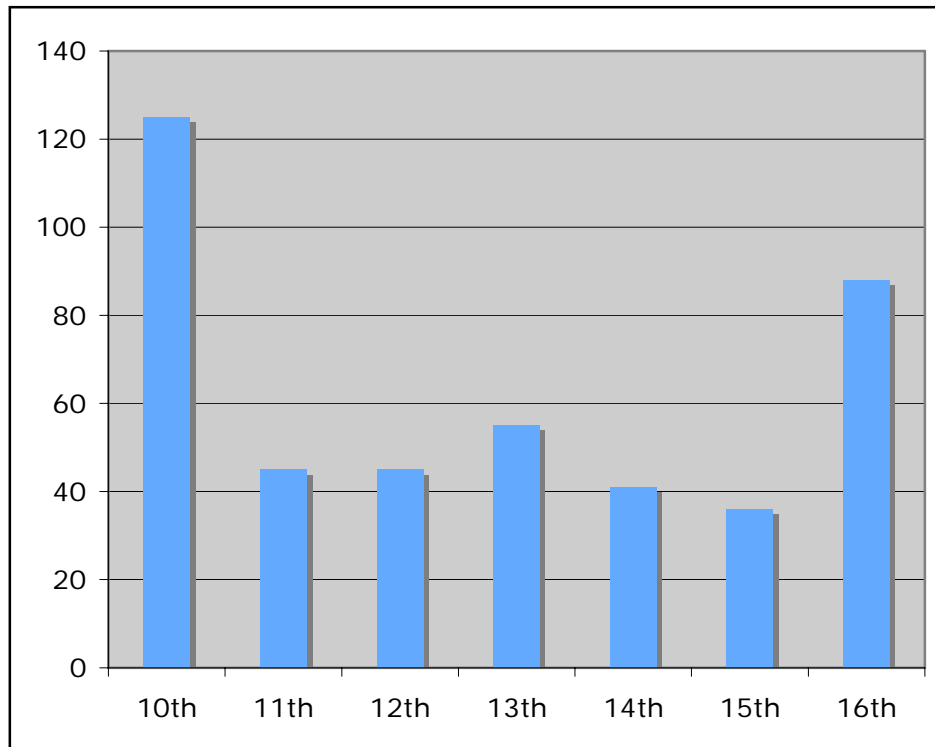
It is clear that the New Jersey State Police have engaged supervisory personnel in their attempts to ensure compliance with the decree. As a result of this newly implemented supervisory process, the New Jersey State Police have noted and corrected 88 decree-related errors that the monitoring team would have noted after the fact. With the current supervisory system, these 88 decree-related errors were noted and corrected in “real time,” before the monitors called them to the attention of the State. 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 number of corrected errors this reporting period, at 88, is higher than in any period since the tenth, when 125 procedural or Constitutional errors were noted by the monitoring team. Figure Two depicts the error rates for the last seven reporting periods. The majority of these 88 errors, in the monitors’ opinion, are attributable to a problem 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 and the Department of Transportation.³¹

³⁰ These reviews are now conducted routinely, although the State is moving to a more focused and less universal method of stop review. All reviews conducted were conducted *before* the monitors notified the State of which MVS incidents would be selected for by the monitors.

³¹ 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.

Figure Two:
Procedural or Constitutional Errors, by Reporting Period

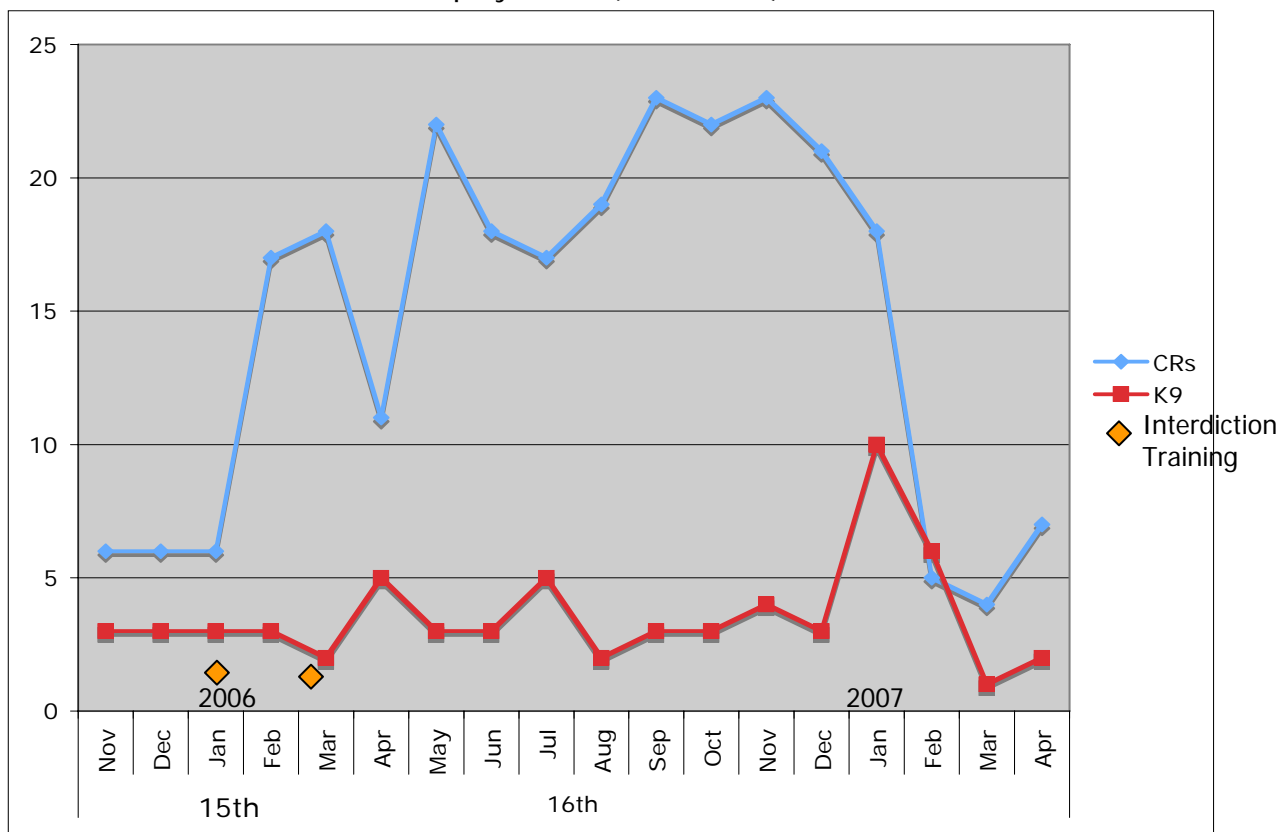


The majority of the 88 problems encountered this reporting period, and those noted in the last reporting period, remain, in the monitors' opinion, attributable to this early 2006 training. Figure Three, below, depicts the number of consent request activities and drug detection canine deployments, by month, from November 2005 through April 2007.

While the New Jersey State Police and the Office of State Police Affairs began remedial measures to correct the "message" delivered by this training, such efforts take time. Several notable responses were implemented by the New Jersey State Police designed to correct or ameliorate the issues created by the drug interdiction training. In March,

2006 the Office of State Police Affairs was tasked to develop a special study relating to the spike in consent requests. By May, 2006, the Office of State Police Affairs and the New Jersey State Police developed a field supervisors' checklist for managing consent

Figure Three:
Consent Request and Drug Detection Canine
Deployments (2005-2007)³²



requests in the field. By June 2006, OSPA had worked with legal advisors to develop corrective processes to control many of the issues identified by the monitors during their May site visits related to the “tone and timbre” of the consent requests observed during the site visit. By July, 2006, enhanced troop-level (executive) and OSPA review systems had been implemented. By August, 2006, in-service field supervisor training was modified to address issues raised by the drug interdiction training. By October, 2006 global supervisory and managerial reviews began to note and correct problematic consent requests by field personnel. Figure Four, below, depicts a *projected*

³² Consent Requests for November 2005 through January 2006 were interpolated from average numbers for the reporting period.

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, 2007.³³

Figure Four illustrates a clear and focused process on the part of the OSPA and the New Jersey State Police designed to *monitor* data, through the use of MAPPS and the process of supervisory and management review of motor vehicle stop reports; *identify issues*, through analysis by MAPPS and Strategic Initiatives Group analytic reports; *craft solutions* through consultation with field commanders, legal specialists and others; and *implement* remedial measures. Such processes take time; however, in the case of the external drug interdiction training, and the issues created by these training programs (noted by the monitors in their fifteenth report), the New Jersey State Police and the OSPA were able to craft meaningful managerial and oversight responses to the problems noted.

Based on the results depicted in Figure Four, those responses appear to have been effective in returning consent request frequencies to "normal" and appear to have *begun* reducing in-field errors. While the monitors can identify that the *frequency* of consent requests has returned to normal rates, as observed prior to the external drug interdiction training, they are unable to comment on the *quality* of the post-December 2006 consent search requests, as those data were collected outside the sixteenth reporting period.

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 State continues to review, independently of the monitors, Motor Vehicle Stop Reports (MVSRs) submitted by Division personnel, and continues to note deficiencies in operationalization of the training provided. Retraining to address these deficiencies has been delivered. The ability to identify and address problems generated by the external drug interdiction training indicate a strong ability to monitor and evaluate implementation of motor vehicle stop criteria. 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 response to the issues raised by the DIAP and Desert Snow training show a laudable 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.

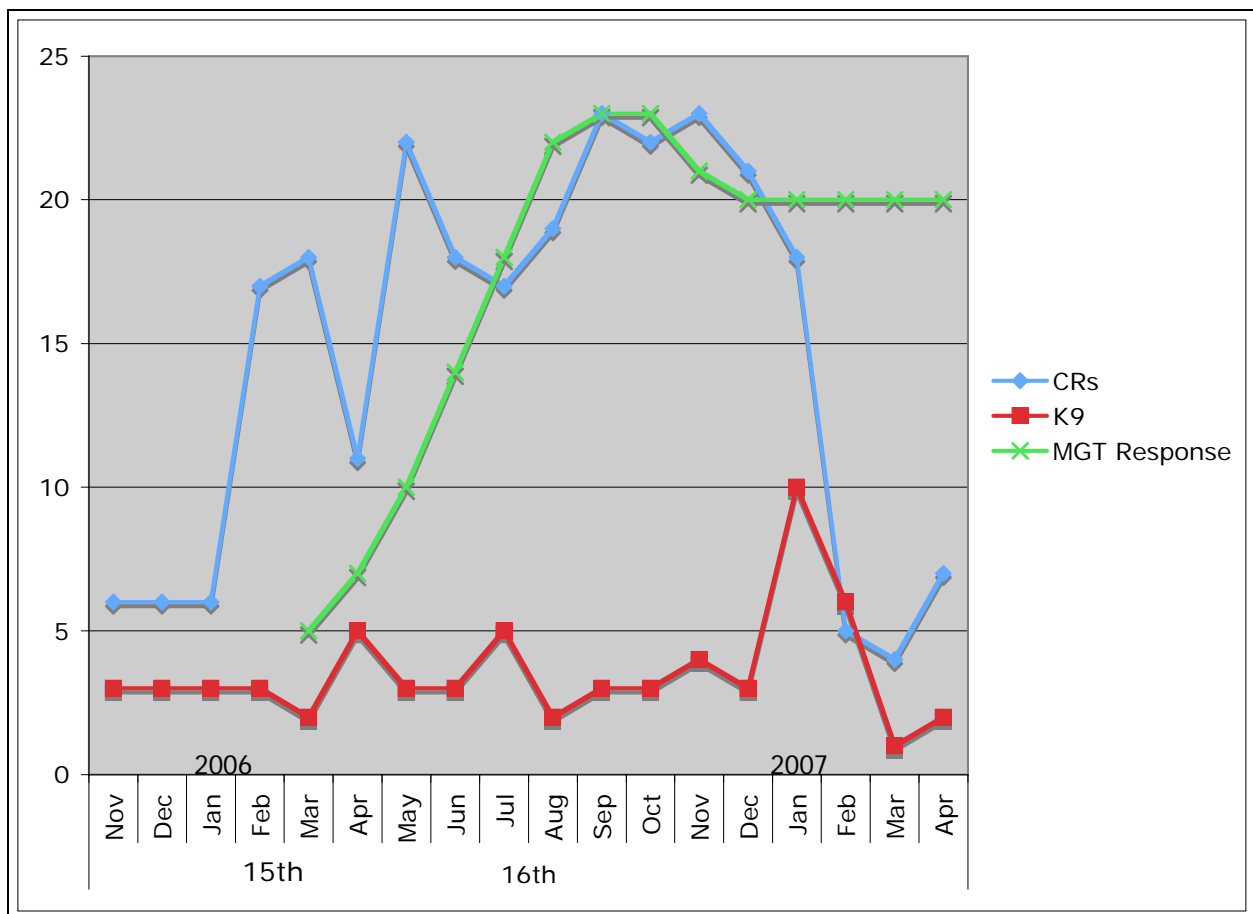
³³ The data available for the sixteenth monitors' report ended in December; however, the monitors' reviewed the *number* of consent requests for January through April, 2007 to determine the *direction* of the volume of consent requests by New Jersey State Police troopers.

Compliance

Phase I: In Compliance

Phase II: In Compliance

Figure Four:
Consent Requests, Drug Detection Canine
Deployments and Managerial Responses (2005-2007)³⁴



³⁴ Consent Requests for November 2005 through January 2006 were interpolated from average numbers for the reporting period. Managerial responses are projections of qualitative initiatives and do not reflect quantitative results or efforts.

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 134 law enforcement actions involving consent requests conducted during the sixteenth report's operational dates. Twenty 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 Sixteen depict data from the 269 incidents reviewed this reporting period by the monitoring team. "Number of Drivers" depicts the number of drivers, by race, in the 269

incidents. The number in parentheses in this column depicts the *percentage* of drivers in the total sample, by race. Thus, for Tables Fourteen through Seventeen, there were 106 white drivers of the total of 269 drivers involved in motor vehicle stops reviewed by the monitoring team this period, constituting 39.4 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 36 consent requests of white drivers, 53 requests of black drivers, 42 requests of Hispanic drivers, and three requests of drivers of “other” 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 State has increased substantially the number of consent search requests, to an all-time high of 134 this reporting period. With 134 requests this period, the numbers reported in Table Thirteen become statistically meaningful when reported *viz a viz* race and ethnicity for all drivers stopped v. drivers requested to consent to search.

All of the 134 consent searches were completed in conformance with the requirements of the consent decree or were caught and corrected by supervisory personnel.³⁵

An error rate of none of 134 consent searches constitutes zero 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

Race/Ethnicity	Number of Drivers	Number of Requests for Search³⁶	Percent Consent Request by Race/Ethnicity
White	106 (39.4)	36	34.0
Black	91 (33.8)	53	58.2
Hispanic	68 (25.3)	42	61.8
Other	4 (1.5)	3	75.0
Total	269	134	--

The data in Table Thirteen indicate higher consent request rates for blacks and Hispanics (by a factor of as much as 2.2). These data, as reported in Table Four, p. 15, are statistically significant at the 0.05 level, indicating that the differences are not

³⁵ Twenty drivers refused consent requests.

³⁶ Twenty consent search requests were refused.

attributable to chance.³⁷ A qualitative analysis, triggered because of the statistically significant *Chi-Square* result, indicates that the results of the consent request processes this reporting period (that yielded statistically significant test data) **were more likely than not 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. 19-28). 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. There *was* a statistically significant difference by race and ethnicity for the reason for consent requests, with black drivers asked for consent request for *less discretionary* reasons than white or Hispanic drivers. See Tables Nine through Twelve, pages 20-25.

The monitors continue noted several significant changes in the consent request processes of the New Jersey State Police this reporting period. The *number and tenor* of consent requests continues to be of concern this period, and the rate of consent requests jumped more than 42 percent this period, after rising more than *200 percent* last period (see Table Three, page 15)³⁸. In addition, the monitors observed several other issues that raised concern about consent request practices at the New Jersey State Police this reporting period. The monitors believe that many of these issues are the direct result of two training programs, designed for commercial vehicle inspection personnel that were also attended by regular troopers in Troops B and D. The federal Department of Transportation and Department of Homeland Security presented to State Police personnel two drug interdiction programs designed for commercial vehicle inspection personnel: The Drug Interdiction Awareness Program (DIAP) and Operation Desert Snow. The monitors reviewed 21 consent requests that were deemed inappropriate this reporting period. All of these included *some* problems related to reasonable articulable suspicion. All 21 of these problematic consent requests were noted and corrected by supervisory, executive, or OSPA review *prior* to the monitors noting problems with the stops. The problematic consent requests were not distributed equally among drivers' race and ethnicity. Seven white drivers' consent requests were problematic, while two black drivers' consent request were of concern. Eleven Hispanic drivers had problematic requests, as did one "other" race classification driver (See Table Eleven, p. 26).

³⁷ *Chi-Square* analysis of these data yielded a *Chi-Square* of 23.26 with two degrees of freedom, $p < 0.05$. The distribution was statistically significant. The "other" category was omitted as it produced expected frequencies less than "1." Degrees of freedom is a statistical measure of the level of *precision* a statistical estimate has. See Annex Two for a brief description of degrees of freedom and p-values. See Annex Two for data tables.

³⁸ The rise in consent requests is at least partially attributable to the loss of the ability to conduct a search of a motor vehicle as "search incidental to arrest" spurred by *State v. Eckel*, 185 N.J. 523 (2006).

As noted in Section 2.3, above, the New Jersey State Police appears to have addressed the issues giving rise to these problematic consent requests; however, the monitors were unable to judge the full impact of these steps due to the fact that an insufficient number motor vehicle stops reviewed by the monitors this period were executed *after* the remedial steps implemented by the State. The fact that the *number* of total consent requests appears to have re-attained its normal pre-drug interdiction training level 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 State's compliance with this task.

Status

The review of State Police policies, forms, training, data entry systems, and CADS processes indicates that the New Jersey State Police are in Phase I compliance with the requirements of Task 29a. Effective policies and forms requiring compliance with the

reporting requirements of the task have been written, disseminated and implemented into the State Police training process.

Use of the Motor Vehicle Stop Report was monitored for 269 incidents involving a post-stop law enforcement activity of interest to the decree. Use of force, non-consensual searches and deployment of canines received special attention from the monitoring team. The results of these reviews are depicted in Tables Sixteen and Seventeen, below.

Use of Force

New Jersey State Police personnel reported using force only once during the reporting period. Members of the monitoring team reviewed the single report for this use of force by personnel from the New Jersey State Police.. Members of the monitoring team found no problems with the reporting process.³⁹ The use of force in this instance was found to be appropriate and appropriately reported.

Canine Deployments

The New Jersey State Police deployed drug detection canine units 60 times during the reporting period. Members of the monitoring team reviewed all available documentation for each canine deployment, and reviewed video tapes of all canine deployments. No reporting problems were noted in any of the 60 deployments, and the video taped incidents reviewed indicated that the written reports accurately reflected actual events. All canine deployments were professionally executed and were executed for legitimate cause.

Table Fourteen depicts data from the 269 incidents reviewed this reporting period by the monitoring team. "Number of Drivers" depicts the number of drivers, by race, in the 269 incidents. The number in parentheses in this column depicts the *percentage* of drivers in the total sample, by race. Thus, for Tables Thirteen and Fourteen, there were 106 white drivers of the total of 269 drivers involved in motor vehicle stops reviewed by the monitoring team this period, constituting 39.4 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 Fourteen depicts five canine deployment for white drivers, 32 canine deployments for black drivers, 20 canine deployment for Hispanic drivers, and three canine deployments for drivers of "other" race/ethnicity. The last column, "Percent" depicts the percent of drivers of a given race or ethnicity which were subjected to a given law enforcement procedure. This column

³⁹ 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.

will not total to 100 percent. The reviews depicted in this table constituted documentation and/or video tape reviews.

The data in Table Fourteen indicate higher canine “deployment rates” for blacks and Hispanics. These data are statistically significant at the 0.05 level, indicating that the differences are not attributable to chance (See Table Five, p. 16).⁴⁰ All but nine of the 60 canine deployments were based on reasonable articulable suspicion. Of those nine, only *one* was a canine deployment for a vehicle driven by a white driver. Six of the problematic canine deployments were for Hispanic drivers’ vehicle, and one each was for a black driver and “other” race. New Jersey State Police supervisors or managers, or OSPA personnel caught and corrected each of these prior to the monitors’ review. A qualitative review of these stops shows no statistically significant test statistics for levels of discretion, reason for stop, or reason for deployment. See Tables Nine through Thirteen, pages 22-26, above.

Table Fourteen: Canine Deployments
16th Reporting Period

Race/Ethnicity	Number of Drivers	Canine Deployments	Percent Consent Request by Race/Ethnicity
White	106 (39.4)	5	4.7
Black	91 (33.8)	32	35.2
Hispanic	68 (25.3)	20	29.4
Other	4 (1.5)	3	75.0
Total	269		

Non-Consensual Searches

Table Fifteen depicts the results, by race/ethnicity and type of non-consensual vehicle search for the sample of 269 incidents reviewed by the monitoring team this reporting period. The table depicts the types of non-consensual searches, by race/ethnicity of the 107 incidents involving a non-consensual vehicle search. For example, 52 white drivers’ vehicles were subjected to non-consensual searches during this reporting period, with 49 subjected to probable cause searches, etc. Numbers in parentheses reflect the percentage of type of search, by race. For example, the 49 probable cause searches

⁴⁰ *Chi-Square* analysis of these data yielded a *Chi-Square* of 20.63 with two degrees of freedom, $p < 0.05$. The distribution was statistically significant.

constitute 80.8 percent of all searches of white drivers vehicles. The reviews depicted in this table constituted documentation and/or video tape reviews.

Of the 107 MVSRs reviewed which entailed non-consensual searches of vehicles, members of the monitoring team found no problems that were not first caught and remedied by New Jersey State Police supervisory personnel.

Table Fifteen: Reasons for Non-Consensual Searches of Drivers' Vehicles, By Race of Driver
16th Reporting Period

Reason for Search	White # (%)	Black # (%)	Hispanic # (%)	Other # (%)
Probable Cause	49 (80.8)	33 (91.7)	17(94.4)	1 (100)
Plain View	2 (3.8)	1 (2.8)	0	0
Proof of Ownership	1 (1.9)	2 (5.6)	1 (5.6)	0
Total	52	36	18	1

Table Sixteen depicts non-consensual search-of-person activity by race, for probable cause searches and plain view.

Table Sixteen: Probable Cause Searches of Persons, by Race/Ethnicity
16th Reporting Period

Race/Ethnicity of Drivers	Number of Drivers	Probable Cause Searches	Percent by Race/Ethnicity
White	106 (39.4)	49	46.2
Black	91 (33.8)	33	36.3
Hispanic	68 (25.3)	17	25.0
Other	4 (1.5)	1	25.0
	269		

In all, members of the monitoring team noted 88 separate incidents in which constitutional, procedural, reporting, or review issues were evident (see section 2.3, above, for a complete listing of these motor vehicle stop incidents). A total of 88 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 *did note* a shift in the locus of these self-corrections this reporting period, away from on-scene and

station-level review to management (Troop) and OSPA review. The State continues in compliance with this task this reporting period.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

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

Task 29b stipulates that:

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

Methodology

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

Status

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

The electronic CADS records reviewed by the monitors all included the names of individuals subjected to post-stop law enforcement procedures of interest to the decree, i.e., request for permission to search; conduct of a consensual or non-consensual search; ordering occupants out of a vehicle; frisks of vehicle occupants; deployment of

a drug-detection canine; seizure of contraband; arrest of the occupants of the vehicle; or use of deadly, physical, mechanical or chemical force. All of these records included the race of the individual subjected to a post-stop law enforcement procedure of interest to the decree. All of the records included a CADS incident number. In addition, all had the date of the stop, time of the stop, time the stop cleared, and reason for the stop. All records included the gender and race of the individuals occupying the vehicle, whether a summons or warning was issued (and the category of the violation), and the reason for the motor vehicle stop.

The data analyzed for this reporting period included only those data generated by the electronic reporting process. Accuracy rates for these data, overall, exceeded 99 percent, well within the acceptable margin for error for this task. The earliest available electronic data in the State's database, provided to the monitors, was September 2, 2000. In the opinion of the monitors, this qualifies as "expeditious" implementation.

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

Status

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

supporting these forms is improving. The forms have been developed and disseminated and are being used by agency personnel, and appear to have improved substantially the level of reporting and compliance with stipulated procedures.

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 State, 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 State, pending the approval of the monitors and the United States. No issues were noted relevant to this task for this reporting period.

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	[Solid Blue]											
Phase II	[Diagonal Stripes]	[Diagonal Stripes]	[Diagonal Stripes]									

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

For the past eleven reporting periods, the State has been in compliance with this requirement, based on the monitors' review of electronic CAD data. In addition, 151⁴¹ video recordings and documentation from 269 vehicle stops were reviewed this quarter, as were supporting documents, such as CAD abstracts, etc. Compliance with this task was assessed using both the electronic, video, and paper documentation. All data required by paragraphs 29 a, are recorded within the CADs records for vehicle stops, or within associated MVSRS.

Of the 269 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 269 constitutes 0.004 percent, within the newly established parameter of >90 percent, and interestingly, within the original requirement of 95 percent.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

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

Task 30a stipulates that:

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

⁴¹ Some video taped incidents included more than one post-stop activity of interest to the decree. For example, 45 of the 134 consent requests also included a canine deployment.

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 269 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; 100 percent list the driver's race and gender; 100 percent list a reason for the stop⁴² and a final disposition. The State 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	Blue bar											
Phase II	Red bar											

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

The parties and the monitors have agreed that this section (regarding notice prior to search of a vehicle) applies only to probable cause and consent searches, since state

⁴² 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.

police policy *requires* a search of all vehicles incidental to the effecting of an arrest.⁴³ Of the 100 probable cause search events and 134 consent searches reported (and reviewed by video tape), all but one was called in to New Jersey State Police communications prior to the initiation of the search. Supervisory personnel noted and corrected this omission. This constitutes an error rate of zero percent, within the >94 percent established as the criterion for this task.

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	[Pattern]											
Phase II	[Pattern]	[Pattern]	[Pattern]									

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

⁴³ 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.

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 151 stops reviewed by video tape, all were found to have clearance codes. Of the 269 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 State 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 (CADS) 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 >99 percent were found to have "CAD Incident Numbers" indicating a CAD incident number. Of the 269 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 accurately in all 134 motor vehicle stop reports that included a consent search request this reporting period. Twenty of the incidents involved consent requests that were denied. All but two of the 134 consent requests were appropriately recorded and executed. Both of these errors were caught and corrected upon supervisory review. This constitutes a 100 percent compliance rate. In

addition, the information required to be presented to the driver was so presented in all but one case. Supervisors caught and corrected this error.

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	[X]											
Phase II	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]				

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 134 consent requests and 114 consent searches,⁴⁴ and reviewed video tape recordings of all motor vehicle stops involving consent searches. Supporting documentation for all consent search requests was reviewed, and the events depicted on 134 video tapes reviewed (twenty drivers declined) 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

All of these the 134 consent request activities required by this section of the consent decree were either appropriately recorded or had errors corrected by supervisory personnel.

Compliance

Phase I: In Compliance
Phase II: In Compliance

⁴⁴ Twenty consent requests were refused.

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 100 MVSRs reviewed which entailed non-consensual searches of vehicles,⁴⁵ members of the monitoring team found problems with one incident in which the troopers failed to call in the search prior to conducting it. This error was noted and

⁴⁵ Three plain view searches were also conducted this reporting period.

corrected by supervisory personnel prior to the monitoring team's review. The State 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;**
 - 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, 60 reported drug detection canine deployments effected by the New Jersey State Police. Members of the monitoring team found all of the canine deployments to be accurately reported, and canines to have been deployed in conformance with the requirements of procedures and the decree in all but eight stops. Supervisors caught and corrected these nine deployments on less than adequate articulable suspicion prior to the monitoring team’s review.

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 151 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 State remains in compliance with this task.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

Task 34b-c	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	[Phase I]											
Phase II	[Phase II]	[Phase II]	[Phase II]	[Phase II]	[Phase II]	[Phase II]	[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 269 post-stop law enforcement actions of interest to the decree. These included 269 events selected from New Jersey State Police databases, and 151 events assessed by reviewing video tapes.⁴⁶

Status

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

Once stops that are not “pure” motor vehicle stops, e.g., motorist’s aids and motor vehicle accidents, are removed from the sample, compliance rates for this aspect of task 34c are all within the originally established 95 percent minimum.

A review of the 151 video tapes selected by the monitoring team indicates that the agency has effectively resolved problems noted in earlier reports concerning “out of tape” issues and troopers patrolling with inoperative video units (only five of 151 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 151 stops reviewed via video-tape this period, 19 exhibited some form of audio difficulty, and 13 exhibited some form of video difficulty. These incidents continue to reflect the age and maintenance of the equipment, rather than trooper-error. The State’s planned new digital video systems may reduce these numbers even further. Troopers have begun activating their microphones during traffic stops at a much higher rate, with the monitoring team noting no events (of 151 reviewed) in which activation was delayed for a reason other than technical difficulties. This constitutes an error rate of zero percent, within the newly established 90 percent requirement for this task, and interestingly, within the original 95 percent requirement. The State remains in compliance with this task.

Compliance

Phase I:	In Compliance
Phase II:	In Compliance

⁴⁶ All 151 events reviewed by video-tape were included in the 269 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 99 percent of all MVSRs received initial supervisory review within 14 days of the event reported in the MVSR.

A review of 269 hardcopy records of motor vehicle stop activity indicates supervisory personnel reviewed 179 of 269 reports. The monitoring team reviewed all completed MVSRs for the 269 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 90 tapes reviewed by the monitors. From those 179 events, the monitors noted none that exhibited any form of substantial reporting problem that should have been noted by supervisory review, but were not.

This constitutes an error rate of zero, within the allowable five percent error rate for this task. The quality of supervisory review remains within acceptable standards.

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

During electronic reviews of Supervisors Review of Motor Vehicle Contact Recordings, members of the monitoring team reviewed 151 supervisors' MVR review reports. The quality of these reports has returned to previous levels if one includes *all levels* of review, i.e., initial supervisor, station, troop and OSPA. A larger number than usual of supervisory corrections was noted to have occurred this reporting period at the troop and OSPA level. This is undoubtedly attributable to the problems created by the external drug interdiction training and addressed by enhanced supervisory training and troop and OSPA reviews.

The overall error rate for supervisory review of is zero 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 State is judged to remain in compliance with this task. As with the fifteenth monitors' report, one incident was noted, during the sixteenth monitoring period that should have been referred to OPS. An appropriate referral was made.

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

One incident was noted, during the sixteenth monitoring period that should have been referred to OPS. Appropriate referrals were made. The State 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 133 motor vehicle stop reports that recorded an event at which a New Jersey State Police sergeant was present, constituting field activity in 49.4 percent of all stops selected this period.

Status

Based on the monitors' review of 151 tapes recording incidents at which state police supervisors were present, the monitors noted a substantially higher than usual number of stops in which procedural violations related to the consent decree were made that were not duly noted and corrected by field supervisory personnel on the scene or upon subsequent tape review. Again, the monitors believe this was an artifact of the external drug interdiction training that was provided to road troopers but not always to their supervisors. All problems were eventually caught at management, troop or OSPA review, where appropriate, remedial action was taken with field sergeants who failed to note execution problems by troopers in the field. The State 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").

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 performed more than 269 tests of MAPPS system functionality. Each of these tests is reported below, in the analysis of tasks 41-51. In addition to the disaggregated systems tests, the monitors attended and observed a risk management meeting, which uses 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 41-51.

MAPPS has been implemented as an operational system, and as implemented, has all of the individual system capabilities required by the decree. The live data in MAPPS, as of the monitors' sixteenth site visit, 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 third consecutive reporting period.

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	[Blue bar]											
Phase II	[Red bar]											

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 ¶129 and the protocols listed in ¶129 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.

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.

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 five 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. The State implemented, during the fourteenth reporting period, a "trooper centric" data query system that deals with this issue in an effective and elegant manner.

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	[Blue bar]											
Phase II	[Red bar]											

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 have 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. During the site visit for the sixteenth 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	[Blue bar]														
Phase II	[Red bar]														

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 are now up to date and timely. The monitors have attended recent 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 last site visit have each been addressed. It appears these issues have been resolved and the MAPPS/RACG system is fully supported and functioning at a high level.

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 ¶143, 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

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 exceptional problem-analytic and problem solving processes using MAPPS and portions of the RACG structure. New Jersey State Police noted two emergent issues during the fifteenth reporting period. The first was a peak in the frequency of incidents related to allegations of off-duty misconduct involving Division personnel. The second, as noted earlier, was a significant peak in consent search request incidents. The Office of the Superintendent tasked MAPPS and the Office of Strategic Initiatives to conceptualize, implement, and report a data-centric analytic process to determine the scope of these two issues, identify critical factors related to these issues, and synthesize solutions and recommendations. 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 response to the issues raised by the DIAP and Desert Snow training show a laudable 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.

Compliance

The State has re-attained compliance with this task, issuing all required reports and analyses. The monitors have reviewed staffing and support and find it to be sufficient to maintain a high level of performance.

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	[Blue bar]											
Phase II	[Red bar]											

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 sixteenth reporting period, members of the monitoring team noted 88 instances of supervisory personnel issuing “performance notices” or 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. Further, one instance was noted this reporting period which was, appropriately, referred to OPS for investigation. This investigation resulted in a complete and comprehensive review of 100 percent of the involved trooper’s traffic stops, reviewing these for any evidence of problematic behavior observed in several of his routinely reviewed traffic stops this reporting period.

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 OPS notification of more than two misconduct investigations 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. Data indicate that these reviews are being meaningfully conducted as required by the decree. Documentary evidence available in MAPPS indicates that supervisory personnel are meeting with troopers who meet the criteria of this task, and, when necessary, discussing any applicable patterns of complaints.

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 with the Court for release from most of the requirements of the consent decree related to OPS. This motion was granted by the Court, and, as such, the 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).

Task 87, which requires the State, based on the agreement of the parties and the monitors, to complete investigations of citizens' complaints within 120 days, was evaluated by reviewing the "120-day Report," an OPS-generated, "normal course of business" report developed to monitor overdue cases and prevent an additional case backlog. Based on the 120-day Report, the State remains in compliance with this task.

Task 90, which requires imposition of appropriate discipline in consultation with MAPPS, was evaluated by reviewing "course of business" documents related to the OPS review of sustained OPS investigations, executive-level decisions regarding discipline, and the existence in MAPPS of records reflecting discipline. The State is judged to be in Phase I and Phase II compliance with the requirements of Task 90.

2.33 Training Assessment

The Academy has attained compliance performance areas as of the fourteenth reporting period. The return on the Division's investment in increased manpower, equipment, and automation at the Academy over the past twelve months is remarkable and is reflected in the findings in this report. The Superintendent and the command staff continue to demonstrate a strong commitment to, and interest in the training function provided by the New Jersey State Police Academy.

Actions noted during the monitors' sixteenth 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 monitoring team reviewed “normal course of business” records for the academy, and discussed specific aspects of training development, delivery and documentation processes for the reporting period. Members of the monitoring team have also reviewed detailed evaluation processes for this requirement of the decree, and found them to be professionally developed, articulated, and implemented.

Status

Task 93 enumerates the eight areas of responsibility assigned to the Academy through the consent decree. The following are updates on areas of note:

- As noted in the fifteenth Monitor’s Report, the process of measuring field implementation of training objectives continues to evolve. The Research and Innovation Unit is using new software to collect and analyze data related to implementation for the other Academy units, which develop and deliver the training.

The monitoring team notes that the staff involved in this task for the past two years have gained the knowledge and experience required to more completely comprehend the full scope of this task. The program originally chosen to measure implementation in the field has been determined by Academy staff to lack the capability to fully measure performance implementation. As a result, the Academy staff have developed and presented to the monitoring team a new methodology that will be utilized to track training objectives for all training in the future.

- The Academy staff continues to use evaluation data to update and to refine program procedures, curricula, and training techniques. A new process evaluating training delivery is also under consideration at this time. The Academy has developed and implemented comprehensive processes relating to ensuring quality training for all state troopers, curriculum development for recruit training, training for Academy instructors, training for trooper coaches, and training evaluation, and continues to implement those processes in a professional and effective manner.
- The monitors note that most of the present Academy personnel were not on staff at the Academy during the past seven years while the consent decree processes were being developed and implemented. The orientation of new staff may need to be reviewed to ensure that each person has 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. The Academy is a special unit assignment, and, as such, requires specialized training/orientation to assure that new staff is prepared to assume their duties.
- The monitoring team was presented with a report stating that six command staff personnel who presented the 30-minute block on Superintendent's new Intelligence-led Policing initiative at the 2006 mandated training had not completed the required ITC course required for all trainers. The oversight was not known until after the completion of the annual in-service. Academy staff provide this information to the monitoring team, acknowledged the oversight, and are instituting a checklist/sign-off system to insure that trainer credentials are thoroughly reviewed by Academy staff as well as by division staff before instructors are allowed into the classroom.

The monitoring team pointed out that, in this instance, the information provided by the command staff was not training, but rather an explanation of new program that is being implemented within the Division. However, the Academy realized that a gap existed in the vetting process for instructors, and took measures to close that gap. This is an example of good oversight systems identifying a potential problem, and staff recognizing and rectifying the issue.

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

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

Status

The quality of training depends upon the availability of qualified training staff in adequate numbers to fulfill the responsibilities assigned to the Academy. This unit has an impact on every member of the organization through the training it provides and the evaluation of how that training is implemented throughout the Division. This is an area of critical importance, and as such, the levels of staffing should continued to be reviewed on a regular basis and with a timely response to the needs that occur.

- The drug interdiction training oversight problem that was presented in the last monitor’s report appears to have been resolved through policy changes, intra-departmental education for specialized unit personnel, and clarification from the Superintendent’s office with respect to training approval processes to be followed.
- Staffing levels at the Academy continue to be monitored to ensure that they adequately meet the demands placed on the Academy. The monitors note that the organizational chart lists 67 personnel assigned to the Academy--58 sworn, with 4 detachments, and 9 civilians. It appears, at this time, that the Academy is adequately staffed. A recent reorganization of the Academy was completed and

appears to be working well. Each unit is managed by a lieutenant with a SFC as an assistant.

- The pool of applicants for trooper coach was smaller than required for the last graduating class of recruits. This is attributed to the fact that many specialist positions are opening up due to retirements and new responsibilities related to homeland security issues. The current requirement is that a trooper have two years of post-Academy road time to qualify as a trooper coach. Due to lack of personnel, this requirement was waived during the last trooper coach recruitment process to allow members who were 2 months short of the full 24 months to apply. Including the time that these troopers had themselves been probationary troopers, their time on the road was actually 5 months short of the requirement. Since the Division knows in advance how many recruits will be graduating on a given date, a better strategy to attract troopers with at least two years of road time should be developed to avoid a repetition of the last cycle. This is a critical program that demands the most experienced troopers to provide guidance to new Academy graduates. This issue is a major concern to the monitoring team as plans for the new recruit classes that will begin in January 2008 call for much larger numbers of probationary troopers to enter the Division than are presently occurring. A plan to address this issue is necessary. In addition, computerization of the records related to this program has not been completed, and is impeding quality oversight. 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	[Progress Bar]											
Phase II	[Progress Bar]											

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

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

Status

The criteria stipulated by this section of the decree are being met, with the exception related to trooper coaches described in Task 97, and are supported by documentation maintained at the Academy and at Human Services Unit. The files are checked to ensure compliance prior to any NJSP personnel acting in the capacity of a trainer.

Status

<u>Academy Personnel</u>	<u>Post Academy</u>	<u>Trooper Coach Personnel</u>
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

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

Status

All Academy and post-Academy instructors, and Trooper Coach personnel meet these requirements. Documentation is on file, and was reviewed by members of the monitoring team. Trooper coaches complete the Instructor Training Course as part of the coach training to better prepare them in their teaching role with the probationary troopers. Coaches who have not coached for a period of two years complete a one day refresher course. In addition, the road sergeants from each troop will be receiving a one-day trooper coach training so that they may provide coaching for probationary troopers if their regular trooper coach is unavailable (day off, court duty etc.).

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

The monitoring team reviewed “normal course of business” records for the academy, and discussed specific aspects of training development, delivery and documentation processes for the reporting period. Members of the monitoring team 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 provide cultural diversity, ethics and leadership training as part of its integrated training curricula. Training in these areas continues to conform to the seven-step training development, delivery and evaluation process agreed to between the monitors and the State. Future refinements of this annually mandated training that are being considered by the Academy include:

1. Identifying the needs of subgroups within the organization (e.g. troopers with less than 18-months on the road, staff in specialized units who are not on the road, command staff) and grouping them together by need for the annual training.
2. Staggering the training throughout the year rather than running 6-8 continuous weeks of training.
3. Providing a general session on the topic and then having breakout groups in different rooms to address the individual application of the training to subgroups.

The next round of annual training on these topics begins in October and will be completed before December 31, 2007.

Compliance

	<u>Cultural Diversity</u>	<u>Ethics</u>	<u>Leadership</u>
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

The monitoring team reviewed "normal course of business" records for the academy, and discussed specific aspects of training development, delivery and documentation processes for the reporting period. Members of the monitoring team 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 provide integrated training curricula that conform to the seven-step training development, delivery and evaluation process agreed to between the monitors and the State.

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

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

Status

The Academy personnel tasked with coordinating this program continue to revise and refine their oversight capabilities. The electronic data management system for this program has still not been completed, and this is proving to be an impediment to insuring quality oversight. The basic e-file system that has been in place for a couple of years to allow trooper coach coordinators to e-mail weekly evaluations is not operating properly. Totowa, Hamilton, Bridgeton, and Somerville are among the stations that cannot successfully send files to the Academy.

The monitors routinely observe young troopers in the performance of their duties during their review of videotapes of motor vehicle stops, and these reviews confirm the

value of the Trooper Coach process. The SOP governing this program is being revised to include improvements made to the program and to ensure the oversight processes.

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

The monitoring team spoke with the Academy staff responsible for this task and reviewed supporting documentation.

Status

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

Committee meetings and through IOCs. This is a comprehensive oversight process. To be certain that the process is functioning as intended requires a regularly scheduled audit of the documentation at the section level to be sure that all “read and sign documentation” is complete.

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

The monitoring team reviewed “normal course of business” records for the academy, and discussed specific aspects of training development, delivery and documentation processes for the reporting period.

Status

The Academy has developed a comprehensive process with many access points for identifying the training needs in the organization, and continues to act on identified needs professionally.

It has been determined that the Instructor Training Program will be provided to instructors who provide content-specific training to individual units within the Division that provide specialized services.

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

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

Status

Training at the academy continues to be developed, delivered and evaluated using the seven-step process developed early on in the consent decree process. Initial training was provided within the first year, as required, and annual in-service training has been offered since inception of the monitoring process. Training continues to be updated based on needs assessments and evaluation processes.

Presently, an 80-hour program is provided for first-line supervisors who have been newly promoted to the rank of sergeant. A 40-hour class is provided to those promoted to sergeant-first class. Plans are underway to break this class into 5 one-day sessions delivered over a number of weeks. This will allow the SFC to implement the knowledge learned in class more efficiently and effectively. Integration of training continues to be a

strong focus of the training processes. This program continues to be conducted for supervisors from outside police agencies when requested and is well received.

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

The monitoring team reviewed "normal course of business" records for the academy, and discussed specific aspects of training development, delivery and documentation processes for the reporting period. Members of the monitoring team 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 provide integrated training curricula that conform to the seven-step training development, delivery and evaluation process agreed to between the monitors and the State.

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

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

Status

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.

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

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

Status

The New Jersey State Police Academy’s Technology Unit continues to implement new platforms included in the new Geo Learning Software. The New Jersey State Police Academy is leading the way in demonstrating how the program can 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

The monitoring team reviewed "normal course of business" records for the academy, and discussed specific aspects of training development, delivery and documentation processes for the reporting period. Members of the monitoring team also reviewed detailed evaluation processes for this requirement of the decree, and found them to be professionally developed, articulated, and implemented.

Status

The Geo Learning electronic program allows the Academy to provide oversight and management of all training records and trooper coach materials. The exception is the electronic entry of firearms qualification data. An enhancement to the ACTS database that was approved, but has not been implemented, is resulting in a significant impact on manpower related to data management and data entry. The absence of this computer enhancement prevents the regional range-masters from entering registration and prequalification data directly into the computers at their sites. Instead, data cards are completed, batched, and driven to the Academy to be entered by one of the clerical support staff. This process results in delays in availability of current information: data cards have gone missing (multiple hand-offs, transportation etc.); and clerical personnel are making 2000 entries twice a year, when site entry would involve 30 per day at three sites. The lost manhours, the cost of fuel to transport these cards from three regional sites, and the lack of timeliness and security of data entry are considerations for determining why an already approved enhancement has not been implemented.

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.

Methodology

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

Status

Based on the monitoring team's review of work product, and information obtained during the process of implementing the sixteenth site visit, it is clear to the members of the monitoring team that the State is in compliance with this task. All duties assigned to the Office of State Police Affairs have been completed as of the twelfth site visit, upon final implementation of the MAPPS processes for long-term trend analysis and benchmarking. The office provides coordination with the monitors and the Department of Justice, and the office is headed by a Deputy AG during this reporting period. The office routinely audits the process of managing misconduct investigations, and routinely audits performance on MVSR processes. These audits consist of on-site reviews, basically replicating those engaged in by the monitoring team, with samples of MVSR and MVR recordings reviewed by OSPA personnel. Problems are noted and remedial measures are recommended. Technical assistance and training is provided routinely by the office regarding these matters. The mechanism and duty assignments exist to complete the duties of the office as soon as practicable. The State remains in compliance with this task.

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

The monitors have reviewed data provided by the State regarding this task, and find the State continues to be in compliance.

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 continues to perform this task in a satisfactory manner.

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.

Methodology

Members of the monitoring team observed the personnel from the Office of State Police Affairs during the course of the site visit.

Status

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

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.52 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.

Methodology

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

Status

Members of the monitoring team have reviewed the latest report prepared by the Office of State Police Affairs, and found it to be responsive to the requirements of the decree.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.53 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.

Methodology

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

Status

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

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.54 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

Members of the monitoring team were accorded full and unrestricted access while on-site with personnel from the New Jersey State Police and the Office of State Police Affairs.

Status

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

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.55 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.

Methodology

Members of the monitoring team have reviewed the State’s submission filed by the State in response to this task. The report’s format has been modified to a more readable and usable format.

Status

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

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	[Bar]											
Phase II	[Bar]											

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 monitoring team requested for review numerous documents, records, recordings and other information during the course of the team's site visit during May 2007.

Status

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

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.57 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.

Methodology

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

Status

The State remains in compliance with this task.

Compliance

Phase I: In Compliance

Phase II: In Compliance

3.0 SUMMARY

The New Jersey State Police appear to have reached a watershed moment during the last two reporting periods. Ample evidence exists to suggest that the agency has become self-monitoring and self-correcting to a degree not often observed in American law enforcement. In January and February 2006, agency training pre-delivery monitoring processes “slipped,” allowing unapproved training to be delivered by two outside vendors unfamiliar with the New Jersey State Police consent decree. These two trainings created a serious spike in the number of consent search requests observed during the fifteenth and sixteenth reporting periods. In addition, they created a substantial spike in the number of problematic law enforcement procedures observed by the monitors, jumping from approximately 17 per reporting period to 84 this reporting period.

The response of the New Jersey State Police was anything but typical. In March 2006 the Office of State Police Affairs was tasked to develop a special study relating to the spike in consent requests. By May 2006, the Office of State Police Affairs and the New Jersey State Police developed a field supervisors’ checklist for managing consent requests in the field. By June 2006, OSPA had worked with legal advisors to develop corrective processes to control many of the issues identified by the monitors during their May site visits related to the “tone and timbre” of the consent requests observed during the site visit. By July 2006, enhanced troop-level (executive) and OSPA review systems had been implemented. By August 2006, in-service field supervisor training was modified to address issues raised by the drug interdiction training. By October 2006 global supervisory and managerial reviews began to note and correct problematic consent requests by field personnel using a “best practices” remedial policy.

The New Jersey State Police response to the unapproved training depicts an agency that has become self-monitoring and adaptive, able to note, analyze and correct problems with the delivery of field services in real time. The essential characteristic designed into the current crop of consent decrees strives for just that type of self-awareness and adaptivity on the part of American law enforcement agencies. It appears the goal has been attained.

Training

Compliance levels continued to be maintained in training for the sixteenth reporting period. The Academy continues to assess performance in the area of training, and is currently conducting a unit-wide evaluative process to update and refine program procedures, curricula and training techniques. Technological innovations continue to streamline processes and improve efficiency. Workload analysis and planning processes continue to monitor the training environment for potential stressors on staffing levels and plan for adaptation to ebbs and flows in workload. Training certifications are

routinely monitored, and coordination with field units regarding training topics is routine. As with the agency as a whole, the Academy appears to have become self-monitoring and adaptive.

Supervision

Error rates in field supervision jumped during the fifteenth and sixteenth reporting periods, with on-scene and first-level supervisors missing procedural errors on the part of field personnel, and relying instead on management and OSPA reviews to catch and correct in-field errors. This is directly attributable to the unapproved provision of two separate training events by vendors unfamiliar with the New Jersey State Police consent decree. As a result of this training, field personnel began implementing consent search and vehicle stop processes that were at the margins of New Jersey State Police policies and procedures, and, when counseled concerning these practices, often advised their supervisors "that's how we were trained." The New Jersey State Police noted the divergence of training for field supervisors and field personnel, changed their supervisory in-service training practices, and, by August 2007, had updated the field supervisory in-service training to conform to their "best practices" model of supervision. Again, the agency appears to have become self-monitoring and self adaptive.

MAPPS Development

Full compliance has been reattained 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 A 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 currently being used in performance evaluations and positive disciplinary processes, such as verbal counselings, performance notices, and retraining. High-level risk analysis processes, using MAPPS data, were commenced during the thirteenth reporting period. The monitors reviewed the operational MAPPS database, and found it to contain active data from January 1, 2004.

The evolution of the New Jersey State Police's use of the MAPPS data system into a *proactive problem identification and problem solving system* emerged this reporting period. In effect, the New Jersey State Police have taken the MAPPS system *beyond* the requirements of the consent decree, using it for more than a tracking and control device for motor vehicle stops, use of force, and complaints, and instead using it to identify systemic organizational issues and to craft solutions to those issues before they

negatively impact the organization in any significant way. In the past year, using MAPPS-based tools, the leadership of the New Jersey State Police identified two issues of concern: a perceived rise in allegations of off-duty misconduct incidents among Division personnel and a significant increase in the number of *consent search requests* made by Division personnel.

Within six months of noting the potential impact of these two issues, the New Jersey State Police planned, developed and executed two separate data-centric and data-analytic problem solving actions designed to identify the nature and scope of the problems, assess their impact on the organization, and develop recommendations to *deal with* the issues in a real-time manner. Elements from the Office of Strategic Initiatives, MAPPS and the Risk Analysis Core Group (RACG) were melded to deal with these two issues.

The faults noted last reporting period in the areas of workload, staffing, technology and information access have now been addressed. MAPPS and RACG are now in full compliance, staffed to a sufficient level with technological capacity and information access regimens suitable for the workload facing MAPPS and RACG.

Inspections, Audit and Quality Control

Inspections and Audit personnel from Field Operations and the Office of State Police Affairs continue to review MVSR and MVR elements for conformance to the requirements of the consent decree. As noted above, the quality control process has yielded remarkable improvements for six consecutive periods. OSPA continues to be an important and integral part of the systems improvement process, and continues to offer an important tier of review of state police functions related to the consent decree.

Overall Compliance Status

Compliance requirements in all areas are now at 100 percent levels. Policy, training, supervision, inspections and audit, and MAPPS processes are fully staffed, fully functioning, and, in the opinion of the monitors, fully capable of self-monitoring and self-adaptation.

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.

Errata
Annex Two
Data Tables for *Chi*-Square Analyses

Table Four: Consent Requests by Race-Ethnicity of Driver, 16th Reporting Period

	White	Black	Hispanic	n=
No Consent Request	70	38	26	134
Consent Request	36	53	42	131

N= 265¹

$\chi^2 = 17.11$

df= 2²

P= **0.00019**³

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

Monitors' Note: The correction of the number of black drivers who *were not* asked for consent to search from "68" to "38" (a data entry typographical error) **does not affect** the significance of the test statistic. It remains statistically significant at the 0.05 level, and the discussion of consent requests on page 15 of the Monitors' report is not substantively changed by the error.

¹ "N" does not equal 269 because four drivers were in the "other" category of race or ethnicity.

² "Degrees of freedom" 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 is determined by the degrees of freedom. For the chi square statistics reported here, the degrees of freedom translate into the number of cells in a table for which the number of observations needs to be known before all the cells are determined, based on the row and column totals.

³ A "p" level indicates the probability that a statistical relationship happened by chance. The smaller the size of p, the smaller the probability the relationship happened by chance. A p level of 0.05 (or smaller) was chosen by the monitoring team as the level at which statistical significance will be determined, consistent with most research studies. In terms of the chi square statistics reported, a p level of 0.05 indicates that there is only a five-percent probability that the distribution of the data in a particular table happened by chance, and therefore any differences across groups seen in the table are considered statistically significant.

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

Table Six: Arrest Data for Black and White Drivers 16th Reporting Period

	White	Black	Hispanic	n=
No Arrest	34	39	43	116
Arrest	72	52	25	149

N=265⁵

$\chi^2 = 16.389$

df= 2

P= 0.00027

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

Table Seven: Consent Request Stop Rates by Reason for Stop (Level of Discretion) 16th Reporting Period

	White	Non-White	n=
High Discretion (1)	10	37	47
Median Discretion (2)	5	10	15
Low Direction (3)	17	45	62

N=124

$\chi^2 = 1.032$

df= 2

P= 0.0596

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

⁵ "N" does not equal 269 because four drivers were in the "other" category of race or ethnicity.

Table Eight: Canine Deployment Rates by Reason for Stop (Level of Discretion), 16th Reporting Period

	White	Non-White	n=
High Discretion (1)	1	26	27
Median Discretion (2)	0	3	3
Low Direction (3)	4	18	22

N=52⁶

$\chi^2 = 3.263$

df= 2

P= 0.1956

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

Table Nine:
Sampled Vehicle Stop Rates by Reason for Stop (Level of Discretion), 16th Reporting Period

	White	Black	Hispanic	n=
High Discretion (1)	32	35	28	95
Median Discretion (2)	17	8	11	36
Low Direction (3)	43	41	24	131

N=262⁶

$\chi^2 = 4.656$

df= 4

P= 0.3244

⁶ Not all stops had a known reason for the stop that could be used in this analysis. Some were simply described, as required by the consent decree, as “moving” or “non-moving”

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

Table Ten:
Reason for Consent Request by Race and Ethnicity, 16th Reporting Period

	White	Non-White	n=
High Discretion (1)	7	6	13
Median Discretion (2)	2	31	33
Low Direction (3)	24	60	84

N=130 (not all consent requests had a known reason for the request, and thus N does not equal 134).

$$\chi^2 = 12.516$$

$$df = 2$$

$$P = 0.00191$$

Table Eleven: Outcome for Consent Request by Race and Ethnicity, 16th Reporting Period

	White	Non-White	n=
Inappropriate (1)	7	14	21
Appropriate (2)	29	84	113

$$N = 134$$

$$\chi^2 = 0.53$$

$$Df = 1$$

$$P = 0.4666$$