

# OLEPS

OFFICE OF LAW ENFORCEMENT PROFESSIONAL STANDARDS

# Twelfth Oversight Report March 2017

*January 1, 2015 – June 30, 2015*

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## Executive Summary

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In its oversight reports, as mandated by the Law Enforcement Professional Standards Act of 2009 (N.J.S.A. 52:17B-222, et seq.) (the Act), the Office of Law Enforcement Professional Standards (OLEPS) evaluates State Police adherence to its established policies and procedures. To assess State Police compliance, OLEPS reviews motor vehicle stops and related records and documentation, internal disciplinary matters, State Police databases, and other relevant materials.

In this 12<sup>th</sup> Oversight Report, which covers the time period of January 1, 2015 to June 30, 2015, OLEPS reviewed and analyzed data from 298 motor vehicle stops, including records associated with the stops. As part of its sample, OLEPS reviewed all critical stops and a random sample of stops with a frisk. OLEPS further reviewed records and documentation from Field Operations, MAPPS, and the Office of Professional Standards (OPS). While there are issues noted in this report, overall, OLEPS determined that State Police acted in conformity with its established performance standards. The major findings of this report include:

- There was no definitive evidence that State Police engaged in any race/ethnicity-based decision making processes in this reporting period. Differences in enforcement activities are more likely the result of chance rather than purposeful behavior.
  - Analysis in the current reporting period indicates that there are no statistically significant differences in the racial/ethnic distributions in the number of stops, including those involving consent to search requests, canine deployments, uses of force, or arrests.
- Instances where State Police deviates from its policy and procedures during a motor vehicle stop are referred to as "errors." State Police has the ability to review the stops and note the errors. State Police has a review process where a selection of stops are reviewed and errors are noted. OLEPS reviewed stops that underwent State Police review and those that did not undergo State Police review. State Police reviewed 149 of the 298 stops that OLEPS reviewed for this report. Of the stops State Police reviewed, 12% (18 of 149) contained an error not caught. Thirty-four percent (51 of 149) of the stops not reviewed by State Police contained at least one error. The total number of errors that the State Police did not catch in the current reporting period is less than previous reporting periods, but still remains larger than expected.<sup>1</sup>
  - When an error occurs and is noted during a motor vehicle stop, State Police is required to issue an intervention— that is, a notification to the trooper of a deviation from policy or procedure— so that such conduct can be corrected. Historically, interventions have not been used consistently. In the current period, however, there was a continued improvement in State Police's use of interventions. About 54% of all errors caught by the State Police resulted in interventions, most frequently for errors caught pertaining to frisks and searches of persons.
- In the current reporting period, OLEPS noted limited instances where troopers did not meet the appropriate legal standards for post-stop activities. Specifically, there were six instances where the legal standard of RAS to request consent to search was not met and one instance

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<sup>1</sup> Additional information regarding this standard is available through OLEPS' website:  
<http://www.nj.gov/oag/oleps/index.html>

where the legal standard of PC was not met. State Police noted five of these errors and issued an intervention for two errors. There was one canine deployment that did not meet the legal standard of RAS. This error was noted by State Police but no intervention was issued. There were two stops where passenger 1 was asked to exit in the absence of heightened suspicion. State Police noted one of these errors and issued an intervention. There was one stop where passenger 2 was asked to exit in the absence of heightened suspicion. This error was caught by State Police and an intervention was issued. There were 19 frisks that did not meet the standard of RAS. Sixteen of these errors were noted by State Police and 14 resulted in an intervention. OLEPS noted 12 stops with errors in non-consensual vehicle searches, nine of which were also noted by State Police, resulting in six interventions. OLEPS noted eight searches of a driver and eight of a passenger that were not conducted incident to arrest. State Police noted 10 of these errors, eight of which resulted in an intervention. Despite these limited instances—many of which were caught by State Police with appropriate interventions issued—the majority of post-stop activities reviewed were performed in accordance with State Police policies, procedures, and legal standards.

- In addition to reviewing stops, supervisors are required to be present during motor vehicle stops on a routine basis to ensure that troopers conduct stops in accordance with State Police policy. To promote an increase of supervisory presence on the roadway, in July 2011, State Police modified its motor vehicle stop review schedule. Despite this, the proportion of stops with supervisors on scene decreased from 33% in the previous reporting period to 30%.
- The audio and video recording of motor vehicle stops remains an issue in the current reporting period. Portions of stops were missing from the DIVR database. In some instances, the first clip of the stop was catalogued with a previous stop or not catalogued with an incident number at all. In other instances, the clip could not be located. OLEPS was initially unable to find any recordings for 34 stops, 11%, in this reporting period. OLEPS then returned to the recordings database to determine whether any recordings were available for these 34 stops that were not catalogued appropriately. During this second review, OLEPS found recordings for 13 stops.
- The average length of all motor vehicle stops in this reporting period was shorter than the previous reporting period. This decreased length was noted among critical stops and the secondary sample of stops, which were required to include frisks. The RAS stops (critical) are required to be “brief.” There was no evidence, however, that the length of stops resulted in a violation of individuals’ rights.

Overall, in this twelfth reporting period, the State Police adhered to its policies and procedures. However, OLEPS continues to note recurring issues in each reporting period. OLEPS commends the State Police on the progress made to date, but recommends that the Division continue improvements in the areas discussed in this report.

# OLEPS' TWELFTH OVERSIGHT REPORT OF THE NEW JERSEY STATE POLICE JANUARY 1, 2015 TO JUNE 30, 2015

## Introduction

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Pursuant to the Law Enforcement Professional Standards Act of 2009 (N.J.S.A. 52:17B-222, et seq.) (the Act), the Office of Law Enforcement Professional Standards (OLEPS) is required to publish biannual reports assessing New Jersey State Police (State Police) compliance with relevant performance standards and procedures. Dissolved in September 2009, the federal Consent Decree (the Decree) outlined procedures and policies for State Police to implement. Many of the reforms accomplished under the Decree have been codified in rules, regulations, policies, procedures, operating instructions, or the operating procedures of the organization. The monitoring reports, which formerly assessed compliance with the Decree, now reflect State Police adherence to these reforms. For a more detailed history concerning the Decree, see previous reports at [www.nj.gov/oag/oleps](http://www.nj.gov/oag/oleps).

OLEPS publishes two oversight reports<sup>2</sup> a year covering two six-month reporting periods, from January 1 to June 30 and from July 1 to December 31. The second report includes a review of the State Police training responsibilities (see Performance Standards 14 to 21) for the entire calendar year.

Since State Police's rules, regulations, standing operating procedures, or operating instructions will naturally change to account for developments in constitutional law, the advent of new technologies, and the development of new best practices, the Performance Standards listed in the Oversight Report will evolve accordingly. The Oversight Report evaluates the State Police in accordance with the policies and procedures as they exist during the relevant reporting period.

In this Twelfth Oversight Report, which covers January 1, 2015 to June 30, 2015, OLEPS substantively reviewed the procedures and implementation relating to State Police motor vehicle stops and post-stop enforcement actions. Further, it reviewed supervision of patrol activities, training provided to State Police members assigned to patrol duties and the conduct of investigations of alleged misconduct and other internal affairs matters.

The methodology employed by OLEPS in developing this report and operational definitions of compliance are described in Part I of the report. Part II of the report describes the data and sample utilized for this reporting period. Part III, Assessment, includes the findings of OLEPS' oversight process. Specific examples of behavior observed during the oversight process are also noted. Within Part III, several chapters detail standards based on overall relevance to Field Operations, Supervisory Review, Management Awareness Personnel Performance System (MAPPS), the Office of Professional Standards (OPS), and Oversight and Public Information requirements.

The methodology used to assess performance standards is outlined at the beginning of each section. The summary provides an overall assessment of adherence to State Police policies and any applicable recommendations. Appendix One is a list of all previous monitoring/oversight reports published by OLEPS and the independent monitors, their dates of publication, and the reporting periods covered.

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<sup>2</sup> OLEPS' Monitoring Reports are now known as OLEPS' Oversight Reports. This change reflects OLEPS' role as auditors rather than independent monitors as defined by the Decree. This report represents the ninth full reporting period after the dissolution of the Decree.

Appendix Two summarizes the types of errors made by each station during the current reporting period. Appendix Three presents additional analyses relevant to Part III. Appendix Four lists definitions for commonly used abbreviations in this report. Finally, Appendix Five contains a map of State Police troops and stations.

## PART I

# METHODOLOGY & PROCESS

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Part I details the methodology used to assess the State Police. This methodology applies to all standards within this report, although supplemental methodologies may also be listed for each standard. The bulk of the data utilized in this report relate to field operations and activities occurring during motor vehicle stops.

All assessments of the State Police are based on review of State Police data and policies formed by a review of records and documents prepared in the normal course of business. No special reports prepared by the State Police were accepted as evidence of adherence to performance standards. Instead, OLEPS reviewed records created during the delivery or performance of tasks/activities.

### **Standards for Assessment**

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OLEPS assesses the State Police according to its rules, regulations, operating instructions, and the procedures of the organization, which are set forth in this report as "Performance Standards."

In reviewing State Police compliance with its policies and procedures in motor vehicle stop activities, OLEPS includes a discussion of how many "errors" occurred during the stop. An "error" is a trooper action or inaction during a motor vehicle stop that fails to comport with established procedures. OLEPS notes all errors during a stop, but also notes those caught by the trooper's supervisors in their review of the recording and records of the motor vehicle stop. The report also comments on whether the stop underwent supervisory review, as not all stops do. The expectation is that if the stop underwent supervisory review, the supervisor should catch all errors. Those not caught during a supervisory review are deemed "uncaught errors." Historically, State Police were held to a 10% error rate. That is, of the stops reviewed (all stops and any sub-set of stops analyzed), no more than 10% could contain an error not caught by State Police.

OLEPS notes the errors caught during a supervisory review result in the trooper receiving an intervention - that is, the trooper is notified of the error. For the trooper to learn that he/she may not be following part of a required policy, the trooper should be informed of the error so that he/she can correct the behavior. Supervisory review of a trooper's motor vehicle stop activities and recording of errors is essential to the State Police recognizing and correcting conduct before patterns develop that may be contrary to its policies or procedures. Supervisory review further encourages the evolution of policies and procedures to promote best practices.

Furthermore, OLEPS discusses motor vehicle stop activity in the current reporting period and compares it to past reports to determine changes in overall trooper activity. OLEPS continues to issue recommendations to the State Police based on observed events, especially where a pattern or practice generating concern is noted. This review allows OLEPS to assess the State Police's ability to continue to promote and support vigorous, lawful, and non-discriminatory implementation of law enforcement practices and procedures.

## PART II

### DATA & SAMPLE DESCRIPTION

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To assess State Police performance, OLEPS examines State Police activity in a number of ways. Field Operations is monitored through a detailed review of a sample of motor vehicle stops. OLEPS also accesses State Police databases and records systems to find evidence of requirements and adherence to policies. OLEPS reviews State Police's policies and procedures, as outlined in the Act, prior to their implementation to ensure that they are appropriate and adequately address any developments in constitutional law.

#### **Field Operations**

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The State Police provided data to OLEPS pursuant to specific data requests. Under no circumstances were the data selected by OLEPS based on provision of records of preference by personnel from the State Police. In every instance of the selection of samples, State Police personnel were provided lists requesting specific data or the data were collected directly by members of OLEPS.

The motor vehicle stop data for this period, as with those for the previous report, were drawn exclusively from the universe of incidents that have post-stop activity. The data requested are based on requirements originally formed by the independent monitors.<sup>3</sup> Updates have been made to the request to reflect any changes in State Police policies and procedures.

#### **Data Requests**

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Each motor vehicle stop review includes the examination of several pieces of information, which were either provided by the State Police or obtained from State Police databases by OLEPS. For the stops selected for review, this information included:

- All reports, records checks, and videos of stops.
- Logs for all trooper-initiated motor vehicle stop communication center call-ins for the stops selected, including time of completion of the stop and results of the stop.
- Copies of documentation, including supplemental reports created for consent search requests, canine deployments, and incidents involving use of force that took place during a motor vehicle stop.

OLEPS was provided with all requested information, unless otherwise noted.

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<sup>3</sup> For more information about the independent monitors, their standards, and reports, please visit:  
<http://www.nj.gov/oag/decreehome.htm>

## Types of Reviews

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### *Report*

A report review involves examination of all available hard-copy and electronic documentation of an event. For example, a review could consist of reviewing the motor vehicle stop report (MVS), associated records in the patrol log, a supporting consent to search form, and associated summonses or arrest records. Each post-stop event consisting of law enforcement procedures of interest to the Decree<sup>4</sup> was subjected to a structured analysis using a form initially developed by the independent monitors and revised by OLEPS. Problems with the motor vehicle stop were noted and tallied using this form. These data were shared with the State Police. Clarifications were requested and received in instances in which there was doubt about the status of an event or supporting documentation.

### *Recording*

A recording review consists of examining the associated audio and video of a given motor vehicle stop. OLEPS compared the actions noted on the recording with the elements reported in the official documents related to the event. These data were collected and were shared with the State Police. Clarifications were requested and received in instances in which there was doubt about the status of an event or supporting documentation. Members of OLEPS reviewed available audio and video recordings and associated documentation (stop reports, patrol charts, citations, arrest reports, DUI reports, etc.) for *all* of the stops selected for review, to the extent these recordings were available.

## Sample

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A sample of motor vehicle stops reviewed for this reporting period was selected from all motor vehicle stops made by the State Police from January 1, 2015 to June 30, 2015. Stops made by all troops and stations were eligible for selection. The sample is best described in two parts:

- I. All stops deemed critical by the Decree (112 stops)
  - o All Reasonable Articulable Suspicion (RAS)<sup>5</sup> based consent searches
  - o All canine deployments
  - o All uses of force
- II. Select stops made by troopers (186 stops)
  - o In OLEPS' 10th Oversight Report, which covered January 1, 2014 to June 30, 2014, OLEPS noted a number of frisks occurred despite the lack of RAS to conduct the frisk. A number of frisks examined extended beyond a pat-down, and an even larger proportion occurred off camera. Given these findings, OLEPS selected a random sample of stops where a frisk was conducted for review in this reporting period.

A total of 298 motor vehicle stops were reviewed for this reporting period. Table One lists the activities involved in these motor vehicle stops. For this reporting period, OLEPS attempted to conduct recording and report reviews on all motor vehicle stops. Report only reviews occurred in the instances

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<sup>4</sup> i.e., request for permission to search, conduct of a search, ordering occupants out of a vehicle, frisks of vehicle occupants, canine deployment, seizure of contraband, arrest of the occupants of the vehicle, or use of force.

<sup>5</sup> RAS is defined as a suspicion (more than a hunch, but less than probable cause to believe) based on identifiable, specific, and particularized objective facts that, under the totality of the circumstances known to the member at the time, would cause a person of reasonable caution to suspect that a person is violating, is about to violate, or has violated the law.

where a tape was not available for review. There were a total of 19 motor vehicle stops that received a report only review, while 279 received a review that included both reports and recordings.

**Table One: Incidents Reviewed**  
12<sup>th</sup> OLEPS Reporting Period

	Report Only Reviews	Recording & Report Reviews <sup>6</sup>
<b>Total Stops</b>	19	279
<b>Consent Search Requests (PC &amp; RAS)</b>	3	100
<b>Canine Deployments</b>	1	15
<b>Use of Force</b>	3	26
<b>Probable Cause Searches of Vehicles</b>	5	32

Table Two lists the number of incidents reviewed by station and the type of review received. In January 2011, the State Police combined Troops D and E to form Troop D Parkway and Troop D Turnpike. Technically then, Bass River, Bloomfield, and Holmdel<sup>7</sup> stations are part of Troop D. Because of this merger, Troop D generally has the highest number of motor vehicle stops in the sample. However, in the current reporting period, OLEPS only reviewed 61 stops conducted by Troop D. Fifty-eight stops reviewed were conducted by Troop A, 88 by Troop B, 71 by Troop C, and 20 by Other non-Troop stations.

Historically, OLEPS has noted patterns in unavailable recordings. In some reporting periods, recordings have been unavailable for specific troops or stations more than others. In the current reporting period, there were only 19 stops subject to a report only review. These stops were not highly concentrated in any one troop; the number of stops where audio and video recordings were unavailable was less than 10 for each troop. Troop B conducted nine stops that received a report only review, Troop C conducted five stops, Troop A conducted three stops, Troop D conducted one stop and other, non-Troop stations conducted one stop that received a report only review.

<sup>6</sup> Recording and report reviews for each type of activity total more than 298 because most stops involved more than a single category of law enforcement activity.

<sup>7</sup> Despite this merger, the State Police retained the "E" station codes for Bass River, Bloomfield, and Holmdel stations, as seen in Table Two.

**Table Two: Distribution of Events by Station**  
12<sup>th</sup> OLEPS Reporting Period

	Recording & Report Reviews	Report Only Reviews	Total Reviews
<b>A040- Bridgeton</b>	7	1	<b>8</b>
<b>A050- Woodbine</b>	10	0	<b>10</b>
<b>A090- Buena Vista</b>	5	1	<b>6</b>
<b>A100- Port Norris</b>	1	0	<b>1</b>
<b>A140- Woodstown</b>	5	1	<b>6</b>
<b>A160- Atlantic City</b>	11	0	<b>11</b>
<b>A310- Bellmawr</b>	14	0	<b>14</b>
<b>Troop A Other</b>	2	0	<b>2</b>
<b>B020- Hope</b>	9	2	<b>11</b>
<b>B050- Sussex</b>	6	0	<b>6</b>
<b>B060- Totowa</b>	7	0	<b>7</b>
<b>B080- Netcong</b>	11	5	<b>16</b>
<b>B110- Perryville</b>	24	1	<b>25</b>
<b>B130- Somerville</b>	19	1	<b>20</b>
<b>B150- Washington</b>	3	0	<b>3</b>
<b>Troop B Other</b>	0	0	<b>0</b>
<b>C020- Bordentown</b>	14	1	<b>15</b>
<b>C040- Kingwood</b>	4	0	<b>4</b>
<b>C060- Hamilton</b>	12	0	<b>12</b>
<b>C080- Red Lion</b>	22	3	<b>25</b>
<b>C120- Tuckerton</b>	7	1	<b>8</b>
<b>Troop C Other</b>	7	0	<b>7</b>
<b>D010- Cranbury</b>	10	0	<b>10</b>
<b>D020- Moorestown</b>	11	0	<b>11</b>
<b>D030- Newark</b>	11	0	<b>11</b>
<b>E030- Bass River</b>	4	0	<b>4</b>
<b>E040- Bloomfield</b>	8	0	<b>8</b>
<b>E050- Holmdel</b>	15	1	<b>16</b>
<b>Troop D Other</b>	1	0	<b>1</b>
<b>Other<sup>8</sup></b>	19	1	<b>20</b>
<b>Total</b>	<b>279</b>	<b>19</b>	<b>298</b>

## Trends

For several reporting periods, OLEPS has tracked trends in the motor vehicle stops reviewed. Since OLEPS reviews all motor vehicle stops with RAS consent to search requests, canine deployments, or

<sup>8</sup> Stops listed as "Other" are those conducted by non-road stations. For example, these stops may have been conducted by an investigative unit or a specific unit within Field Operations.

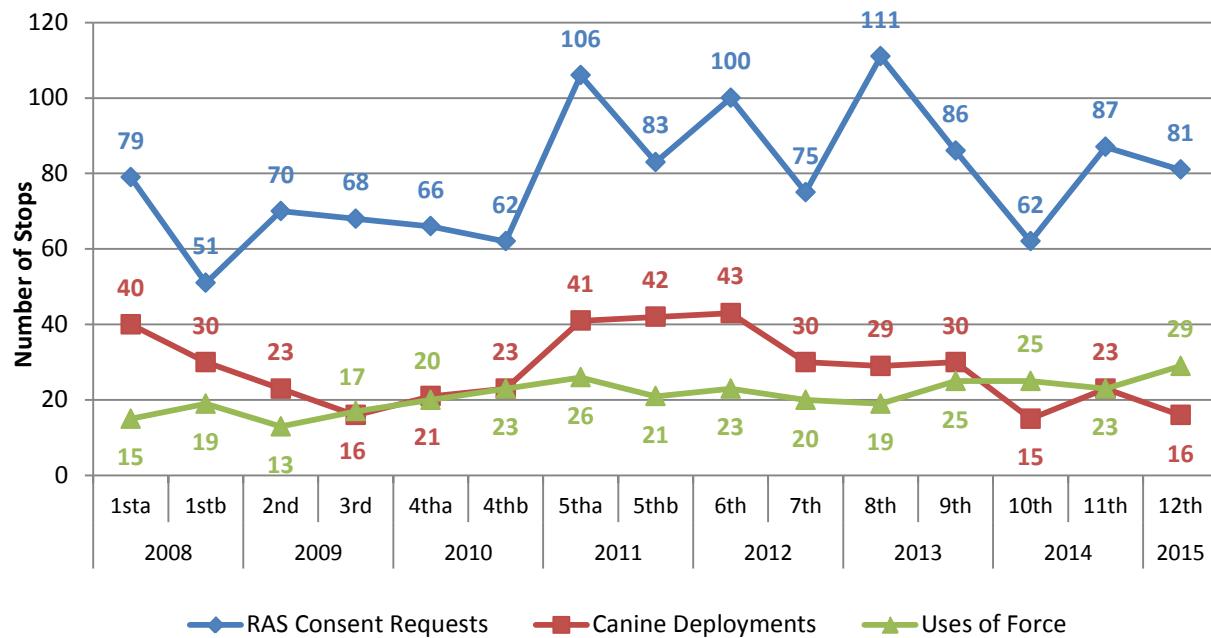
uses of force, these numbers represent the actual volume of motor vehicle stops with these events.<sup>9</sup> Figure One depicts the trends in these events from January 2008-June 2015. RAS consent requests and canine deployments decreased while uses of force increased in the current reporting period. Since 2008, the number of RAS consent requests is higher in the first half of the year, just as the number of motor vehicle stops, generally, is higher in the first half of the year. However, the current and previous two reporting periods do not follow this trend.

In the second half of 2012, a decline in the number of canine deployments was noted after several reporting periods of higher numbers of stops with these activities. The number of canine deployments in the current reporting period is nearly identical to the number in the first half of 2014, the lowest number since 2009.

The number of stops where force was used has been fairly consistent since 2008, roughly 20 stops in a reporting period. However, the number of stops with uses of force have generally been increasing since the beginning of 2013. The number of stops where force was used in the current reporting period, 29 stops, is the highest number since before 2008.

**Figure One: Annual Trends of RAS Consent Requests, Uses of Force, and Canine Deployments**

January 2008- June 2015



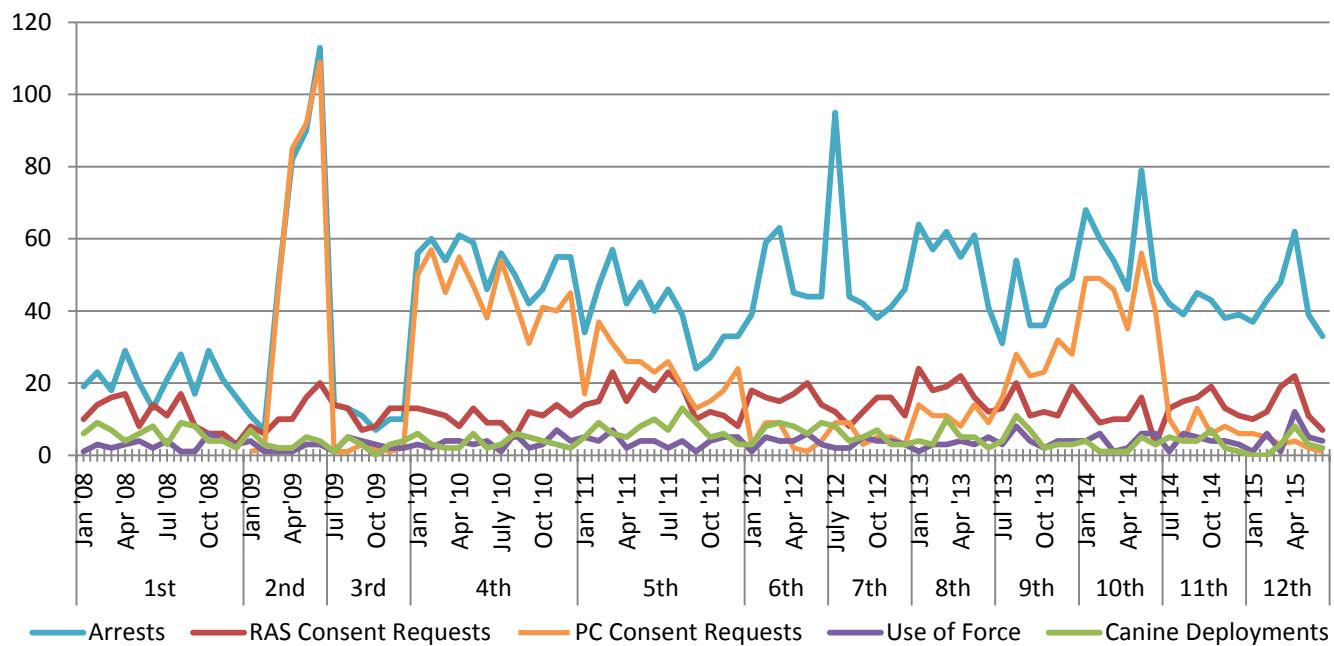
OLEPS has noted the number of incidents occurring in the second half of the year is generally lower than the number occurring in the first half of the year. As such, examination of monthly trends is important. Figure Two presents the number of RAS consent requests, uses of force, canine deployments, PC consent requests, and arrests for January 2008 through June 2015. These monthly

<sup>9</sup> OLEPS only reviews these events when they occur during a motor vehicle stop (*i.e.*, time on the road only) prior to returning to the station. There are additional RAS consent to search requests, canine deployments and uses of force conducted by the State Police, but these occur outside of motor vehicle stops.

trends allow OLEPS to determine changes in the volume of incidents in the time period following key events (e.g., State v. Peña-Flores, 198 N.J. 6 (2009)).<sup>10</sup> As seen in the graph, these enforcement activities are relatively infrequent, especially when compared to the volume of arrests and probable cause consent requests. Figure Two highlights the monthly variation in each activity.

The annual totals in Figure One suggest that RAS consent requests increased in the first half of 2013 and have declined since then, while canine deployments and uses of force remained consistent. However, the trends are not as linear as suggested by Figure One; trends vary in each month of the year and across years. The number of RAS consent to search requests is inconsistent from month to month. While these numbers do fluctuate each month, beginning in January 2012, there are discernable fluctuations in these events in each month in 2012 and 2013, a decrease in the first half of 2014, an increase in the second half of 2014, and an increase in the first half of 2015. The number reported in April 2015, 22 stops with deployments, is the highest number of stops with canine deployments in two years.

**Figure Two: Motor Vehicle Stops with RAS Consent Requests, Canine Deployments, and Uses of Force**  
January 2008 – June 2015



For canine deployments and uses of force, no consistent trend appears other than inconsistency. The number of canine deployments and uses of force fluctuate each month. However, canine deployments

<sup>10</sup> State v. Peña-Flores, 198 N.J. 6 (2009), hereafter referred to as Peña-Flores, served to further define the exigent circumstances under which a search of a vehicle could be conducted without securing a search warrant under the automobile exception when there was probable cause to believe that a crime had been (or will be) committed. Peña-Flores was recently overturned by the New Jersey Supreme Court in State v. Witt, 223 N.J. 409 (2015), hereafter referred to as Witt. Decided in September 2015, the Court in Witt held that the exigent circumstances test set forth in Peña-Flores, no longer applied. Accordingly, the standard set in State v. Alston, 88 N.J. 211 (1981) for warrantless searches of automobiles based on PC has been reinstated as controlling law in New Jersey.

do show small spikes in March and August 2013 and April 2015. There were nearly twice as many canine deployments in these months as all other months since August 2011. Noticeably, there was a spike in the number of use of force incidents in April 2015, similar to the spike noted in canine deployments and RAS consent requests. In April 2015, there were eight canine deployments and 12 uses of force, the highest number of force incidents in any month in Figure Two.

Two other enforcement activities appear frequently in the stops selected for OLEPS review: PC consent to search requests and arrests. Figure Two also depicts these trends. The total number of stops with PC consent to search requests increased dramatically following Peña-Flores. Figure Two also depicts trends in the reviewed motor vehicle stops with PC consent requests and/or arrests. The numbers do not represent the total volume of PC consent requests and arrests, but rather, only those stops selected for review in which these events occurred. In actuality, there were over 1,300 PC consent searches in motor vehicle stops in the first half of 2015. The 21 stops with PC consent requests represented in Figure Two for January-June 2015 only represent a very small fraction of the total number of stops with PC consent search requests. An annual graph, similar to Figure One, is not presented for stops with PC consent searches and arrests because the variation seen in these events is the result of the stops selected rather than variation in the actual use of such enforcement activities.

In February 2009, the New Jersey Supreme Court issued the Peña-Flores decision. This decision restricted the ability of law enforcement to conduct searches covered under the automobile exception. This decision resulted in the State Police developing the practice of PC consent requests. Because the decision led to a change in the type of enforcement activities engaged in by the State Police, OLEPS altered its sample selection to include PC consent requests, beginning in OLEPS' Second Monitoring Report. Due to time constraints, such a sample was not selected for OLEPS' Third Monitoring Report. Thus, the number of PC consent requests reflected in Figure Two for this period is much lower. OLEPS resumed review of PC consent requests in the fourth and fifth reporting period, as indicated by the increase in the number of PC consent requests. OLEPS' sixth through eighth reporting periods used a sample selected based on whether an arrest occurred rather than a PC consent request. As shown, the number of stops with arrests in these reporting periods is high while the number of PC consent requests is much lower. In the ninth reporting period, OLEPS shifted its focus back to PC consent requests after two reporting periods of focusing on stops with arrests. The number of PC consent requests in the current reporting period is much smaller than the previous reporting period. This is likely due to sample selection; OLEPS sampled stops with frisks rather than probable cause consent requests.

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## OPS & Investigations

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Evidence of OPS' adherence to State Police policies and procedures is assessed in an audit of OPS investigations. These audits are conducted twice a year. OLEPS reviews a sample of misconduct cases and determines whether the cases were handled in accordance with State Police's policies and procedures. Because the details of these cases represent privileged and confidential information, this report includes only a general summary of the audit, rather than specifics of the cases in the audit. OLEPS also publishes aggregate analysis on OPS' misconduct investigations in the Public Aggregate Misconduct Report, available at <http://www.nj.gov/oag/oleps/aggregate-misconduct.html>.

## **Training**

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Functions performed by the Training Bureau are assessed on an annual basis. It is the responsibility of the Training Bureau to ensure that all troopers continue to receive quality training, including those troopers becoming supervisors. It is also the Training Bureau's responsibility to identify training goals, identify measures to assess goal performance, collect data, and determine where data fall on those measures. OLEPS reviews this process and will present an assessment of training for the 2015 calendar year in the 13<sup>th</sup> Oversight Report.

## **Management Awareness & Personnel Performance System**

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For tasks relating to MAPPS, OLEPS directly accesses MAPPS to ensure functionality. At various times during the review period, OLEPS checks to ensure that all relevant information is entered into the system. OLEPS also examines any risk management steps State Police took based on the information contained in MAPPS.

## **Oversight and Public Information**

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These standards generally refer to OLEPS' interaction with the State Police. OLEPS provides discussion of these standards based on interactions with the State Police throughout the oversight period.

## **PART III**

### **ASSESSMENT OF NEW JERSEY STATE POLICE**

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Part III of this oversight report assesses State Police on Performance Standards created from State Police practices and operating procedures. These standards are broken out according to the following subgroups:

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

**Part III**

## **Field Operations**

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The standards in this section refer to the day-to-day operations and procedures to which State Police must adhere. Each standard is presented, followed by a description of the analysis and/or research conducted to assess State Police.

### **Assessment Process**

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OLEPS assesses Field Operations by reviewing a sample of motor vehicle stops. This review includes an examination of all reports and documentation of the stop. Audio and video recordings of stops are reviewed for all stops where recordings are available. OLEPS' staff examines the facts and circumstances of the stop to determine whether State Police performed within standards governed by State Police policy during motor vehicle stops. For those stops that received a State Police supervisory review, instances where troopers deviate from policy are noted and checked to ensure that their review also noted these errors. All information is recorded in OLEPS' Motor Vehicle Stop Assessment database. This assessment is revised by OLEPS each reporting period, as needed to account for the development of the law and changes to State Police policies and procedures.

### **Performance Standard 1: Race may not be considered except in B.O.L.O.**

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#### **Standard**

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The requirements for this performance standard are taken directly from the language of the Decree, though several State Police policies and procedures reference the prohibition of race/ethnicity-based decision making.

*Except in the suspect-specific B.O.L.O. ("be on the lookout") situations, state troopers are strictly prohibited from considering the race or national or ethnic origin of civilian drivers or passengers in any fashion and to any degree 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.*

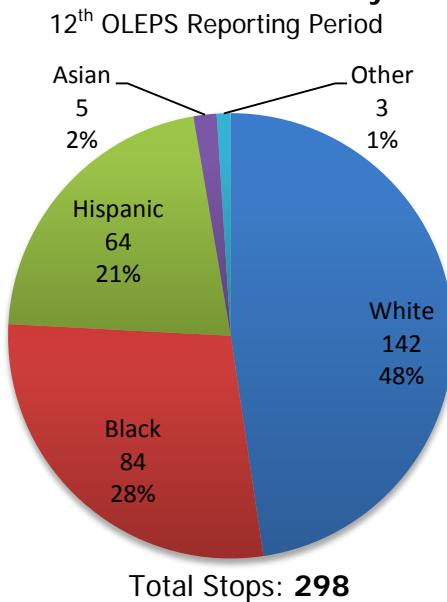
This standard will also examine the potential effect of trooper discretion on racial/ethnic differences in stops and enforcement activities.

## Racial/Ethnic Differences

### *All Motor Vehicle Stops*

All 298 of the stops sampled for this reporting period involved some form of a post-stop interaction (e.g., a frisk, a consent to search request, canine deployment, use of force, or arrest), but not all stops contained all post-stop activities. Figure Three presents the racial/ethnic breakdown of all stops in the current sample. These numbers do not reflect the racial and ethnic distribution of all drivers stopped by the State Police.<sup>11</sup> Rather, they reflect the racial and ethnic distribution of drivers who were involved in the stops selected for review.

**Figure Three: Race/Ethnicity of Drivers**



In the stops selected for the current reporting period, there were more stops with White drivers than any other racial/ethnic group. There were 142 (48%) drivers in this sample who were White, 84 (28%) who were Black, 64 (21%) who were Hispanic, five (2%) who were Asian, and three (1%) who were identified as Other.<sup>12</sup> The majority of trooper-citizen interactions in this reporting period appeared to involve White or Black drivers. Like the distribution noted in the previous reporting period, the stops reviewed in the current reporting period involved a larger proportion of White than Black drivers. However, the stops reviewed in the current reporting period involve a smaller proportion of Black drivers and a larger proportion of Hispanic drivers than the distribution noted in the previous reporting period. In the stops reviewed in the previous reporting period, 38% of drivers were Black and 17% were Hispanic compared to 28% and 21% in the current reporting period, respectively.

Though there are more White drivers than any other racial/ethnic group, the stops reviewed still involve a disproportionate number of Black drivers, as compared to their proportion of all stops conducted by State Police in the current reporting period.

This distribution will be compared to the racial/ethnic distribution of other activities. OLEPS does not conduct an in-depth review of every stop conducted by State Police. Therefore, the potential does remain that the racial/ethnic distribution of the stops selected for this report is skewed because the racial/ethnic distribution of all stops differs from that of stops with post-stop activities (i.e., any exit, frisk, search, use of force, or arrest).

<sup>11</sup> For the total number of stops conducted involving drivers of each racial/ethnic group, see OLEPS' Aggregate Reports available at: <http://www.nj.gov/oag/oleps/aggregate-data.html>

<sup>12</sup>The State Police abide by two racial/ethnic group categorizations depending on the intended recipient of data. For example, data intended for publication in the Uniform Crime Report or data utilizing these categorizations use White, Black, Hispanic, Asian, American Indian, and Other categorizations. However, data compiled for non-UCR purposes utilize the categories of White, Black, Hispanic, Asian Indian, Other Asian, American Indian, and Other. Because the categories of Asian Indian and Other Asian are not uniformly utilized by the State Police, and because the data utilized in this report come from multiple sources, OLEPS uses the category of Asian rather than separate categories for Asian Indian and Other Asian.

## Consent Requests

**Figure Four: Consent Requests by Race/Ethnicity of Driver**

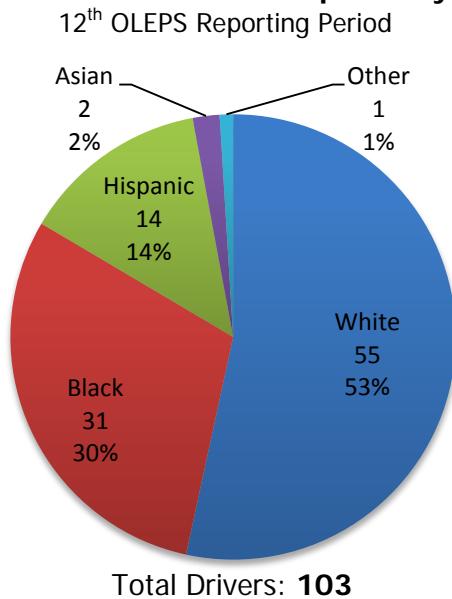


Figure Four depicts the number of stops selected, by race of driver, where consent to search was requested. In 103 motor vehicle stops, 35% of the sample, consent to search was requested. This Figure represents all selected stops with consent requests: PC-based; RAS-based; those that were granted; and those that were denied. As noted in the previous reporting period, White drivers made up the highest number and percentage of stops with consent requests, 55 or 53% of all requests made. Black drivers made up the second highest portion, 31 stops with requests or 30%. Hispanic drivers were asked for consent to search in 14 stops or 14% of stops with requests. Finally, Asian drivers were asked for consent to search in two stops while Other drivers were asked in one stop.

In previous reporting periods, the majority of all stops reviewed contained a consent to search request. As such, the distribution of all stops reviewed and those with consent requests were nearly identical. In the current reporting period, roughly a third of all stops reviewed involved a consent to search request. Despite this, the distribution of all stops reviewed and those with consent to search requests are similar.

Chi-square analysis (Appendix Three, Table One) was conducted to determine whether there were significant differences in the racial/ethnic distribution of consent to search requests. Due to low frequencies, the analysis was conducted using stops with only White, Black, and Hispanic drivers. The analysis yielded a chi-square ( $\chi^2$ ) value of 5.856 with a  $p$ -value of .053. The difference in the number of consent to search requests asked of White, Black, or Hispanic drivers approaches but fails to meet statistical significance.<sup>13</sup>

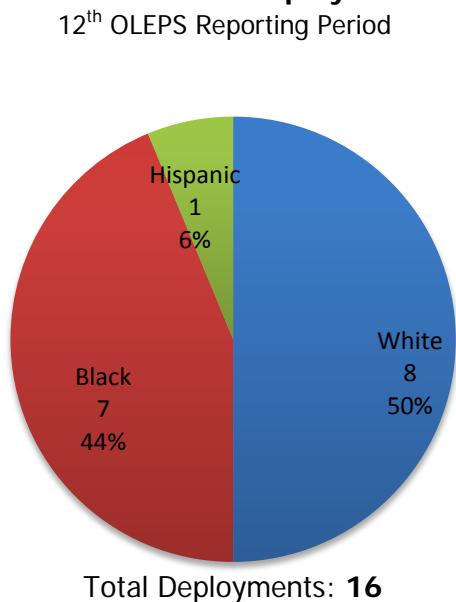
## Canine Deployments

In the current reporting period there were 16 stops with a canine deployment, a 31% decrease from the previous reporting period. Figure Five depicts the number and percentage of canine deployments by race/ethnicity of the driver. White drivers were involved in the largest portion of motor vehicle stops with canine deployments. In total, eight deployments (50%) occurred in motor vehicle stops with White drivers. Seven canine deployments (44%) occurred in stops with Black drivers. Hispanic

<sup>13</sup> Throughout statistics and especially in Criminal Justice research,  $p < .05$  is a common significance level. A " $p$ " level indicates the probability that a statistical relationship could reflect only chance. The smaller the size of " $p$ ," the smaller the probability the relationship happened by chance. If a reported chi-square statistic reaches a " $p$ " level of 0.05 (or smaller), there is no more than a five-percent probability that the distribution of the data in that table happened by chance, and therefore any differences across groups seen in the table are considered statistically significant. Researchers often reference a less strict standard in relation to significance that is  $p < .10$ . In terms of statistical significance,  $p$ -values greater than .05 but less than .10 are discussed as approaching, but ultimately, failing to meet statistical significance.

drivers were involved in one stop (6%) where a canine was deployed. Asian drivers were not involved in any stops where a canine was deployed.

**Figure Five: Canine Deployments by Race/Ethnicity of Driver**



This overall pattern is consistent with historic trends in stops with canine deployments. In the current reporting period, White drivers make up a larger proportion of canine deployments than the previous reporting period. White drivers were involved in 50% of stops with canine deployments this period, while in the previous period they were involved in 31% of all stops with canine deployments. Black drivers are involved in a larger proportion but smaller number of stops this reporting period, 44%, compared to the previous reporting period, 39%. Hispanic drivers were involved in six stops with canine deployments in the previous reporting period, but only one stop in the current reporting period. In the current reporting period, there was a 31% decrease in the number of stops with canine deployments. The racial/ethnic distribution indicates that this decrease primarily involved stops with Hispanic drivers. This disparity is not likely related to the sample selection noted previously in this report; OLEPS reviews **all** stops with canine deployments at the scene of the stop each reporting period. However, the small number of stops with canine deployments leaves the racial/ethnic distribution of stops with such deployments easily susceptible to fluctuations.

selection noted previously in this report; OLEPS reviews **all** stops with canine deployments at the scene of the stop each reporting period. However, the small number of stops with canine deployments leaves the racial/ethnic distribution of stops with such deployments easily susceptible to fluctuations.

Chi-square analysis resulted in a  $\chi^2$  value of .037 and was conducted comparing White and non-White drivers. The analysis revealed that the racial/ethnic distribution of canine deployments is not statistically significant. Therefore, it cannot be said that any racial/ethnic group is involved in a statistically significant higher number of stops with canine deployments than any other racial/ethnic group; the pattern observed is possibly the result of chance. The lack of significance is a product of sample size; there are only 16 stops with canine deployments and it is difficult to achieve significance with small samples. The lack of significance could potentially be influenced by small sample sizes.

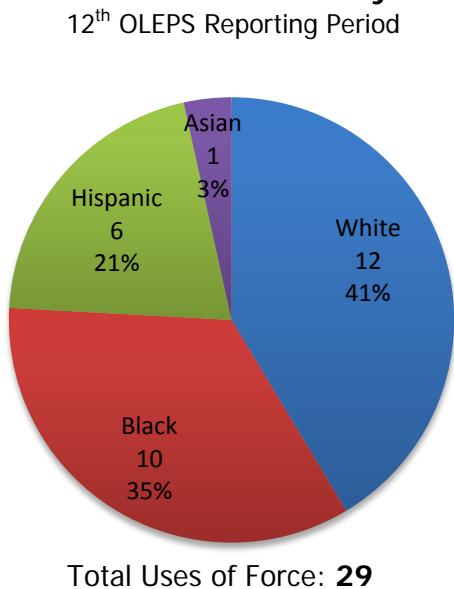
### *Uses of Force*

Figure Six presents the racial/ethnic distribution of uses of force in the first half of 2015. In total, there were 29 uses of force, more than the number since OLEPS' began reviews of State Police stops.<sup>14</sup> Of the uses of force in the first half of 2015, 12 (41%) were stops involving White drivers, ten (35%) involved Black drivers, six (21%) involved Hispanic drivers, and one stop involved an Asian driver. Unlike the previous reporting period, White drivers were involved in the largest proportion of stops with force in the first half of 2015. As with canine deployments, OLEPS reviews **all** stops with uses of force. Thus, any disproportionality revealed cannot be attributed to sample selection. Only a small number of stops have uses of force in a given reporting period; this distribution is, therefore, easily skewed. There were four more uses of force in stops with White drivers and two fewer uses of force in stops with Black drivers in the current period as compared to the previous period. Yet, the proportion of stops

<sup>14</sup>Additional information regarding this history is available at: <http://www.nj.gov/oag/oleps/index.html>.

with force changed dramatically. This highlights the impact that one or a few stops can have on the racial/ethnic distribution of a small number of stops.

### **Figure Six: Uses of Force by Race/Ethnicity of Driver**



vehicle stops fluctuates. Overall though, the number of stops with uses of force is small and, as such, the racial/ethnic distribution shifts from reporting period to reporting period. As in the previous reports, OLEPS recommends continued examination of the racial/ethnic distribution of uses of force, as this distribution changes each reporting period.

Chi-square analysis indicates a  $\chi^2$  value of .507 and that this distribution is not statistically significant, indicating that the differences are attributable to chance. The analysis compared White and non-White drivers as the use of each racial/ethnic category separately rendered the results invalid. Thus, it cannot be said that the number of force incidents in which White drivers were involved are significantly more than the number of incidents for other drivers. The lack of significance is likely a product of sample size; there are 29 stops with uses of force, and it is difficult to attain significance with small samples.

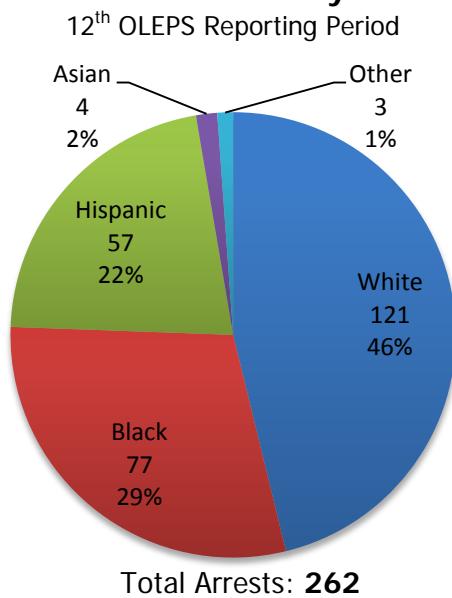
For several reporting periods, OLEPS noted increases in the number of stops with uses of force. The number of stops involving force in this reporting period is the highest since 2008. OLEPS is cognizant that the number of uses of force will fluctuate as the number of motor

### *Arrests*

Figure Seven depicts the racial/ethnic distribution of motor vehicle stops in which an arrest was made. The sample selected for the current reporting period was largely based on whether a frisk occurred in the motor vehicle stop. The majority of stops, 262 stops or about 88%, involved an arrest. The number and proportion of stops with arrests is larger than noted in the previous reporting period, where an arrest was made in 82% of stops.<sup>15</sup> Since an arrest was made in the majority of stops, the racial/ethnic distribution of stops with arrests is similar to the overall distribution of stops. However, noticeable differences are evident. White drivers were involved in the largest proportion of stops with arrests, 121 (46%). Black drivers were involved in 77 stops (29%) with arrests. Hispanic drivers were involved in 57 stops (22%) with arrests. Asian drivers were only involved in four stops (2%) with an arrest, and Other drivers were involved in three stops (1%) with an arrest.

<sup>15</sup> This proportion includes those stops where an individual was unarrested and released from the scene.

### Figure Seven: Arrests by Race/Ethnicity of Driver



Chi-square analysis was conducted to determine whether any significant differences exist in the racial/ethnic distribution of arrests. The analysis presents arrest versus no arrest for White and non-White drivers and yielded a *p*-value of 1.873 which is not significant.

This racial/ethnic distribution will be explored in the discretion section of this standard to determine whether the circumstances surrounding the arrest (discretionary v. non-discretionary) vary.

## The Role of Discretion

Discretion is vital to a police organization. It allows troopers to determine on which motor vehicle transgressions to focus their time and energy. Discretion is based, at least partly, on facts (*i.e.*, what facts and circumstances make a transgression more egregious or less egregious) and trooper experiences (*i.e.*, what transgressions they have previously found to be indicators of more substantial problems or issues).

OLEPS has historically examined how discretion impacts the racial/ethnic distribution of motor vehicle stops. This report will present a discussion of racial/ethnic differences in the most common stop reasons.

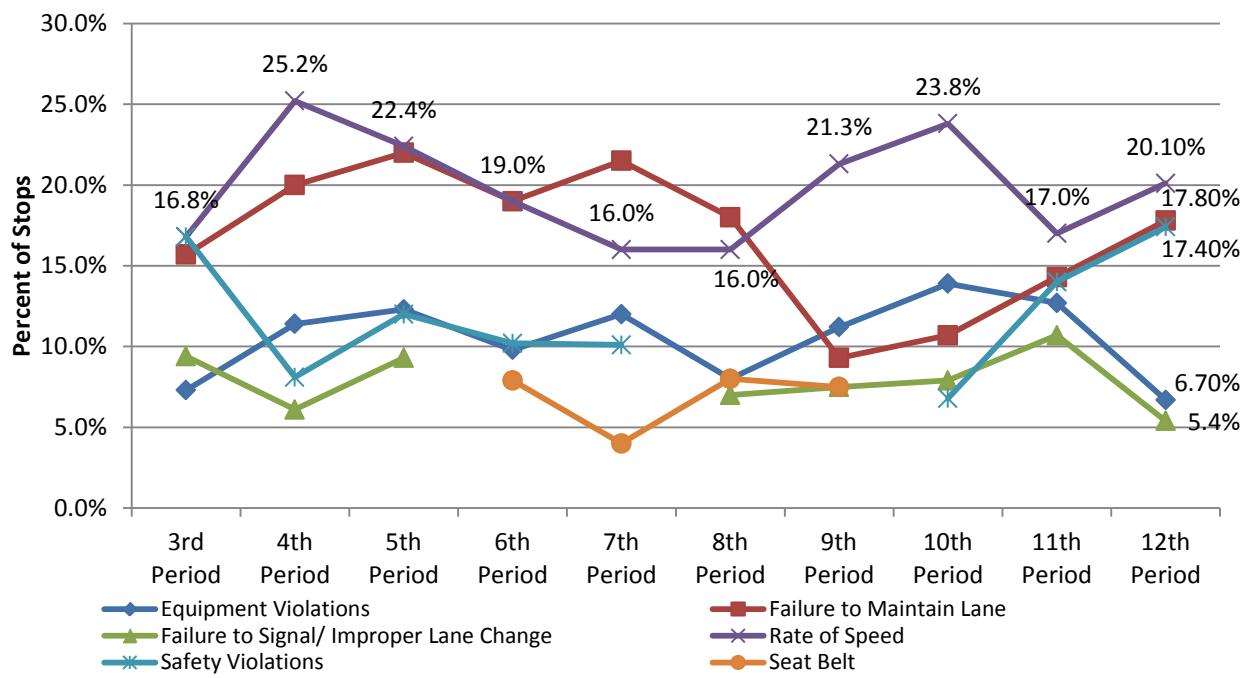
During OLEPS' assessment of motor vehicle stops, the reason for a motor vehicle stop is recorded by the primary trooper of the stop. These reasons are numerous and, as such, have been categorized to facilitate analysis. Any mention of "Speeding" is classified as "Rate of Speed." "Failure to Maintain Lane" is self-evident. The category of "Seat Belt" represents any mention of a seat belt violation. "Equipment Violations" is a catchall category of any violation referring to the vehicle itself rather than how the driver is operating the vehicle. These include non-functioning lights (head or brake), cracked or broken glass, inappropriate window tint, failure to make repairs, or other issues with the vehicle. "Safety Violations" is another catchall category. It is comprised of violations that may impact the safety of that individual motorist or other motorists and includes a violation of road laws such as: stop signs; impeding traffic; delaying traffic; running a red light; obstructed views; or aggressive, careless, or reckless driving. Finally, the category of "Failure to Signal/Improper Lane Change" includes any instance where a trooper cited a driver's failure to use a turn signal or an unsafe lane change.

Figure Eight presents the five most common reasons for motor vehicle stops in the current and past nine reporting periods. The most common reasons rarely change dramatically. The most common reasons are some combination of rates of speed, failure to maintain lane, equipment violations, and two other reasons, which fluctuate. These other reasons typically include: safety violations, seat belts,

or failure to signal/improper lane change. Generally, the top five reasons for motor vehicle stops account for over half of all the stops, 67.4% in the current reporting period.

As noted in the previous reporting period, rate of speed is the most commonly cited reason for a motor vehicle stop. Failure to maintain lane, equipment violations, safety violations, and failure to signal are among the top reasons for motor vehicle stops in the current period. Unlike earlier reporting periods, seat belt violations were not a top reason in this reporting period.

**Figure Eight: Top Reasons for Trooper Initiated Motor Vehicle Stops**  
3<sup>rd</sup>- 12<sup>th</sup> Reporting Periods<sup>16</sup>



Generally, Motorist Aids/Motorist Accidents are a common occurrence, more so than some reasons listed in Figure Eight. In the current reporting period, Motorist Aids/Accidents were listed as the reason for the stop in 52 or 17%, of all stops in the current reporting period. These instances do not represent a trooper's decision to stop a vehicle, and as such, are not included in the Figure. Instead, aids and accidents represent a trooper's public service requirement to assist motorists.

<sup>16</sup> If a data point does not appear for a particular reporting period, it indicates that that particular stop reason was not among the most common for that reporting period.

### All Motor Vehicle Stops

The most common stop reasons for the current reporting period are presented by race/ethnicity in Table Three.<sup>17</sup> Unlike the previous reporting period, wherein Black drivers made up the largest number for rate of speed, equipment violation, and seat belt violation stops reasons, within the current reporting period, Black drivers do not make up the largest number of any top stop reason. The most frequently cited stop reasons for White drivers are rate of speed and safety violations. For Black drivers, the most frequently cited reason is rate of speed. Failure to maintain lane is the most frequently cited stop reason for Hispanic drivers and equipment violations, unsafe lane change, and safety violations were equally common for Asian drivers.

**Table Three: All Stops by Race/Ethnicity<sup>18</sup> of Driver and Level of Discretion**  
12<sup>th</sup> OLEPS Reporting Period

	<b>White</b> (% of Total)	<b>Black</b> (% of Total)	<b>Hispanic</b> (% of Total)	<b>Asian</b> (% of Total)
<b>Failure to Maintain Lane</b>	21 24.14%	15 23.81%	17 38.64%	0 0.00%
<b>Rate of Speed</b>	25 28.74%	23 36.51%	12 27.27%	0 0.00%
<b>Equipment Violations</b>	9 10.34%	7 11.11%	3 6.82%	1 33.33%
<b>Unsafe Lane Change</b>	7 8.05%	5 7.94%	3 6.82%	1 33.33%
<b>Safety Violation</b>	25 28.74%	13 20.63%	9 20.45%	1 33.33%
<b>Total</b>	87	63	44	3

While there do appear to be differences, albeit small, among the racial/ethnic distribution of motor vehicle stop reasons, additional analysis was conducted to determine whether these reasons are significant.

Chi-square analysis was conducted to determine whether there were any statistically significant racial/ethnic differences in the most common reasons for motor vehicle stops. The analysis revealed a chi-square value of 1.534. This value is not statistically significant  $p=.821$ .

### Consent Search Requests

<sup>17</sup> The top five reasons for stops were cited in 198 of 298 motor vehicle stops. Table Three only presents the stops where the most common reasons were cited, not all stops. For example, the total listed for White drivers is 87, which represents the number of stops with White drivers where one of these reasons was cited, not the total number of stops with White drivers (which is 142). Additionally, there was one stop of a driver of an "Other" race that is not depicted in this table. Thus, the table displays 197 of the 198 stops of White, Black, Hispanic, or Asian drivers where the top five reasons were cited.

Discretion can also be examined in post-stop activities. RAS, as a legal standard, is less strict than PC, which suggests that the potential for individual trooper discretion exists in RAS more than in PC. Since post-stop enforcements arise out of the circumstances and facts occurring after a vehicle is stopped, it is inappropriate to examine how discretion in the reason for a stop relates to a post-stop enforcement. Instead, differences among the PC and RAS legal standards will be explored for consent requests and canine deployments.

Table Four presents the racial/ethnic distribution of types of consent to search requests- RAS or PC. The table presents the number of drivers of each race and ethnicity that received the outcome of interest and the legal standard that was used. The mean column indicates the arithmetic average of the stops for each racial/ethnic group. Since the standard involving a lower level of discretion, PC, is assigned a value of two, higher scores actually indicate the use of less discretion. RAS consents/deployments are assigned a value of one. A mean closer to one indicates that, on average, enforcements are based on a more discretionary standard for that racial/ethnic group. When this mean is used in conjunction with the chi-square statistics, which shows whether the differences are due to chance, the existence and direction of potential bias can be determined.

**Table Four: Consent Requests by Race/Ethnicity of Driver and Legal Standard**  
12<sup>th</sup> OLEPS Reporting Period

Race/Ethnicity	Reasonable Articulable Suspicion (1)	Probable Cause (2)	Mean
White	47	8	1.15
Black	25	6	1.19
Hispanic	7	7	1.50
Asian	1	1	1.50
Other	1	0	1.00
<b>Total</b>	<b>81</b>	<b>22</b>	<b>1.21</b>

The majority of consent requests reviewed in the current sample were based on RAS, as seen in Table Four. There were 81 stops that involved an RAS consent request while 22 stops contained a PC consent request. Because there are so many RAS consent requests, it would be expected that the majority of consent requests for each race/ethnicity are RAS-based.

Chi-square analysis was used to determine whether there were any significant differences in the racial/ethnic distribution of the legal standards used in consent requests. The analysis approached but did not meet statistical significance. There are no significant differences among White and non-White drivers and the legal standard used to request consent ( $p=.071$ ,  $\chi^2=3.262$ ). It cannot be said that there are significantly more consent requests based on RAS or PC for White or non-White drivers.

The mean values in Table Four can be used to determine the direction of consent requests, either PC or RAS. For White drivers, the mean value is 1.15, closer to the value of one, which is assigned to RAS, than it is to the value for PC. This means that White drivers are more often receiving consent requests based on RAS than PC in the current reporting period. For Black drivers, the mean value is 1.19, also closer to one, which indicates that Black drivers are more frequently receiving RAS searches than PC in

this sample. The mean for Hispanic drivers is 1.50, again, halfway between RAS and PC. Hispanic drivers are involved in an even proportion of stops with RAS and PC consent requests. The mean for Asian drivers is 1.50, equidistant between RAS and PC. Finally, the mean for Other drivers is 1, indicating RAS consent requests.<sup>19</sup> In the previous reporting period, Black drivers were involved in a higher proportion of stops with PC consent requests. However, in the current reporting period, all drivers are involved in a higher proportion of stops with RAS than PC, likely due to the sample selected for review. Overall, as indicated by the individual group means and the overall mean, the direction of the distribution is toward RAS rather than PC consent requests; the majority of consent requests in the sample are based on RAS.

### *Variation Among RAS Consent Requests*

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While RAS may involve more discretion than PC consent requests, there is variation in discretion within categories of RAS. Historically, the reasons for an RAS consent request were described as intangible, tangible, or probative. The independent monitors developed this categorization after a pattern of protracted questioning was noted among stops with RAS consent requests. The monitors noted that stops with intangible reasons tended to be lengthier than those with the more concrete, probative reasons. Given this, the monitors attempted to assess whether troopers were unnecessarily lengthening stops in order to strengthen their factors. OLEPS has modified this analysis. Rather than classifying reasons in these broad categories, moving forward, OLEPS will discuss the specific reasons most commonly identified. In Performance Standard 8, OLEPS will examine how the length of stops with the top reasons varies across racial/ethnic groups.

In the current reporting period, there were 81 stops with an RAS consent request. The number of RAS factors cited in each consent request varied from one to six. On average, there were 3.34 RAS factors cited in these 81 RAS consent requests. Table Five depicts the frequency of each RAS factor cited in the current reporting period by race/ethnicity of driver.

The most frequently cited reason was criminal history, cited in 50 RAS consent requests. Nervousness, "other", itinerary, and conflicting statements were the remaining reasons in the top five RAS factors. Across racial/ethnic groups, the distributions of reasons are fairly consistent. White drivers were involved in the highest number of stops with RAS consent requests in this reporting period. Accordingly, it is expected that they are the largest proportion of each RAS factor. This is accurate for all reasons except BOLO, plain view, no ID/registration, sweating, air fresheners, modifications to the vehicle, and artifacts of gang membership. Though Black drivers are involved in a larger proportion of these reasons, these reasons were relatively rare in the current reporting period, cited in six or fewer stops with an RAS consent request. Criminal History was the most frequently cited reason for both White and Black drivers. For Hispanic drivers, "other" was the most frequently cited reason.

Performance Standard 8 will use this distribution of RAS factors to examine whether stops involving certain reasons are lengthier than stops with other reasons to identify whether there exists evidence that stops have been unnecessarily lengthened to bolster RAS.<sup>20</sup>

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<sup>19</sup> The mean values for Hispanic, Asian, and Other drivers are based on a very small number of consent requests, less than 10 for each group. Because of the low frequency of these events, the mean values are easily susceptible to small changes. The addition of even one stop could dramatically change the means for these groups.

<sup>20</sup> This analysis was conducted but revealed no statistically significant findings due to the small number of stops where each reason was cited (50 or fewer).

**Table Five: Reason for RAS Consent Requests by Race/Ethnicity of Driver**  
**12<sup>th</sup> OLEPS Reporting Period**

Race/Ethnicity	White	Black	Hispanic	Asian	Other	Total
<b>Criminal History</b>	33	14	2	0	1	50
<b>Nervousness</b>	26	10	2	0	0	38
<b>Other</b>	21	12	3	1	0	37
<b>Itinerary</b>	21	8	2	0	1	32
<b>Conflicting Statements</b>	17	3	2	0	1	23
<b>Admissions</b>	14	4	2	0	1	21
<b>Paraphernalia</b>	14	3	0	0	0	17
<b>Failure to Make Contact</b>	9	3	0	0	0	12
<b>Evasiveness</b>	5	4	0	0	0	9
<b>Crime Neighborhood</b>	6	2	0	0	0	8
<b>BOLO</b>	2	3	1	0	0	6
<b>Furtive Movements</b>	3	2	0	0	0	5
<b>Plain View</b>	2	3	0	0	0	5
<b>No ID/Registration</b>	0	3	1	0	0	4
<b>Sweating</b>	1	1	1	0	0	3
<b>Air Fresheners</b>	0	1	0	0	0	1
<b>Modifications to Vehicle</b>	0	1	0	0	0	1
<b>Artifacts of Gang Membership</b>	0	1	0	0	0	1
<b>Odor of Burnt Marijuana</b>	1	0	0	0	0	1
<b>Total</b>	<b>175</b>	<b>78</b>	<b>16</b>	<b>1</b>	<b>4</b>	<b>274</b>

### *Canine Deployments*

Racial/ethnic variation among the legal standard used to deploy canines was also examined. Table Six reveals that the majority of the 16 official canine deployments are based on RAS rather than PC.<sup>21</sup> This is expected since State Police policy allows troopers to use the positive results of a canine deployment to further the investigation from RAS to PC which may result in an arrest or a request for a search warrant. RAS deployments are the most common type of deployment for White and Black drivers in the current reporting period. For Hispanic drivers, PC deployments are more common. Black and White drivers are involved in an equal number of stops with canine deployments in the current reporting period.

Chi-square analysis could not be conducted to determine if the racial/ethnic differences in reasons for canine deployments were statistically significant due to low counts within each cell.<sup>22</sup> The majority of canine deployments are based on RAS rather than PC, but the statistical significance of the racial/ethnic distribution of these legal standards cannot be evaluated.

<sup>21</sup> There was one canine deployment not classified as RAS or PC. In this stop the canine was used to track a fleeing subject only.

<sup>22</sup> Within this chi-square analysis, two cells have an expected count of less than five. (See Appendix Three, Table Eight).

**Table Six: Canine Deployments by Race/Ethnicity of Driver and Legal Standard**  
 12<sup>th</sup> OLEPS Reporting Period

Race/Ethnicity	Reasonable Articulable Suspicion (1)	Probable Cause (2)	Mean
White	6	1	1.14
Black	7	0	1.00
Hispanic	0	1	2.00
Asian	0	0	0
<b>Total</b>	<b>13</b>	<b>2</b>	1.13

The mean can be used to determine the direction (RAS vs. PC) of deployments for each racial/ethnic group. Means of one would indicate RAS and means of two would indicate PC. Overall, there are more RAS than PC canine deployments in the current reporting period. The means for all White and Black drivers, 1.14 and 1.00, respectively, are closer to RAS than PC. The mean for Hispanic drivers, 2.00, indicates PC. However, the mean for Hispanic drivers is based on only one deployment. Though there are observable differences in the mean values, it cannot be stated that these differences are statistically significant given the low volume of these activities in general and per racial/ethnic group.

### *Arrests*

There are instances where troopers have little discretion to arrest. For example, troopers are required to arrest when motorists have outstanding warrants. Other incidents may be rooted in probable cause, which involves more discretion than a warrant, but still limits the use of trooper discretion. The racial/ethnic distribution of arrests across these limited reasons is presented in this section. In the current reporting period, arrests occurred in 261 motor vehicle stops. Table Seven presents the racial/ethnic distribution of arrests and reasons for arrests.

**Table Seven: Reason for Arrest by Race/Ethnicity of Driver**  
 12<sup>th</sup> OLEPS Reporting Period

Race/Ethnicity	Stops with Arrests	Warrant Arrests (% of arrests)	Probable Cause Arrests (% of arrests)	Warrant & Probable Cause (% of arrests)
<b>White</b>	121	15 12.40%	88 72.73%	18 14.88%
<b>Black</b>	77	26 33.77%	38 49.35%	13 16.88%
<b>Hispanic</b>	57	3 5.26%	47 82.46%	7 12.28%
<b>Asian</b>	4	0 0%	4 100%	0 0%
<b>Other</b>	3	0 0%	3 100%	0 0%
<b>Total</b>	<b>262</b>	<b>44</b>	<b>180</b>	<b>38</b>

The majority of arrests were based on probable cause alone (without a warrant): 180 stops had an arrest listed as probable cause; 44 were warrant-based; and 38 were based on a combination of these two reasons. In instances where probable cause dissipates, an individual may be “unarrested.” In this reporting period, there were 20 motor vehicle stops where a person was unarrested. Overall, these data suggest that in the first half of 2015, sampled drivers were more likely to be arrested on probable cause, not on warrants, and if arrested on probable cause, to have charges filed.

Of the arrests made in stops with White drivers, 15 (12.40%) were warrant based, 88 (72.73%) were probable cause based, and 18 (14.88%) were based on both warrant and PC. As noted in the previous reporting period, the majority of arrests in stops with White drivers were based on probable cause. However, this proportion is larger in the current reporting period compared to the previous reporting period. This may be the result of the sampling characteristics for the previous reporting period, where stops were selected based on the trooper who conducted the stop, rather than the activities that occurred during the stop like the current reporting period.

Of the arrests made in stops with Black drivers, the same holds; more arrests were based on probable cause than warrants alone or warrants and probable cause. During this reporting period, there were 26 (33.77%) stops with a Black driver where an arrest was made based on a warrant and 38 stops (49.35%) where an arrest was based only on PC. There were 13 (16.88%) arrests in stops with Black drivers based on a combination of warrants and probable cause. Probable cause arrests were the most common type of arrest for Black drivers. In the current reporting period, Black drivers were also involved in the largest proportion of arrests based on warrants.

The pattern noted for Hispanic drivers is similar to that of White drivers. Overall, three (5.26%) arrests in stops with Hispanic drivers were based on warrants alone, 47 (82.46%) were based on probable cause alone, and seven (12.28%) were based on a combination of warrants and probable cause. This is consistent with the previous reporting period where the majority of arrests in stops with Hispanic drivers were PC based.

Asian and Other drivers were involved in seven stops with arrests in the current reporting period. All of these arrests were based on probable cause alone.

In incidents where a vehicle search was conducted, no evidence found, probable cause dissipated, and no charges were lodged, the vehicle occupants are able to leave the scene. Instances in which no charges were filed are those where an individual was released either at the scene of the stop or at the station. There were 19 stops where an individual was unarrested during a motor vehicle stop in the current reporting period. This number is much larger than the nine stops with an unarrest reported in the previous reporting period. This difference is likely due to sample selection. The stops reviewed in the previous reporting period were selected because they were conducted by a trooper who graduated in a certain Academy class. In addition to the critical stops reviewed, the current sample included stops where a probable cause search (non-consent) occurred. In its September 2015 decision, State v. Witt, 223 N.J. 409 (2015), the Court overturned its previous holding in Peña-Flores. (see Footnote 8). As a result, State Police's policy requiring immediate arrest upon the detection of the odor of marijuana and establishment of probable cause were rescinded. Thus, while there are a number of unarrests in this current reporting period, OLEPS does not anticipate a return to high levels of unarrests in future reporting periods.

#### *Probable Cause Arrests*

The change in State Police procedures following Peña-Flores requires immediate arrest with probable cause. The trooper is then required to obtain consent to search the vehicle or a search warrant or consent to search the vehicle. There was one incident during this period where a search warrant was applied for at the scene of the stop.

Further examination of probable cause arrests can indicate whether the potential for disparity exists. There were 38 arrests made on the basis of probable cause and at least one outstanding warrant, smaller than the number in the previous reporting period. Although probable cause was a reason for the arrest, the overarching reason was an outstanding warrant, which drastically limits a trooper's discretion. Of incidents with PC and a warrant, 18 drivers were White, 13 were Black, and seven were Hispanic. This pattern is not consistent with the previous reporting period, in which 16 drivers were White, 25 were Black, and six were Hispanic. As such, there was a smaller number of Black drivers with PC and warrant arrests in the current period than the previous period.

The number of warrant only arrests made during the current reporting period is also smaller than the proportion noted in the previous reporting period. The proportion of stops with warrant only arrests in the current reporting period was 16.79% of all arrests compared to 19.11% of all stops with arrests in the previous reporting period. This is likely the result of sample selection rather than being indicative of a change in State Police arrest practices.

Chi-square analysis was conducted to determine if the racial/ethnic differences in reasons for arrests were statistically different. The results indicate that there is not a significant difference in the racial/ethnic distribution of arrest reasons, suggesting that this distribution could likely result from chance ( $p=.171$ ).

### Additional Analyses: Time of Day

In determining whether any racial/ethnic bias exists in trooper activity, it is important to consider the time of day when the stop and activities occurred. During the daytime, generally, there is more light which helps a trooper identify the race/ethnicity of the driver.

**Table Eight: Racial/Ethnic Distribution of Day & Night Stops**  
12<sup>th</sup> OLEPS Reporting Period

Race/Ethnicity	Day	Night	Total
White	67	75	142
Black	44	40	84
Hispanic	24	40	64
Asian	4	1	5
Other	2	1	3
<b>Total</b>	<b>141</b>	<b>157</b>	<b>298</b>

Table Eight indicates that, like the previous reporting period, there were more motor vehicle stops made at night<sup>23</sup> (157) than during the day (141). There were more stops during the night for White, and Hispanic drivers and more during the day for Black, Asian, and Other drivers. The largest difference between the numbers of day and night stops was for Hispanic drivers; there were 16 more stops during the nighttime than daytime for this racial/ethnic group.

Chi-square analysis was used to determine whether the observed differences in Table Eight are significant. The results did not reveal a significant difference among racial/ethnic groups in the distribution of day and night stops, suggesting that this distribution could likely result from chance ( $p=.965$ ).

### **Summary of Standard 1**

In the current reporting period, analyses revealed no statistically significant distributions. Unlike previous reporting periods, White drivers were involved in the largest proportion of all stops reviewed with consent requests, canine deployments, uses of force, and arrests. Despite this, minority drivers remain overrepresented among these stops. Stops with consent requests were typically based on RAS rather than PC, and in this reporting period, canine deployments were more frequently based on RAS than PC. The reasons for stops were fairly consistent across racial/ethnic groups; rate of speed was the most frequently cited reason for White and Black drivers, while failure to maintain lane was the most frequently cited for Hispanic drivers. OLEPS noted that a larger proportion of stops of Black, Asian and Other drivers occur during the day than night, while the reverse is true for White and Hispanic drivers. However, this distribution does not meet statistical significance. As in all Oversight Reports, OLEPS examined the appropriateness of all actions taken during motor vehicle stops reviewed.

<sup>23</sup> Day and night are defined according to sunrise and sunset. A stop occurring after the official time of sunset for the Eastern Time Zone (New York City) on that date will be listed as occurring at night.

OLEPS typically compares the racial/ethnic distribution of each enforcement activity with the overall racial/ethnic distribution for all stops. Generally, this benchmark represents the best currently available. However, if the racial/ethnic distribution of all stops is skewed, it would be an inappropriate benchmark, and result in an inaccurate understanding of enforcement activities. In the current reporting period, this distribution does not appear skewed, and as such, these comparisons are made. OLEPS continues to recommend the development of a more precise internal or external benchmark to compare these enforcement activities.

## **Performance Standard 2: Consent Search Requests**

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### **Standards**

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According to State Police policies and procedures, consent to search requests and consent searches must adhere to the following guidelines:

- Must be made with a minimum of RAS
- Must have supervisory approval
- Communication call-in must be made prior to requesting consent
- Troopers must notify consenter of their right to refuse
- Troopers must notify consenter of their right to be present
- The consent request must be limited in scope
- The consent search must be terminated upon withdrawal of consent
- There must be A/V recording of request for approval, supervisors response, request to citizen, response, signing of form, and actual search
- Consent form must be completed properly

### **Assessment**

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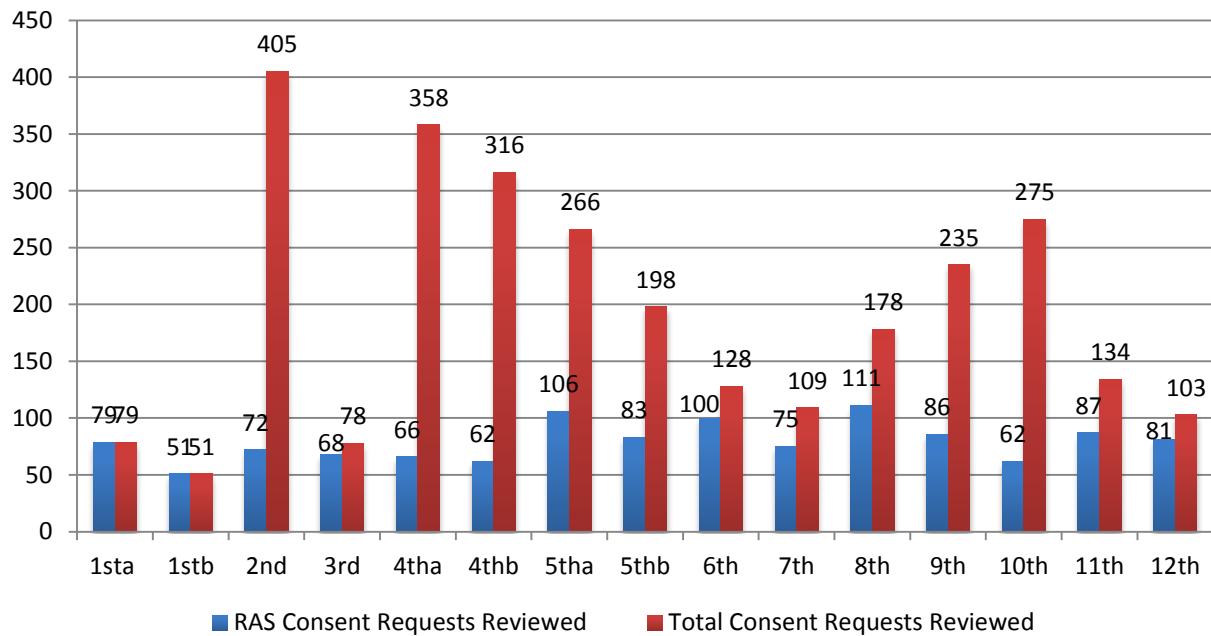
In the current reporting period, OLEPS reviewed a total of 103 motor vehicle stops where a consent to search request was made. A request for consent (PC or RAS) may be granted or denied by the motorist. In the current reporting period, the majority of all consent requests were granted by motorists; 84 consent requests were granted, and 19 were denied by the motorist.

In this reporting period, OLEPS reviewed all stops with RAS consent requests and a sample of stops based on whether a frisk occurred in the stop. There was no sample selected based on PC consent requests as had been examined in the past. The majority of stops with consent requests, 81, were based on RAS and 22 were based on PC.

Figure Nine depicts the number of RAS consent requests in each reporting period dating back to OLEPS' first reporting period. The number of RAS consent requests peaked in the eighth reporting period. Since the eighth reporting period, the number of RAS consent requests has steadily declined to 62 requests in the tenth reporting period. The number of RAS consent requests increased 40% in the previous reporting period to 87. The number of RAS consent requests decreased six stops in the current reporting period.

The total consent requests column only became relevant in 2009, as a result of the [Peña-Flores](#) decision. This ruling led to a policy of PC consent requests, dramatically increasing the numbers of all consent requests. There were 22 stops with PC consent requests reviewed in the current reporting period.

**Figure Nine: Consent Requests Reviewed**  
January 2008- June 2015



### RAS & PC

At a minimum, consent requests must meet the standard of RAS. However, since the Peña-Flores decision in 2009, PC is used as a reason justifying consent searches. As a legal standard, PC is stricter than RAS, requiring more specific facts and circumstances for troopers to ask for consent.

**Table Nine: Errors on Legal Standard of Consent Requests**  
12<sup>th</sup> OLEPS Reporting Period

	All Consent Requests	RAS Consents Requests	PC Consent Requests
<b>Met Legal Standard</b>	96	75	21
<b>Unknown</b>	-	-	-
<b>Did not meet Legal Standard</b>	7	6	1
<b>Errors Caught</b>	5	4	1
<b>Interventions</b>	2	2	0
<b>Errors Not Caught</b>	2	2	0
<b>Errors Non-Reviewed</b>	0	0	0

Generally, the facts and circumstances surrounding the motor vehicle stop meet the respective standards for which they are requesting consent. Table Nine depicts these errors in each legal standard. Nearly 7% of stops with a consent to search request did not meet the appropriate legal standard to request consent. In the current reporting period, there were six stops with an RAS consent request that did not meet the standard of RAS. State Police caught four of these errors and two resulted in an intervention. The remaining two errors were not caught despite receiving a State Police review. There was one stop with a PC consent request that had facts and circumstances that

did not meet the standard of PC. This error was caught by State Police but did not result in an intervention.

For the past few reporting periods, the number of stops where a legal standard was not met has been low, evidence of State Police's continued supervision and review of motor vehicle stops. The number of incidents where the legal standards were not met remains consistent with the previous reporting period. OLEPS reminds the State Police to continue its vigilance and improvement in both the appropriate use of legal standards and effective documentation of errors and interventions.

In addition to the seven consent requests where the legal standard was not met, OLEPS noted nine additional instances where the trooper's language, wording, inaccurate descriptions of the RAS consent process and repeated requests by the troopers pressured the driver for consent to search the vehicle. All of these stops were reviewed by State Police. State Police noted that such repeated questioning could compromise the voluntariness of the individual's granting of consent to search in four of these stops and an intervention was issued for two stops.

### *Consent Forms*

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All troopers requesting consent to search from a motorist are required to complete a consent to search form. This form provides evidence that an individual did or did not give his/her consent for a trooper to search a vehicle (or other area). This form includes the location(s) to be searched, the individual(s) involved, the location of the stop, the rights of the individual(s) involved in the consent request, whether consent is granted or denied, and a log of any evidence recovered in the search. As such, it is important that these forms are completed properly.

Of the 103 stops with consent to search requests, OLEPS confirmed that a consent form was filled out without error in 52 instances. There were four stops where a consent to search form was missing. In 47 stops, consent forms contained at least one error. These errors most often relate to blank fields on the form. For example, many forms did not have a mark indicating whether consent was granted or denied, signatures were missing, or fields were not filled out entirely. Of these 51 errors (missing and incorrect forms), 45 were caught by State Police review and 21 resulted in an intervention. The remaining six errors were noted by OLEPS but not the State Police; two of these errors occurred in stops that received State Police review. Eleven percent of consent form errors were not noted by State Police, similar to the 10% from the previous reporting period. OLEPS again recommends that the State Police continue to review these forms in detail to ensure their accuracy and completeness.

**Table Ten: Consent Form Errors**  
12<sup>th</sup> OLEPS Reporting Period

	<b>Consents Requests</b>	<b>RAS</b>	<b>PC</b>
<b>Correct Form</b>	52	37	15
<b>Missing Form</b>	4	1	3
<b>Not Correct</b>	47	43	4
<b>Errors Caught</b>	45	43	2
<b>Interventions</b>	21	20	1
<b>Errors Not Caught</b>	6	1	5
<b>Errors Non-Reviewed</b>	4	1	3

In previous reporting periods, OLEPS noted an issue regarding the proper completion of consent forms. Consent forms require a trooper to write the CAD incident number of the motor vehicle stop on the form. OLEPS noted that many consent to search forms were missing from the first data request because troopers completing the forms failed to list the CAD incident number. Accordingly, because these forms were initially missing a CAD incident number, they could not be appropriately filed within CAD or RMS and scanned into the records of a stop. The number of missing consent to search forms this reporting period is substantially smaller than in earlier reporting periods. However, it is higher than the previous reporting period. There was only one form that could not be located during the previous reporting period and there were four forms missing in this reporting period. These lower numbers overall are likely attributable to State Police's continued improvement in record keeping. OLEPS continues to recommend that the State Police appropriately file, record, and store all paperwork.

OLEPS also measured whether there was video recording of the form being completed. This allowed OLEPS to confirm whether the forms were filled out at the scene and whether they were filled out appropriately. In the current reporting period, four consent requests were not recorded. Therefore, OLEPS could not determine whether these forms were completed at the scene.

Consent request forms were completed without error in about 50% of all stops with consent requests and form errors were caught in an additional 43.69% of all stops with consent requests. About 6% (6 of 103) of all stops with consent requests had errors on forms that were not caught by State Police. Further, only 2% (2 of 103) of these errors not caught were in stops with a State Police review. OLEPS commends the State Police on the improvements made regarding consent to search forms and its diligence in ensuring that forms are appropriately filed and stored in State Police databases. OLEPS continues to recommend that the State Police stress the importance of appropriately filed consent forms.

### *Rights*

Troopers are instructed to read the consent to search form in its entirety to the individual whose vehicle is being searched so that s/he clearly understands his/her rights. Such rights are the right to refuse the search and the right to be present during the search. In four motor vehicle stops, a trooper did not appropriately notify the driver of either the right to refuse or the right to be present during the consent search. All of these errors were caught and three resulted in an intervention. There were an additional 15 stops where it was unknown whether the trooper read the consent form in its entirety due to recording issues.

**Table Eleven: Reading Consent Form Errors**  
12<sup>th</sup> OLEPS Reporting Period

	<b>Consents Requests</b>	<b>RAS</b>	<b>PC</b>
<b>Read Correctly</b>	84	63	21
<b>Unknown if Read</b>	15	14	1
<b>Not Read Correctly</b>	4	4	0
<b>Errors Caught</b>	4	4	0
<b>Interventions</b>	3	3	0
<b>Errors Not Caught</b>	0	0	0
<b>Errors Non-Reviewed</b>	0	0	0

The number of errors pertaining to the right to refuse are low. The historical improvement in this error rate is likely the result of edits to the consent search form, which reinforced a trooper's obligations to read these rights. The State Police has also expressed that some troopers did not read the right to be present during the search because the motorist was not leaving the scene of the stop, or that the trooper did not wish to give motorists the option of leaving. However, since the redesign of the consent search form and the reinforcement of the importance of these rights, the number of errors not caught pertaining to rights has decreased overall.

OLEPS recommends that troopers continue to appropriately notify citizens of their rights during consent to search requests. These rights are clearly written on the consent to search form, and as such, reading the form in its entirety results in the notification of these rights to the citizen.

### Accountability & Safety

There are several requirements of troopers implementing a consent search. These requirements are designed to protect both the troopers and the individuals involved in the search. For example, troopers are required to obtain permission from a supervisor (not involved in the stop) to request consent of the motorist. This ensures that troopers are requesting consent searches based on facts and circumstances that meet the appropriate standards of RAS or PC. Troopers must request permission to search from a supervisor (not involved in the stop) to ensure objectivity in determining whether the search is appropriate. In the majority of stops with consent requests, 82, the supervisor was advised of the facts via the radio. In 20 stops, a supervisor was notified of the facts and circumstances at the scene of the stop. There was one motor vehicle stop where OLEPS was unable to determine whether a supervisor was notified of the facts and circumstances surrounding the request due to recording difficulties.

**Table Twelve: Request for Supervisory Approval to Request Consent Errors**  
12<sup>th</sup> OLEPS Reporting Period

	Consents Requests	RAS	PC
<b>Radio</b>	82	66	16
<b>Scene</b>	20	14	6
<b>Unknown</b>	1	1	0
<b>Not Notified</b>	0	0	0
<b>Errors Caught</b>	0	0	0
<b>Interventions</b>	0	0	0
<b>Errors Not Caught</b>	0	0	0
<b>Errors Non-Reviewed</b>	0	0	0

Troopers are also required to read the consent form (including the rights to be present and to refuse) while recording. This provides supplemental evidence that troopers notified motorists of their rights. In 89 stops, consent was requested while recording, while in three stops the consent request was not recorded. In the three stops where the consent request was not recorded, OLEPS noted recording issues, malfunctions, or missing DIVRs. Two of these errors were caught by State Police and one resulted in an intervention. The error that was not caught occurred in a stop that was not reviewed by State Police. Additionally, there were 11 instances where it was unknown whether the consent to search form was read while recording.

**Table Thirteen: Consent Request Recording Errors**  
12<sup>th</sup> OLEPS Reporting Period

	<b>Consents Requests</b>	<b>RAS</b>	<b>PC</b>
<b>Recorded</b>	89	68	21
<b>Unknown</b>	11	10	1
<b>Not Recorded</b>	3	3	0
<b>Errors Caught</b>	2	2	0
<b>Interventions</b>	1	1	0
<b>Errors Not Caught</b>	1	1	0
<b>Errors Non-Reviewed</b>	1	1	0

After a supervisor approves the request to ask for consent to search, and the motorist grants consent, troopers may begin the search after they notify State Police communication that the search is beginning. This was done in 71 of the 84 motor vehicle stops with a granted consent request. There were nine stops where it was unknown whether a trooper notified communication that the search was beginning. There were four stops where a trooper failed to notify communication of the beginning of the consent search. These errors were caught and an intervention was issued for three of these stops.

**Table Fourteen: Consent Search Communication Errors**  
12<sup>th</sup> OLEPS Reporting Period

	<b>Consents Requests</b>	<b>RAS</b>	<b>PC</b>
<b>Notified</b>	71	57	14
<b>Unknown</b>	9	8	1
<b>Not Notified</b>	4	3	1
<b>Errors Caught</b>	4	3	1
<b>Interventions</b>	3	2	1
<b>Errors Not Caught</b>	0	0	0
<b>Errors Non-Reviewed</b>	0	0	0

According to State Police policy, troopers are also required to record the actual search. As noted previously, OLEPS can only confirm trooper adherence to this requirement for stops where recordings are available for review. In 68 stops, the consent search was properly recorded. Consent searches were not recorded in two motor vehicle stops, one of which was noted by supervisory review but did not result in an intervention. The remaining uncaught error occurred in a stop that was not reviewed by State Police, despite State Police policy requiring review in all stops involving an RAS consent to search. In two stops, only the audio portion of the consent search was recorded. In seven stops only the video portion was recorded. Additionally, in two stops it was unknown whether the consent search was recorded and in three stops it was not necessary or required to record the search.

**Table Fifteen: Consent Search Recording Errors**  
12<sup>th</sup> OLEPS Reporting Period

	<b>Consents Requests</b>	<b>RAS</b>	<b>PC</b>
<b>All Recorded</b>	68	54	14
<b>Audio Only</b>	2	2	0
<b>Video Only</b>	7	6	1
<b>Unknown</b>	2	2	0
<b>Not Applicable</b>	3	2	1
<b>Not Recorded</b>	2	2	0
<b>Errors Caught</b>	1	1	0
<b>Interventions</b>	0	0	0
<b>Errors Not Caught</b>	1	1	0
<b>Errors Non-Reviewed</b>	1	1	0

As noted above, the consent to search form specifically identifies the parts of a motor vehicle a trooper is allowed to search per supervisory approval and motorist consent. Troopers may not deviate from this scope. OLEPS noted that in most stops, 76, troopers appropriately heeded the scope requirements of the search. There were four motor vehicle stops with a consent search where troopers went beyond the scope requirements. All of these errors were caught by State Police supervisory review and an intervention was issued for one of these errors. There were three stops where OLEPS could not determine whether the scope of the search was exceeded, due to recording issues. In one stop it was deemed not applicable for the trooper to heed the scope requirements.

**Table Sixteen: Consent Search Recording Errors**  
12<sup>th</sup> OLEPS Reporting Period

	<b>Consents Requests</b>	<b>RAS</b>	<b>PC</b>
<b>Followed Scope</b>	76	61	15
<b>Unknown</b>	3	2	1
<b>Did not Follow Scope</b>	4	4	0
<b>Errors Caught</b>	4	4	0
<b>Interventions</b>	1	1	0
<b>Errors Not Caught</b>	0	0	0
<b>Errors Non-Reviewed</b>	0	0	0

A motorist retains the right to withdraw his/her consent to the search at any time during the search. Troopers must immediately terminate a search upon withdrawal of consent. Generally, withdrawal of consent is rare, typically occurring in fewer than five stops. In this reporting period, consent was withdrawn in two motor vehicle stops. In one of these stops, the consent was appropriately terminated upon withdrawal of consent. In the remaining stop, the consent search was not appropriately terminated upon withdrawal of consent; this error was noted by State Police but did not result in an intervention.

#### *The Odor of Marijuana*

In September 2014, the State Police issued operations instructions detailing how State Police should proceed in encounters where the odor of marijuana was detected after the passage of the Compassionate Use Medical Marijuana Act (CUMMA). State Police policies since Peña-Flores have instructed troopers to arrest drivers upon the detection of the odor of marijuana. Once arrested, the

trooper could request consent to search the vehicle or request a search warrant to search the vehicle. However, CUMMA patients are permitted to smoke marijuana as set forth in the statute. The CUMMA guidelines prohibit operating a vehicle while under the influence of marijuana but do allow patients to use marijuana in their vehicles (while not in operation). In accordance with their policies and procedures, troopers must inquire as to whether the driver is a medical marijuana patient. After an individual has indicated that s/he is not a medical marijuana patient, troopers continue with law enforcement activity- requesting consent to search based on probable cause or requesting a search warrant to search the vehicle. This new policy was enacted in September 2014, during the previous reporting period.

To reflect these changes, OLEPS added questions regarding CUMMA to the review of motor vehicle stops. In the current reporting period, there were 31 stops where it was applicable to inquire about a motorists CUMMA status. There were 19 stops where the odor of marijuana was detected and 13 stops where marijuana was found. In one of these stops, inquiry about CUMMA was also not applicable and in one stop it was unknown whether CUMMA status was determined. In 22 stops where marijuana was detected or found, the driver was asked whether they were a medical marijuana patient. Thus, there were eight stops where the trooper failed to inquire about CUMMA. Four of these errors were caught and three resulted in an intervention. Three of the four remaining errors occurred in stops that were not reviewed. Two of these stops should have been reviewed.

Troopers should inquire into a driver's medical marijuana status prior to taking any law enforcement action. In 14 stops, troopers determined CUMMA status as instructed. In 12 stops, troopers failed to inquire about a driver's potential CUMMA status prior to taking law enforcement action. These errors were caught in seven stops and resulted in an intervention in five stops. These errors frequently occurred because the trooper arrested the driver prior to ascertaining whether they were a CUMMA patient. Of the four errors not caught, all occurred in stops not reviewed by State Police.

## **Summary of Standard 2**

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Overall, the State Police adhered to policies and procedures governing consent search requests. OLEPS noted several instances in the current reporting period where the facts and circumstances surrounding a consent to search request did not meet the minimum standard of RAS or PC (*i.e.*, six stops for the minimum standard of RAS and one stop for the minimum standards of PC). While there were only four consent forms missing or unavailable in the current period, errors on the forms remain. However, State Police noted the majority of these errors. OLEPS commends the State Police on the improvements made regarding consent to search forms and its diligence in ensuring that forms are appropriately filed and stored in State Police databases. OLEPS continues to recommend that the State Police stress the importance of filling out these forms completely and correctly, and appropriately cataloging these forms. However, of note is that there were three stops with an RAS consent request, a critical incident requiring supervisory review, that did not receive the requisite review. Detailed discussion of the stops without supervisory review appears in Performance Standard 9. Further discussion of the recording issues noted in this standard are discussed in Performance Standard 5.

## Performance Standard 3: Deployment of Drug Detection Canines

### **Standards**

According to State Police policies and procedures, canine deployments must adhere to the following guidelines:

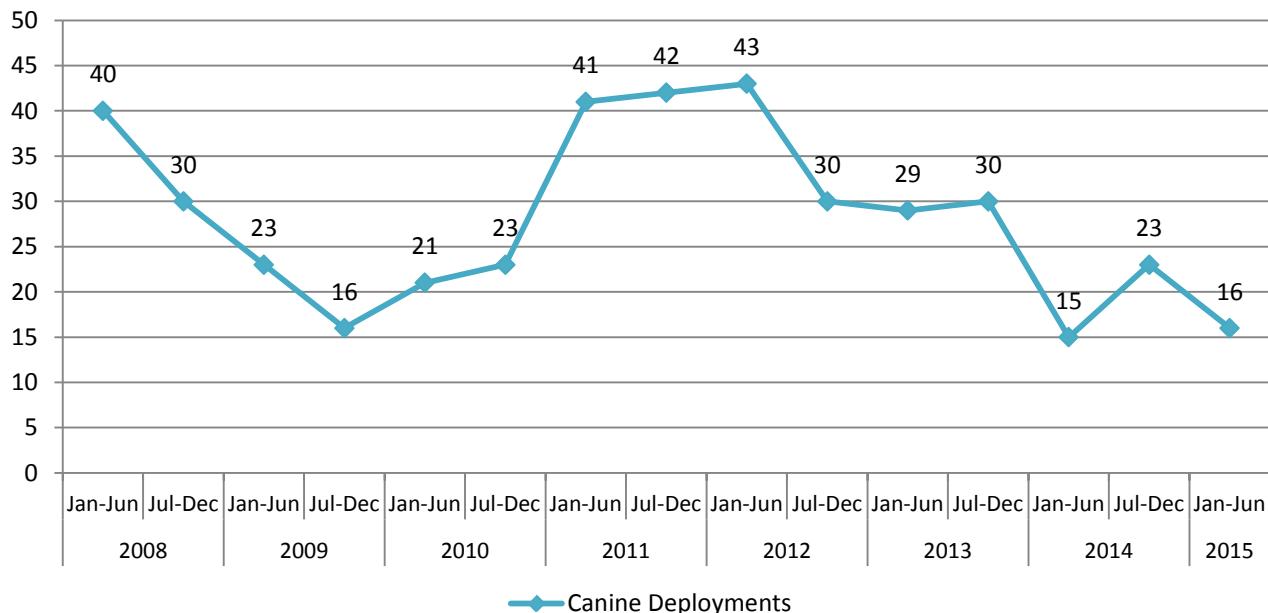
- Must be authorized by a supervisor not involved in the stop
- Must be radioed through dispatch
- Must have a minimum of RAS
- Must be recorded (since all stops must be)

### **Assessment**

All canine deployments must be requested of and authorized by a supervisor not involved in the stop. These deployments are referred to as official deployments. Unofficial deployments are those that occur when a canine handler serves as a "back-up" to the primary trooper and utilizes the canine. In the current reporting period, there were 16 motor vehicle stops where a canine was on the scene of a stop in the current period and officially requested. Figure Ten depicts the trend of the number of stops with canine deployments. The number of deployments in the current period is a 30% decrease from the number of deployments in the previous reporting period.

**Figure Ten: Stops with Canine Deployments**  
January 2008- June 2015

## Performance Standard 3



In addition to these 16 official deployments, the State Police requested a canine in 12 other stops. However, these canines were dispatched to the station rather than the scene. Like the previous reporting period, a similar number of canines were deployed to both the scene and the station.

Of the official deployments, 13 were based on RAS and three were based on PC. There was one instance where the facts and circumstances surrounding the deployment did not meet the legal standard of RAS. This error was caught but did not result in an intervention.

**Table Seventeen: Canine Deployment Legal Standard Errors**  
12<sup>th</sup> OLEPS Reporting Period

	Canine Deployments	RAS Deployments	PC Deployments
<b>Met Legal Standard</b>	15	12	3
<b>Did not meet Legal Standard</b>	1	1	0
<b>Errors Caught</b>	1	1	0
<b>Interventions</b>	0	0	0
<b>Errors Not Caught</b>	0	0	0
<b>Errors Non-Reviewed</b>	0	0	0

Canine deployments must be recorded according to State Police policy. In the current reporting period, 14 (of the total 16) deployments were recorded appropriately, and there were four deployments where OLEPS was unable to determine whether they were recorded. In these four stops there were noted issues with recordings: unavailable tapes, camera angles that prohibited view of the activity, or events that took place off camera.

**Table Eighteen: Canine Deployment Recording Errors**  
12<sup>th</sup> OLEPS Reporting Period

	Canine Deployments	RAS	PC
<b>Recorded</b>	14	12	2
<b>Unknown</b>	4	1	3
<b>Not Recorded</b>	0	0	0
<b>Errors Caught</b>	0	0	0
<b>Interventions</b>	0	0	0
<b>Errors Not Caught</b>	0	0	0
<b>Errors Non-Reviewed</b>	0	0	0

### **Summary of Standard 3**

As noted in previous reports, the number of canine deployments at the scene of the stop increased dramatically from 2010 to 2011. The number of deployments in the current reporting period is smaller than the number noted for the previous reporting period. There was one official canine deployment in this reporting period that did not meet the legal standards of RAS. Despite changes in the frequency of canine deployments, State Police continue to follow the canine deployment procedures.

## Performance Standard 4: Use of Force

### **Standards**

Troopers must adhere to the following guidelines related to the use of force:

- Used for protection of self or others from unlawful force by another, suicide/bodily injury
- Used to prevent the commission of a crime involving potential injury, damage, loss of property, or breach of peace
- Used in self defense
- Used to prevent an escape
- Used to effect an arrest only if the purpose of the arrest is made reasonably known, if a warrant is reasonably believed to be valid, or when the arrest is lawful
- Use of force forms filed completely and properly

### **Assessment**

There were 29 stops with a use of force in the current reporting period, the most in any reporting period since before 2008. Table Nineteen presents the types of force used in the current reporting period. As is generally the case, physical force is the most frequently used type of force. There were 24 instances where physical force was used, four involved a combination of mechanical and physical force, and one involved a combination of physical and enhanced mechanical force.

**Table Nineteen: Uses of Force by Type of Force<sup>24</sup>**  
12<sup>th</sup> OLEPS Reporting Period

Type of Force	Number of Stops
Physical	24
Mechanical	0
Mechanical & Physical	4
Physical & Enhanced	1
<b>Total</b>	<b>29</b>

OLEPS reviews all uses of force in connection with motor vehicle stops. In the current reporting period, there was an increase in the number of stops with a use of force. Figure Eleven depicts the

<sup>24</sup> Physical force: Bodily contact with a subject, not otherwise submitting or cooperating, to effect an arrest or other law enforcement objective.

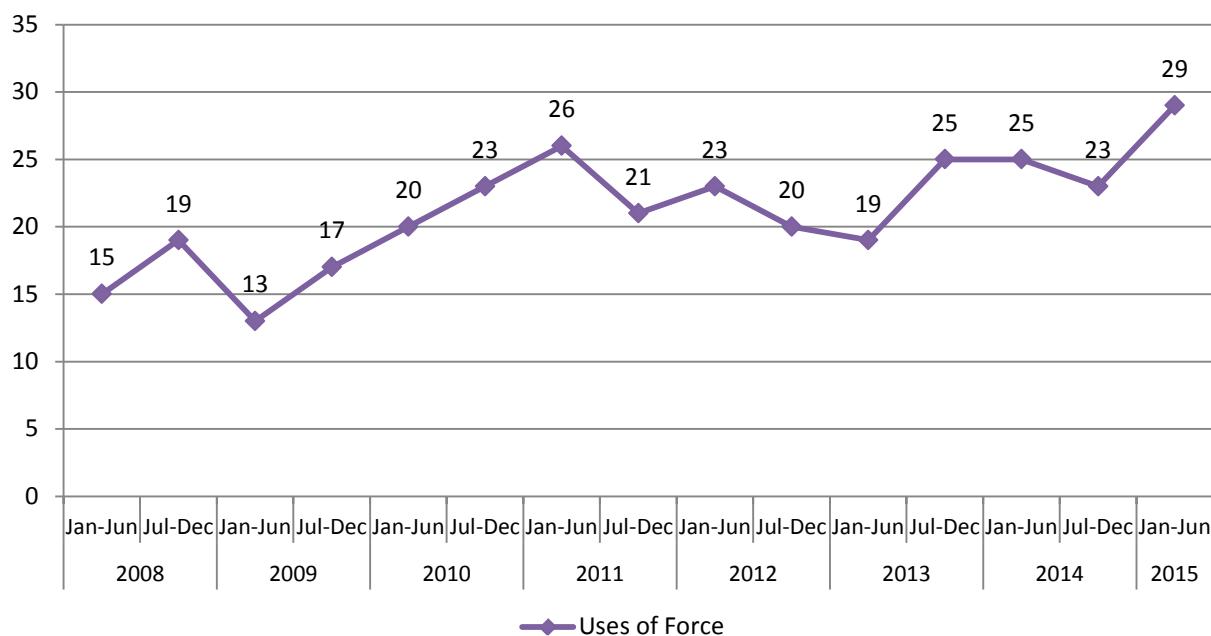
Mechanical Force: The use of some device, which employs less than deadly force, such as a baton (PR24, expandable baton, etc.); police canine; chemical or natural irritating agent, etc.

Enhanced Mechanical Force: An intermediate force option between mechanical force and deadly force, requiring a greater level of justification than that pertaining to physical or mechanical force, but a lower level of justification than that required for the uses of deadly force (e.g., conducted energy devices and less-lethal ammunition).

trend in the number of stops with uses of force in the current period and previous reporting periods. There were 29 stops with uses of force in the current period, more than the 23 in the previous and any other reporting period.

**Figure Eleven: Stops with Use of Force**

January 2008-June 2015



OLEPS assesses whether uses of force occurring in motor vehicle stops were appropriate and necessary. In 22 stops, the use of force was deemed necessary and appropriate, based on the requirements above. In this reporting period, there were seven stops where OLEPS was unable to determine whether force was appropriate. In these stops, recordings were unavailable or incomplete. There were no stops where OLEPS observed an unnecessary, or otherwise inappropriate, use of force deviating from applicable standards.

**Table Twenty: Uses of Force Errors**

12<sup>th</sup> OLEPS Reporting Period

	Driver	P1	P2
<b>Necessary</b>	19	3	0
<b>Unknown</b>	6	1	0
<b>Not necessary</b>	0	0	0
<b>Errors Caught</b>	0	0	0
<b>Interventions</b>	0	0	0
<b>Errors Not Caught</b>	0	0	0
<b>Errors Non-Reviewed</b>	0	0	0

The 29 motor vehicle stops involved uses of force against the driver or passenger 1. In total, there were 25 motor vehicle stops where the driver was a recipient of force and four stops where passenger 1 was a recipient of force. There were no instances where the driver and passenger were both recipients of force.

Given the high number of uses of force noted here and the current cultural climate surrounding police use of force, OLEPS examined the specific circumstances that led to the force to determine whether there were any patterns of behavior that elicited uses of force. OLEPS noted what actions a citizen did or did not take in a stop that led to the use of force. Most commonly, citizens resisted arrest. Specifically, the following precipitated a use of force:<sup>25</sup>

- In 12 stops with a use of force, a citizen resisted when the trooper placed handcuffs on them, refused to comply with orders regarding the placement of hands or other procedures surrounding the arrest.
- In nine stops, the motorist refused to exit the vehicle despite the trooper's statutory authority to ask a driver to exit.
- In eight stops, the individual fled the scene of the stop on foot.
- In four instances, the motorist refused to stop or left the scene, beginning a vehicle pursuit.
- In three stops, the citizen made threats toward the trooper; two were by brandishing a weapon and the third occurred when the trooper reached into the vehicle to retrieve the driver's keys and was subsequently dragged as the individual started driving away.

Use of force reports are required to be filed in all instances of force for each citizen involved. In 24 use of force incidents involving the driver, use of force reports were filed. There was one missing use of force form in incidents involving the driver. This error was not noted by supervisory review. Reports detailing uses of force involving passenger 1 were all available.

**Table Twenty-One: Uses of Force Reports**  
12<sup>th</sup> OLEPS Reporting Period

	Driver	P1	P2
<b>Report Filed</b>	24	4	0
<b>Missing</b>	1	0	0
<b>Errors Caught</b>	0	0	0
<b>Interventions</b>	0	0	0
<b>Errors Not Caught</b>	1	0	0
<b>Errors Non-Reviewed</b>	0	0	0

Additionally, OLEPS ensures that use of force reports are filled out correctly. In three uses of force involving the driver, the use of force reports contained at least one error. These errors were noted by State Police but did not result in an intervention. One use of force report involving passenger 1 was contained at least one error. This error was noted by State Police review but did not result in an intervention.

<sup>25</sup> Stops may be represented more than once since the totality of the circumstances is what leads to a use of force and because these actions may have occurred simultaneously.

**Table Twenty-Two: Uses of Force Report Errors**  
**12<sup>th</sup> OLEPS Reporting Period**

	<b>Driver</b>	<b>P1</b>	<b>P2</b>
<b>Report Correct</b>	21	3	0
<b>Missing</b>	1	0	0
<b>Report Not Correct</b>	3	1	0
<b>Errors Caught</b>	3	1	0
<b>Interventions</b>	0	0	0
<b>Errors Not Caught</b>	0	0	0
<b>Errors Non-Reviewed</b>	0	0	0

#### **Summary of Standard 4**

OLEPS concluded that despite the historically higher number of incidents with uses of force in the current reporting period, the observable uses of force were conducted in accordance with State Police requirements and the law. The issues pertaining to missing or incomplete use of force reports reiterate OLEPS' recommendations for appropriate documentation and cataloging of State Police enforcement activities. Additionally, OLEPS is mandated to review all critical stops, which include uses of force. There were seven instances in which OLEPS was unable to determine whether force was appropriate because recordings were unavailable or incomplete. OLEPS reiterates concerns regarding complete recording and appropriate storage management of motor vehicle stop recordings.

## **Performance Standard 5: Recording & Reporting of Motor Vehicle Stops**

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### **Standards**

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State Police policies and procedures require audio and video recording of ALL motor vehicle stops, from just prior to the first communication center call in until the stop is cleared.

State Police policies and procedures require that specific instances and information be radioed to the State Police Communication Center. They include the following:

- Trooper badge number & activity (*i.e.*, motorist aid or vehicle stop)
- Location, direction of travel, municipality
- Vehicle description
- Occupant description- race, gender
- Stop statute
- Status update
- Race and gender update
- Driver DOB
- Vehicle registration, make, model
- Checks on licenses/identity, wanted persons status, criminal history
- Requesting backup
- Final disposition
- Stop cleared

State Police policies and procedures require that motor vehicle stop reports be filed for all stops that involve post-stop enforcement activity. Investigation reports are also required when a stop involves investigative functions (*e.g.*, search warrants). These reports are expected to be filled out completely and without errors.

OLEPS reviews all documentation of motor vehicle stops in addition to recordings. This includes any and all supervisory reviews of the motor vehicle stop. In instances where OLEPS cannot access or locate a recording of a motor vehicle stop, OLEPS can examine these reviews to determine whether the stop was recorded at all.

### **Assessment**

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#### *Recording*

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In the current reporting period, a total of 298 motor vehicle stops were reviewed. According to State Police policy, all motor vehicle stops should be recorded, beginning when a trooper signals a car to stop (*i.e.*, turns on lights and sirens). The State Police use a system that integrates audio and video recordings, however, the microphone and video camera are separate mechanisms that can and do function independently. In the past reporting periods, OLEPS has noted many instances where the audio and video did not record simultaneously. For example, in some cases there may be a video recording, but no audio or vice versa. Because of this, OLEPS now assesses video and audio activations separately.

Of the 298 motor vehicle stops reviewed by OLEPS, 233 stops (78%) had appropriately activated DIVRs. There were 25 stops where OLEPS was unable to determine whether the video was activated due to missing or unavailable DIVRs. For these stops, OLEPS may have conducted the review using only paper reports or, if available, utilized recordings from any other trooper cars at the scene. For several reporting periods, OLEPS has noted instances where the first clip of a motor vehicle stop was unavailable on the State Police DIVR system. For some of these stops, the remaining clips were available for review on recordings from other trooper cars involved in the stop. OLEPS noted that the missing first clips were either deleted or attached to the trooper's previous motor vehicle stop CAD incident number. OLEPS recommends that the State Police examine the issue of missing first clips of motor vehicle stops.

In 31 stops, video activation was not applicable, likely because the stop began as a rest area check or accident and not as a trooper initiated stop or because the DIVR was not available for review at all. In total, there were nine stops (3%) where the video was not activated appropriately when the trooper signaled the stop, slightly more than in the previous reporting period. Only one of these errors was noted by supervisory review and it did not result in an intervention. The remaining eight errors occurred in stops that were not reviewed by State Police. However, concurrent to OLEPS review of stops, State Police's Office of Quality Assurance ("OQA") reviewed stops and caught one of these previous uncaught video activation errors. No intervention was issued for this error. Thus, there are only seven video activation errors that remain uncaught.

**Table Twenty-Three: Recording Activation Errors**  
12<sup>th</sup> OLEPS Reporting Period

	<b>Video Activation</b>	<b>Audio Activation</b>
<b>Activated</b>	233	216
<b>Unknown</b>	25	23
<b>Not Applicable</b>	31	31
<b>Not Activated</b>	9	28
<b>Errors Caught</b>	1	11
<b>Interventions</b>	0	5
<b>Errors Not Caught</b>	8	17
<b>Errors Non-Reviewed</b>	8	17
<b>OQA-Errors Caught</b>	1	8
<b>OQA-Intervention</b>	0	0

Audio recording activation occurred at the beginning of 216 motor vehicle stops (72%) this reporting period. There were 23 stops where OLEPS was unable to determine whether the audio was activated at the beginning of the motor vehicle stop. There are two fewer stops where it was unknown whether the audio was activated than the number where it was unknown whether the video was activated. In both of these stops, OLEPS reviewed backup video of the stop; for both stops State Police review noted that the trooper failed to activate the audio in their review. It remains unknown whether the video portion of the recording was activated since both recordings were unavailable to OLEPS. There were 31 stops where it was not applicable for audio activation to occur at the beginning of the stop; similar to the 31 stops in which video activation was not applicable, within a large portion of these stops, audio activation was not applicable because the stop began as an accident or because the DIVR was not available for review.

OLEPS found that in 28 motor vehicle stops, the audio did not activate at the beginning of the stop. In these stops, 11 errors were noted by State Police supervisory review and five resulted in interventions. There were six stops identified as having errors by supervisors that resulted in no intervention. State Police did not review any of the remaining 17 stops where the audio did not activate at the beginning of the stop. However, during OQA's subsequent review of stops, eight audio activation errors were noted, but none resulted in an intervention.

As with the activation of audio and video, OLEPS also assesses whether audio and video recordings continue to the completion of a stop, separately. There were 254 stops (85%) where the video recording continued to the completion of the stop. There were 24 stops where OLEPS was unable to determine whether video recording continued to the completion of the stop. In these stops, OLEPS had no indication that the primary recordings continued to the end of the stop. In some cases, the DIVR for the primary vehicle was not available, and in other instances, audio and video difficulties were noted. Thus, the majority of these reviews were based on recordings from backup cars involved in the stop. Additionally, there were six stops where it was not applicable for the recording to continue to the completion of the stop. In total, there were 14 stops where the video recording did not continue to the completion of the stop. In five of these instances, supervisory review noted these errors and two resulted in an intervention. Eight of the nine remaining errors occurred in stops that were not reviewed by State Police. OQA noted one of these errors in their review of stops, but no intervention was issued.

**Table Twenty-Four: Recording Completion Errors**  
12<sup>th</sup> OLEPS Reporting Period

	<b>Video Completion</b>	<b>Audio Completion</b>
<b>Completion Recorded</b>	254	222
<b>Unknown</b>	24	22
<b>Not Applicable</b>	6	11
<b>Completion Not Recorded</b>	14	43
<b>Errors Caught</b>	5	24
<b>Interventions</b>	2	11
<b>Errors Not Caught</b>	9	19
<b>Errors Non-Reviewed</b>	8	18
<b>OQA-Errors Caught</b>	1	10
<b>OQA-Intervention</b>	0	0

In 222 motor vehicle stops, the audio recording continued to the completion of the stop. There were 22 stops where OLEPS was unable to determine whether the audio recording continued to completion, two fewer than the number of stops where it was unknown whether video recording continued to completion. In both of these stops, OLEPS only reviewed backup video for the stop. State Police review of these stops noted that the audio was active for the duration of the stop. However, since the video was not available to OLEPS, it is unknown whether the video recorded to the completion of the stop. There were 11 stops where it was not deemed applicable for the audio to continue to the completion of the stop. There is a five stop difference in the number of stops where it was not applicable for the video and audio recordings to continue to completion. In these stops it was not applicable for the audio to continue to completion because there was an audio malfunction during the stop.

In all, there were 43 stops (14%) where the audio recording did not continue to the completion of the stop. Of these audio errors, the State Police caught 24 in their reviews and 11 resulted in interventions. In total, there were 13 instances where errors were caught by supervisors, but no further action was

taken. Of the 19 uncaught errors, 18 occurred in stops without State Police review. OQA's subsequent review of these stops noted 10 of these errors but no interventions were issued for these errors.

OLEPS has noted numerous instances where portions of recordings of stops were unavailable. A single stop may be broken down into several clips, some of which are not available. Further, recordings may be "non-matched"; that is, they are not properly cataloged in databases according to incident or sequence numbers. The instances where OLEPS was unable to determine whether the audio and video were activated or continue to the end of the stop are the result of this issue. In the current reporting period, a number of recordings were listed as "no record found" or "unavailable" when OLEPS attempted access. Because OLEPS cannot access portions of or the entirety of motor vehicle stops, a formal determination on the quality of recording cannot be made. These issues are likely the result of storage and database issues, but OLEPS continues to recommend that State Police ensure that motor vehicle stops are recorded and stored in their entirety.

In previous Oversight Reports, OLEPS noted a pattern of a higher number of activation than completion issues. For video recordings, the same holds in the current reporting period. There were more stops with video activation issues than video completion issues. However, the number of stops with audio activation and audio completion issues are roughly the same. This suggests that, overall, video recording issues typically impact the beginning of the stop. Once the video recording begins, the recording generally stays on until the completion of the stop. However, for audio recordings, the issues can occur throughout the entirety of the stop.

For several reporting periods, OLEPS has assessed the quality of audio and video recordings. While a DIVR may be recording, the audio may be unintelligible or the camera may not be aimed at the stopped vehicle. In these instances, OLEPS noted whether there were any audio or video interferences that made it difficult to determine trooper actions. There were 50 stops (17%) where some sort of audio interference made it challenging to determine trooper actions, less than the proportion noted in the previous reporting period. These interferences often result from the noise of traffic passing or other external factors. In addition, there were 22 stops (7%) where there was a malfunction in the audio, the same as noted in the previous reporting period. Malfunctions may result from microphones dying or fading in and out throughout the stop. There were six stops where it was unknown whether there were any audio difficulties due to missing recordings.

**Table Twenty-Five: Recording Difficulties**  
12<sup>th</sup> OLEPS Reporting Period

	<b>Audio Difficulties</b>	<b>Video Difficulties</b>
<b>None</b>	220	246
<b>Difficulties</b>	50	37
<b>Malfunction</b>	22	9
<b>Unknown</b>	6	6

Issues with the video recording were noted in 37 stops (12%), making it difficult to determine trooper actions. The video interferences may result from the camera being positioned away from the stopped vehicle or because of environmental conditions (dark, rainy, etc.). While not ideal for review purposes, the direction of a camera may be less of a concern for a trooper during a motor vehicle stop because a trooper's priorities are trooper and motorist safety. In addition to video difficulty, there were nine stops (3%) where OLEPS noted a video malfunction. There were six stops where it was unknown whether there were any video difficulties due to missing recordings.

In the previous reporting period, roughly 28% of all stops reviewed had either issues with audio recordings or a malfunction and about 17% had a video malfunction or issues with the recording. In the current reporting period, the rate of both audio and video issues has decreased. About 26% of stops had issues with audio recordings or a malfunction while 17% of stops had a video malfunction or recording issues. Thus, while the rate of recording difficulties fluctuates from each reporting period, a large portion of stops still have technological issues.

OLEPS has continuously noted issues pertaining to the recording and cataloging of motor vehicle stop recordings. In this reporting period, a number of issues arose regarding the cataloging of stops. Prior to beginning reviews, OLEPS ensures that there is a video associated with every stop to be reviewed by searching the database for the appropriate incident or sequence numbers. During the reviews, videos were found to be incomplete. In these instances, videos were from a backup vehicle not close to the incident, another incident was recorded, or the recording captured a small part of the stop. OLEPS was initially unable to find any recordings for 34 stops, 11%, in this reporting period. As noted in OLEPS' 11<sup>th</sup> Oversight Report, OLEPS learned of the existence of "non-matched" clips in the State Police database. OLEPS then returned to the recordings database to determine whether any recordings were available for these 34 stops that were not catalogued appropriately. During this second review, OLEPS found recordings for 13 stops. OLEPS updated reviews to reflect the new availability of these recordings. OLEPS recommends that State Police work to improve the cataloging and storage of all video and audio recordings to ensure that these records are easily accessible and obtained.

In the previous reporting period, the State Police began migration to a new recording software and storage system. In this reporting period, there were 30 stops that were recorded using this new software. OLEPS was ultimately able to review all of these recordings at a State Police station. During the writing of this report, in April 2016, OLEPS gained direct access to this system.

OLEPS has historically noted issues pertaining to the recording of motor vehicle stops. It was anticipated that these issues would be remedied once State Police transitioned to DIVR. However the issues persist. While overall, there has been improvement in the quality of recordings, there are still a portion of stops with malfunctions or audio/video difficulties. In addition, completely missing or incomplete recordings of stops continue to be noted. OLEPS continues to recommend that the State Police ensure that troopers properly record motor vehicle stops, keep recording equipment in working order, and ensure proper storage of all recordings.

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### *Communication Call-Ins*

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State Police policies and procedures contain a number of requirements relating to communication center call-ins during a motor vehicle stop. The purpose of these call-ins is two-fold. First, and most importantly, these communication call-ins monitor officer safety. By updating dispatch regularly on location, description of the vehicle stopped, and events occurring within the stop, there is a record of what that trooper is doing and where s/he is located. Should there be an issue during a stop, there is a recording of the trooper's whereabouts and actions. Second, communication call-ins serve as a record of the events of the stop. Should there be audio/video recording difficulties, communication call-ins represent an additional timeline or record of the stop.

Upon stopping a vehicle and prior to approaching the vehicle, troopers are required to call-in: 1) the location of the stop; 2) a vehicle description; 3) the number of occupants; 4) the race/ethnicity of the

occupants; and 5) the reason for the stop. In the majority of stops, troopers called in the appropriate information to communication. In the current reporting period, there were six stops with several missing communication call-ins. The troopers failed to notify communication of their location prior to approach, provide a vehicle description, identify the number of vehicle occupants, report the race/ethnicity of occupants, and provide the reason for the stop. In two of these stops, these errors were noted by State Police and resulted in an intervention. In the remaining three stops, the errors were not caught because the stops were not reviewed. In another stop, the trooper failed to call in the number of occupants, race/ethnicity of the occupants, the race/ethnicity of the occupants, and reason for the stop. These errors were not caught by State Police because the stop was not reviewed. Despite these communication errors, the State Police still performed the majority of the call-ins for motor vehicle stops and continue to improve the number of stops that had all call-ins prior to approach.

Upon completion of the stop, troopers are required to notify communication that the stop has been completed and what actions were taken during the stop (e.g., summons, warning, towing the vehicle). There were two stops where a trooper failed to notify communication of the completion of the stop. One of these errors was caught but no intervention was issued. The remaining error was not caught. In six stops, troopers failed to notify communication of the actions taken during the stop. Four of these errors were caught and an intervention was issued for one of these errors. The remaining two uncaught errors were contained in stops not reviewed by State Police.

There were approximately 50 stops where it was unknown whether communication call-ins were conducted due to missing recordings of the stop and audio difficulties/malfunctions. Additionally, there were roughly 35 stops where it was not applicable for call-ins to occur, likely because these stops were directed, began as aids/accidents, or rest area checks.

OLEPS commends the State Police on its continued improvement in the rate of communication call-ins. The majority of stops, including those reviewed and not reviewed by State Police, demonstrated the appropriate communication call-ins.

**Table Twenty-Six: Communication Call-in Errors**  
12<sup>th</sup> OLEPS Reporting Period

	Location	# of Occup.	Descript. of Vehicle	Descript. of Occup.	Reason	Complt.	Action
<b>Called In</b>	209	202	208	203	198	275	271
<b>Unknown</b>	47	55	51	55	49	51	20
<b>Not Applicable</b>	36	35	34	34	44	0	1
<b>Not Called In</b>	6	7	6	7	7	2	6
<b>Errors Caught</b>	2	2	2	2	2	1	4
<b>Interventions</b>	2	2	2	2	2	0	1
<b>Errors Not Caught</b>	4	5	4	5	5	1	2
<b>Errors Non-Reviewed</b>	4	5	4	5	5	0	2
<b>OQA-Errors Caught</b>	0	0	0	0	0	0	0
<b>OQA-Intervention</b>	0	0	0	0	0	0	0

### Reporting

Motor vehicle stop reports detail the timeline of the stop, the individuals involved, and all enforcements/activities that occurred. These reports are reviewed and approved by supervisors. OLEPS reviews these reports to ensure that they are consistent with the events of the stop.

In the 298 stops reviewed, there were 69 stops (23%) with stop reports containing at least one error, a considerable decrease in the proportion of stops with these errors from the previous reporting period. An error on a motor vehicle stop report consists of any incomplete, missing, or inaccurate information on the report (e.g., incorrect license plate number, missing notation of a frisk). Of these errors, 49 (71%) were caught by supervisory review and 21 (43%) resulted in an intervention. There were 20 (29%) stops where an error was made on a motor vehicle stop report that was not caught by supervisory review, less than the previous reporting period. There were six uncaught errors contained within stops with State Police review and 14 in stops without State Police review. OQA's review identified 10 of these uncaught errors on motor vehicle stop reports. An intervention was issued for six of these errors. There were two instances where it was unknown whether the stop reports were completed correctly because the reports were not available in State Police databases.

**Table Twenty-Seven: Report Errors**  
12<sup>th</sup> OLEPS Reporting Period

	Stop Report	Investigation Report
<b>Correct</b>	227	179
<b>Unknown</b>	2	1
<b>Not Applicable</b>	0	97
<b>Not Correct</b>	69	21
<b>Errors Caught</b>	49	18
<b>Interventions</b>	21	9
<b>Errors Not Caught</b>	20	3
<b>Errors Non-Reviewed</b>	14	2
<b>OQA-Errors Caught</b>	10	1
<b>OQA-Intervention</b>	6	1

Investigation reports are required to be completed by troopers only for stops involving investigative activities. In the current reporting period, there were 201 stops that required investigation reports. Of these stops, 179 or 89% were error free. In the previous reporting period, 88% of all investigation reports were completed without error. There were 21 investigation reports that contained at least one error, an increase from the last reporting period. Of these errors, 18 were caught by supervisory review and nine resulted in an intervention. Of the remaining three uncaught errors, two occurred in a stop without State Police review. During OQA's review, they noted one of these uncaught errors and issued an intervention. There was one instance where it was unknown whether the investigation report was completed correctly because the investigation report was missing.

As in previous reporting periods, the majority of investigation reports appear to be completed without error. Motor vehicle stop reports tend to contain more errors than the investigation reports. These errors are usually based on missing or inaccurate information recorded in the report. For example, listing a different reason for the stop, or not indicating that an action occurred. These errors are generally minor and do not necessarily reflect any specific patterns requiring a tailored focus. OLEPS' review reveals an overall improvement in reporting, especially among motor vehicle stop reports.

## **Summary of Standard 5**

In the current reporting period, issues continue regarding the availability, duration, and quality of recordings for motor vehicle stops. In stops with audio issues, microphones continue to cut in and out, record only static, or record nothing at all. OLEPS recommends the State Police investigate these issues.

Additionally, OLEPS noted a number of issues pertaining to the availability of video recordings. The State Police should examine methods to improve recordings and determine why the first clips of motor vehicle stops are not saved appropriately in the recordings database, and why, in some instances, entire recordings are unavailable. OLEPS continues to note audio activation and completion issues in motor vehicle stops. Though the video is recording, the audio is not in a number of stops. Further, OLEPS has also noted a high number of stops where audio and video recordings do not continue to the end of the stop. During the review of stops for this reporting period, OLEPS continued to lack access to videos recorded on State Police's new software. However, OLEPS gained access to this software in April 2016.

In the current reporting period, the State Police caught a higher number of recording and reporting errors than they failed to catch. Only 50% of stops in the current reporting period received a State Police review while 52% of stops in the previous reporting period received a review. Accordingly, the reviews in the current period are more detailed and thorough. Despite the increased detail in State Police reviews, interventions remain an infrequent response to errors noted, especially those pertaining to recording and reporting of stops. This will be further explored in Performance Standard 9.

OLEPS commends the State Police on the continued vigilance on communication call-ins. In this reporting period, OLEPS found consistent evidence that the State Police conducted these call-ins as required.

## Performance Standard 6: Exits & Frisks

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### **Standards**

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State Police policies and procedures limit the circumstances under which a trooper may request an individual to exit a vehicle or perform a frisk of an individual. These circumstances include:

- Driver exit for any reason
- Passenger exit for articulable heightened caution, suspected criminal activity, Title 39 violation, or to perform search of vehicle
- Frisks conducted for weapons or duty to transport (DTT)

In addition, pursuant to New Jersey law,<sup>26</sup> a driver may be asked to exit a vehicle for any reason.

### **Assessment**

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#### *Exits*

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A trooper may request that a driver or passenger exit a vehicle for a number of reasons. Drivers may be asked out for any reason. Passengers may be asked to exit based on an articulable heightened suspected criminal activity, Title 39 violation, to perform search of vehicle, or they may be asked to exit as duty to transport (DTT).

In the current reporting period, there were 271 (of the 298 total stops) stops where a driver or occupant(s) was asked to exit the vehicle. Of the stops with exits, 260 involved a driver exit. One-hundred-twenty-three (123) of these exits were for sobriety, larger than the number of sobriety exits in the previous reporting period (91). This difference is likely due to sample selection, as this reporting period included stops selected based on whether a frisk occurred during the stop.

There were 188 stops where the passenger, labeled "passenger 1," was asked to exit a vehicle. Of these stops, 82 were based on heightened suspicion and 104 were asked to exit as DTT. In 11 stops, passenger 1 was already out of the car when the trooper arrived. In two stops, passenger 1 was not asked to exit for DTT or heightened suspicion. One of these errors was caught and an intervention was issued by State Police. The remaining uncaught error was contained in a stop not reviewed by State Police. There were 53 stops where "passenger 2" was asked to exit the vehicle, 29 of which were based in heightened suspicion and 23 on DTT. There was one stop with an exit of passenger 2 that was neither based on heightened suspicion or DTT. This error was caught and an intervention was issued.

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<sup>26</sup> State v. Smith, 134 N.J. 599, 611 (1994); see State v. Peña-Flores, 198 N.J. 6, 31 n.7 (2009) (describes the right of an officer to remove a driver from a lawfully stopped vehicle as "established precedent").

**Table Twenty-Eight: Vehicle Exit Errors**  
12<sup>th</sup> OLEPS Reporting Period

	P1	P2
<b>DTT</b>	104	23
<b>Heightened Suspicion</b>	82	29
<b>Unknown</b>	0	0
<b>Did not meet heightened suspicion</b>	2	1
<b>Errors Caught</b>	1	1
<b>Interventions</b>	1	1
<b>Errors Not Caught</b>	1	0
<b>Errors Non-Reviewed</b>	1	0
<b>OQA-Errors Caught</b>	0	0
<b>OQA-Intervention</b>	0	0

### *Frisks*

Frisks are utilized by troopers to protect themselves and the individuals involved in the stop from physical harm. A frisk is an open-handed, non-manipulating, cursory, pat down for weapons of a person's outer clothing. To frisk a person, a trooper must have RAS that the person may be armed and dangerous. Troopers may also frisk individuals prior to putting them into a trooper car for trooper safety (e.g., if a trooper was transporting a passenger of a vehicle whose driver was under the influence).

In the current reporting period, there were frisks involving the driver and/or passengers in 194 motor vehicle stops. In total, 68 drivers received a frisk. In five frisks of a driver, the applicable legal standard used was unknown, 15 were based on DTT, and 48 were based on RAS. There were nine instances where a frisk of the driver did not meet the RAS standard. Eight of these errors were noted by supervisory review and seven led to an intervention. The remaining uncaught error was contained in a stop not reviewed by State Police.

**Table Twenty-Nine: Frisk Legal Standard Errors**  
12<sup>th</sup> OLEPS Reporting Period

	Driver	P1	P2
<b>Met Legal Standard</b>	39	21	4
<b>Unknown</b>	5	0	0
<b>Did Not Meet Legal Standard</b>	9	8	2
<b>Errors Caught</b>	8	6	2
<b>Interventions</b>	7	5	2
<b>Errors Not Caught</b>	1	2	0
<b>Errors Non-Reviewed</b>	1	2	0
<b>OQA-Errors Caught</b>	0	0	0
<b>OQA-Intervention</b>	0	0	0

In 145 motor vehicle stops, at least one passenger was frisked. One-hundred-forty stops involved a frisk of passenger 1. Of these frisks, 111 were DTT and 29 were based on RAS. Of the RAS frisks, eight did not meet the standard of RAS. Six of these errors were caught by supervisory review and five resulted in an intervention. The remaining two uncaught errors were contained in stops not reviewed by State Police.

There were 25 motor vehicle stops where passenger 2 was frisked. Of these, 19 were based on DTT and six were based on RAS. There was one stop where the legal standard of the frisk was unknown. Of the RAS frisks, two did not meet the standard of RAS. These errors were both caught by State Police and both resulted in an intervention.

OLEPS also reviews the mechanics of the frisk to ensure that it does not extend beyond appropriate boundaries, converting the frisk into an illegal search. There were 26 frisks of the driver that were appropriate. There were three frisks of a driver that extended beyond a pat down. All of these errors were caught and an intervention was issued for two of the errors. OLEPS was unable to note the mechanics of a driver frisk in 39 stops because the frisk occurred outside the view of the camera and/or because portions of the recording were missing.

There were two frisks of passenger 1 that extended beyond a pat down. One of these errors was noted by State Police supervisory review and resulted in an intervention. The remaining uncaught error was contained in a stop not reviewed by State Police. In this reporting period, there were 91 frisks of passenger 1 where it was unknown whether the mechanics of the frisk were appropriate because the frisk was not captured on camera or because the recording was unavailable.

In 15 frisks of passenger 2, it was unknown whether the mechanics were appropriate because the frisk was not captured on camera or because the recording was unavailable. There were no frisks of passenger 2 that extended beyond a pat down.

**Table Thirty: Frisk Mechanics Errors**  
12<sup>th</sup> OLEPS Reporting Period

	Driver	P1	P2
<b>Correct</b>	26	47	10
<b>Unknown</b>	39	91	15
<b>Incorrect</b>	3	2	0
<b>Errors Caught</b>	3	1	0
<b>Interventions</b>	2	0	0
<b>Errors Not Caught</b>	0	1	0
<b>Errors Non-Reviewed</b>	0	1	0
<b>OQA-Errors Caught</b>	0	0	0
<b>OQA-Intervention</b>	0	0	0

## **Summary of Standard 6**

The secondary sample of stops reviewed in the current reporting period was selected because a frisk occurred during the stop. Thus, the number of stops with frisks, 194, is much larger than the number in the previous reporting period. Despite this much larger number of stops with frisks, the majority of

the frisks observed by OLEPS met the appropriate legal standards and followed the appropriate mechanical guidelines. However, OLEPS was unable to observe over half of all frisks because they occurred out of view of the camera or because recordings were not available. While this does not contradict State Police policies and procedures and recognizing that trooper's safety is paramount, it does not allow full review of the frisks.

Having noted this, OLEPS' review found the majority of the observed exits and frisks occurred in accordance with State Police policies and procedures. The State Police noted the majority of the instances where a frisk did not meet the legal standard of RAS and only failed to implement one intervention when this error was noted. Also, the State Police noted and issued interventions in half of the instances where a frisk extended beyond a pat down.

## Performance Standard 7: Non-Consensual Searches/Seizures

### **Standards**

State Police policies and procedures provide the circumstances under which non-consensual searches/seizures are permitted. All searches/seizures should be based on probable cause or incident to arrest and should be called into communication prior to execution.

### **Assessment**

#### *Non-Consensual Searches/Seizures: Vehicles*

There were 37 stops with non-consensual vehicle searches/seizures in the current reporting period, slightly more than in the previous reporting period. Of these searches/seizures, 19 were identifiable as plain view searches/seizures, five were credential or ownership searches, eight were vehicle frisks, two were executed based on a search warrant, and seven were identified as "other."<sup>27</sup> Most of these "other" searches are technicalities; they are classified as searches because troopers broke the plane of the vehicle or there were improper frisks.

OLEPS noted that errors were made in the searches conducted in 12 stops. Nine of these errors were noted by State Police, and six resulted in an intervention. Of the three remaining uncaught errors, only one occurred in a stop not reviewed by State Police. There were two uncaught errors in stops reviewed by State Police. Additionally, there were three stops where OLEPS was unable to determine whether there was an error on the search because the search took place off camera or because there were missing recordings.

**Table Thirty-One: Search of Vehicle Errors**  
12<sup>th</sup> OLEPS Reporting Period

<b>Vehicle Search</b>	
<b>Correct Vehicle Search</b>	22
<b>Unknown</b>	3
<b>Vehicle Search Error</b>	12
<b>Errors Caught</b>	9
<b>Interventions</b>	6
<b>Errors Not Caught</b>	3
<b>Errors Non-Reviewed</b>	1
<b>OQA-Errors Caught</b>	0
<b>OQA-Intervention</b>	0

<sup>27</sup> For some stops, several reasons for the searches/seizures were identified.

### *Non-Consensual Searches/Seizures: Persons*

In the current reporting period, there were 258 stops involving a search of a person. Per State Police policy, these searches should be incident to arrest. There were 227 searches of drivers incident to arrest and eight searches that were not incident to arrest. Six of these errors were noted by State Police supervisory review and an intervention was issued for four of these errors. The remaining two errors were not caught despite undergoing a State Police review. There were 69 stops with searches of passenger 1 incident to arrest and six that were not incident to arrest. Three of the six search errors were noted by the State Police and led to an intervention. There were three uncaught errors on the search of passenger 1 in stops not reviewed by State Police. Finally, there were 12 searches of passenger 2 incident to arrest and two that were not incident to arrest. One of these errors was noted by State Police and resulted in an intervention. The remaining uncaught error was contained in a stop not reviewed by State Police.

**Table Thirty-Two: Search of Person Errors**  
12<sup>th</sup> OLEPS Reporting Period

	<b>Driver</b>	<b>P1</b>	<b>P2</b>
<b>ITA</b>	227	69	12
<b>Not ITA</b>	8	6	2
<b>Errors Caught</b>	6	3	1
<b>Interventions</b>	4	3	1
<b>Errors Not Caught</b>	2	3	1
<b>Errors Non-Reviewed</b>	0	3	1
<b>OQA-Errors Caught</b>	0	0	0
<b>OQA-Intervention</b>	0	0	0

### **Summary of Standard 7**

OLEPS' review of non-consensual searches/seizures generally found them to be in accordance with State Police policies and procedures. The number of non-consensual searches in this reporting period is consistent with the previous period and only a few had errors. Like the previous reporting period, there were few stops that had an error pertaining to a non-consensual search of a vehicle or person. With few exceptions, these errors were noted by State Police review. As discussed above, roughly half of all errors caught resulted in an intervention, consistent with the previous reporting period.

## **Performance Standard 8: Length of Stops**

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### **Standards**

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According to State Police procedures, RAS stops should be "brief." Because the length of a stop may be indicative of inappropriate enforcement (i.e., detaining a motorist until RAS has been established for a consent search), it is an important characteristic of stops.

All motor vehicle stops based on RAS should be "brief." For the purposes of this report, "brief" will be defined as deviations from the average (mean) stop length. Any motor vehicle stop found to be more than one standard deviation from the average length (of that type of stop—for example, length of stops with RAS consent searches will only be compared with RAS consent searches) will be examined to identify potential reasons for the additional length. Appropriate explanations include stop complexity (several enforcements such as searches, a search warrant request, etc.), waiting for appropriate reinforcements (i.e., back up), waiting for responses from communication regarding criminal history/warrants, or questions regarding ownership.

### **Assessment**

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The average length of all motor vehicle stops reviewed during this reporting period was 45.16 minutes and the standard deviation of this distribution is 39.63 minutes. Thus, stops greater than 84.79 minutes or less than 5.53 minutes are more than one standard deviation from the mean. There were 32 stops greater than one standard deviation above the mean, 29 of which had consent requests and 10 of which had a canine deployment in addition to a consent request. These stops also contained additional enforcements such as non-consensual searches, vehicle exits, frisks, and arrests.

In contrast, there were only two stops that are one standard deviation below the mean stop length. One of these stops involved a consent to search request.

The average length of motor vehicle stops in this reporting period is shorter than the previous reporting period, 45.16 minutes here and 46.07 minutes in the previous reporting period. The standard deviation in the current period, 39.63 minutes, is larger than that of the previous period, 30.16. This indicates that the stops are slightly shorter in the current reporting period, but that there is more dispersion in the stops; the length of stops are less similar to each other in the current period than the previous. The parameters used to select the sample for the previous and current reporting period differ; the current reporting period stops were selected based on whether there was a frisk in the stop rather than the trooper who conducted the stop. As such, the change in the average stop length in the current reporting period may be the result of sample selection.

### *Duration of Stops*

Table Thirty-Three displays the average length of the motor vehicle stops sampled in this reporting period. The first row in the table presents the average length of all stops in the sample, 45.16 minutes. This number is a decrease from the average in the previous period, which was 46.07 minutes.

**Table Thirty-Three: Average Length (minutes) of Motor Vehicle Stops**  
12<sup>th</sup> OLEPS Reporting Period

	Average Stop Length
<b>All Stops</b>	45.16
<b>All Stops with Consent Requests</b>	74.68
<b>RAS Consent Requests</b>	79.44
<b>PC Consent Requests</b>	57.14
<b>Consent Granted</b>	76.04
<b>Consent Denied</b>	68.68
<b>Canine Deployment</b>	107.25
<b>Consent Requests &amp; Canine Deployments</b>	108.92
<b>Consent Granted &amp; Canine Deployed</b>	169.33
<b>Consent Denied &amp; Canine Deployed</b>	90.80

The average length of stops with consent requests is 74.68. This is lengthier than the average of all stops. Unlike the previous reporting period, fewer than half of all stops involved a consent to search request. This average is longer than the average noted in the previous reporting period, 65.76 minutes. Historically, stops with a PC consent request are shorter than those with an RAS consent request. This is likely due to the time it may take to accumulate RAS, whereas PC is either present or not. The same pattern is noted in the current reporting period; RAS stops average 79.44 minutes and PC stops average 57.14 minutes. Compared to the previous reporting period, the average length of stops with RAS is longer while the average length of stops with PC consent requests is shorter in the current reporting period. Stops with RAS consent requests were 68.9 minutes and stops with PC consent requests were 59.96 minutes in the previous reporting period.

An independent samples *t*-test was used to determine whether the difference in the length of stops with PC consent requests and length of stops with RAS consent requests is statistically significant. The *t*-test revealed that there is not a statistically reliable difference between the mean length of stops with PC consent requests ( $M=57.14$ ,  $s=30.509$ ) and those with RAS consent requests ( $M=79.44$ ,  $s=53.652$ ),  $t(101)=-1.866$ ,  $p=.065$ ,  $\alpha=.05$  (two-tailed). This indicates that there is not a statistically significant difference between the length of stops with RAS and PC consent requests. We cannot state that the average length of stops with RAS consent requests are statistically significantly different or longer than the average for stops with PC consent request. However, this value approaches significance.

There is also a difference in the average length of stops where consent was granted compared to those where consent was denied. Stops with consent searches that were granted have an average

stop length of 76.04 minutes while those with consent searches that were denied have an average stop length of 68.68 minutes.

An independent samples *t*-test was used to determine whether this difference between the length of stops with granted or denied consent requests was indeed statistically significant. The results indicate that there is not a significant difference between the length of stops where a consent request was granted ( $M=76.04$ ,  $s=53.376$ ) and where a consent request was denied ( $M=68.68$ ,  $s=34.27$ ),  $t(101)=.573$ ,  $p=.568$ ,  $\alpha=.05$  (two-tailed). The test results indicate that we cannot state that the length of stops with granted consent to search requests is significantly different or longer than the length of stops with denied consent to search requests.

The average length of a motor vehicle stop with a canine deployment is 107.25 minutes, longer than the average length for all other stops. An independent samples *t*-test revealed a significant difference in stop length for those with a canine deployment ( $M=107.25$ ,  $s=44.348$ ) and without a canine deployment ( $M=41.64$ ,  $s=36.377$ ),  $t(296)=6.933$ ,  $p=.000$   $\alpha=.05$  (two-tailed). Due to the *p*-value, a one-tailed test would also be significant indicating that stops with canine deployments are significantly longer than those without canine deployments,  $\alpha=.01$ .

As motor vehicle stops involve more enforcement activities, the length of the stop increases. Thus, it is expected that a stop with a consent request and a canine deployment would be longer than a stop with only a consent request. Motor vehicle stops with consent requests and canine deployments have an average stop length of 108.92 minutes, more than the average length for stops with canine deployments or consent requests alone. Breaking this down by granted and denied consent requests indicates that stops with a granted consent search and a canine deployment had an average length of 169.33 minutes while those stops with a denied request and a canine deployment had an average length of 90.80 minutes. Results of an independent samples *t*-test resulted in a statistically significant difference between stops with a canine deployment and a granted consent request ( $M=169.33$ ,  $s=40.723$ ) and those with a canine deployment and denied consent request ( $M=90.80$ ,  $s=31.396$ ),  $t(11)=3.584$ ,  $p=.004$ ,  $\alpha=.05$  (two-tailed). The difference in the average length of stops with a canine deployment and a granted consent request and a canine deployment and a denied consent request is statistically significant. The length of stops with a canine deployment and a granted consent request is significantly longer than the length of stops with a canine deployment and denied consent request.

### Racial/Ethnic Differences in Stop Length

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Racial and ethnic differences in the length of motor vehicle stops are also explored. As noted above, the average length of all stops is 45.16 minutes and the standard deviation was 39.63 minutes. Figure Twelve plots the length of stops for all drivers based on each racial/ethnic group. Overall, the distribution of stop lengths are fairly consistent across racial/ethnic groups. White drivers do appear to cluster slightly more at the lower end of the stop length of the distribution (near one standard deviation below the mean) than Black and Hispanic drivers.

**Figure Twelve: Length of All Stops<sup>28</sup>**  
 12<sup>th</sup> OLEPS Reporting Period

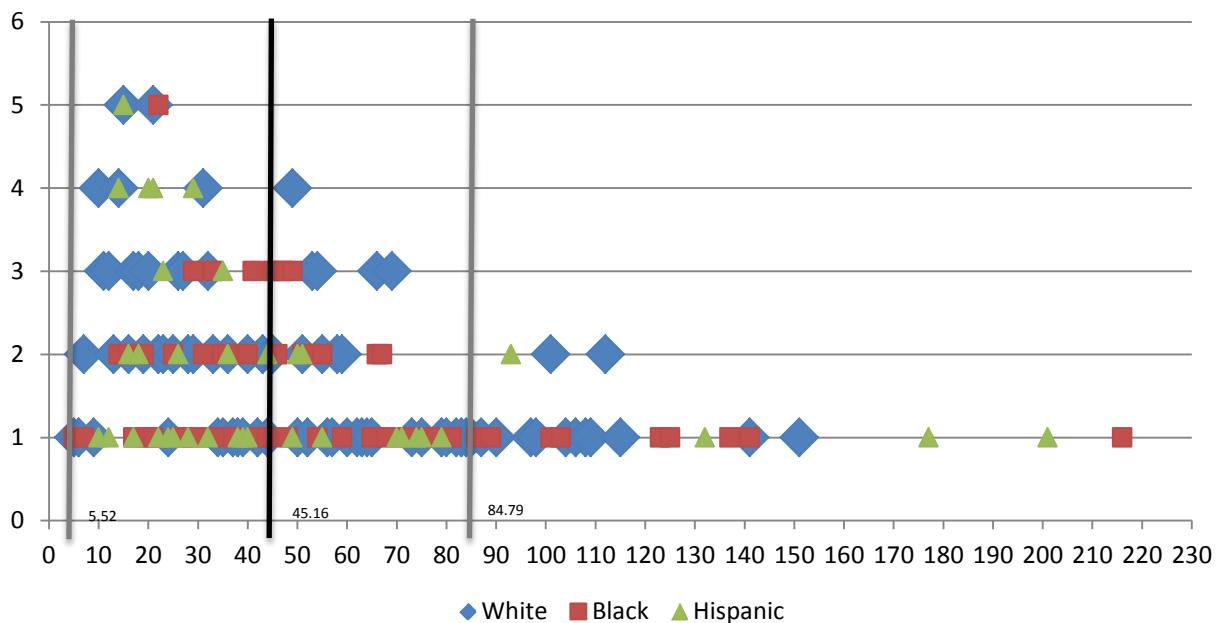
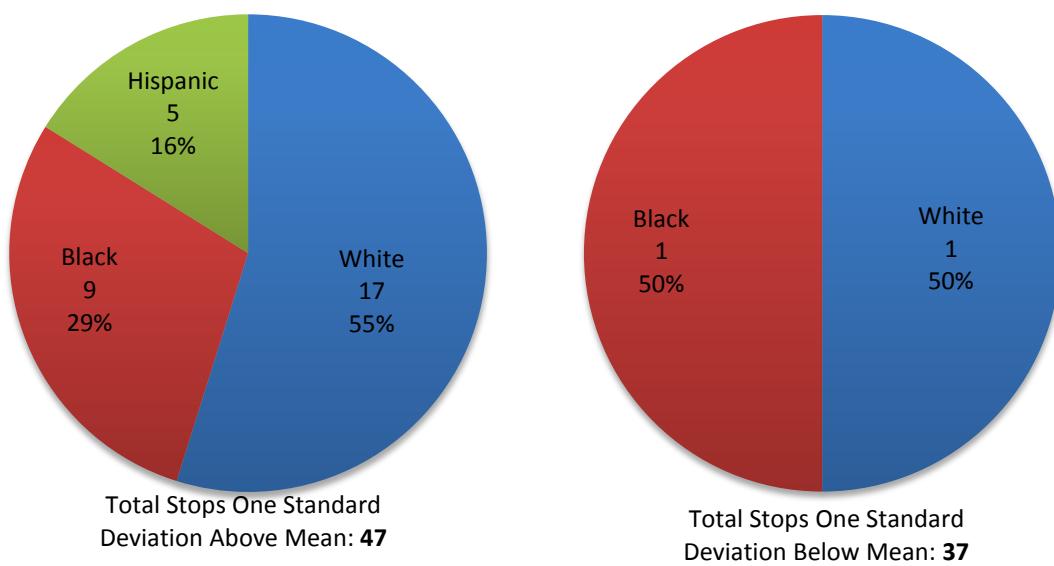


Figure Thirteen compares the racial/ethnic distribution of stops one standard deviation above and one standard deviation below the mean. As shown, White drivers are involved in the largest proportion of stops one standard deviation above the mean, 55%. White drivers are 50% of stops one standard deviation below the mean. Black drivers are 29% of all stops one standard deviation above the mean and 50% of those one standard deviation below the mean. Hispanic drivers are 16% of stops one standard deviation above the mean and not involved in any stops one standard deviation below the mean. Thus, it appears that there were generally a small number of stops one standard deviation below the mean for drivers of all racial/ethnic groups.

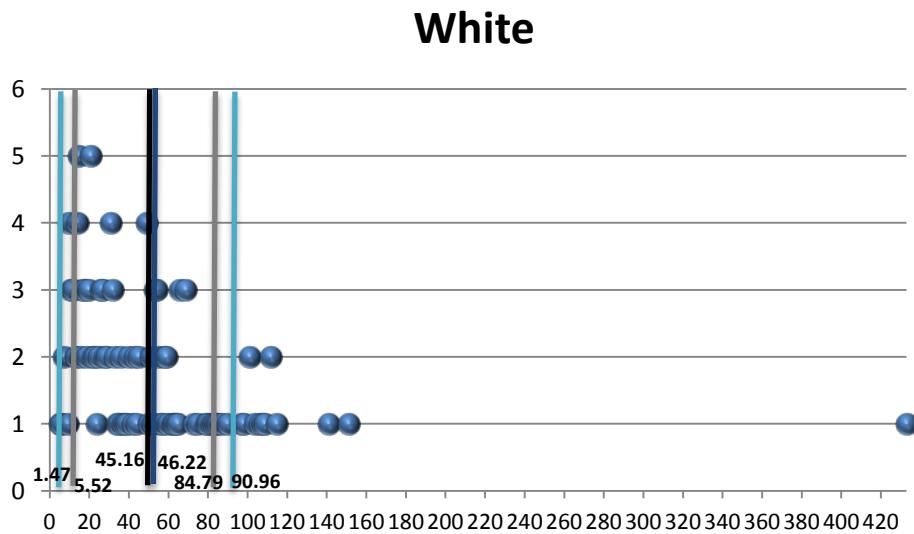
<sup>28</sup> One stop of a White driver was omitted from the graph. This stop was 433 minutes in length. Inclusion on the graph rendered the scale so large that the information depicted became unreadable.

**Figure Thirteen: Racial/Ethnic Distribution of Stop Length around the Mean**  
12<sup>th</sup> OLEPS Reporting Period



Further illustrating the distributions, Figures Fourteen through Twenty-Five plot the length of stops for each racial/ethnic group. In each graph, the dark black line indicates the mean of all stops reviewed in the current period and the grey lines indicate one standard deviation above and below that mean. The dark blue line indicates the mean for that racial/ethnic group and the light blue lines indicate one standard deviation above and below the racial/ethnic group mean.

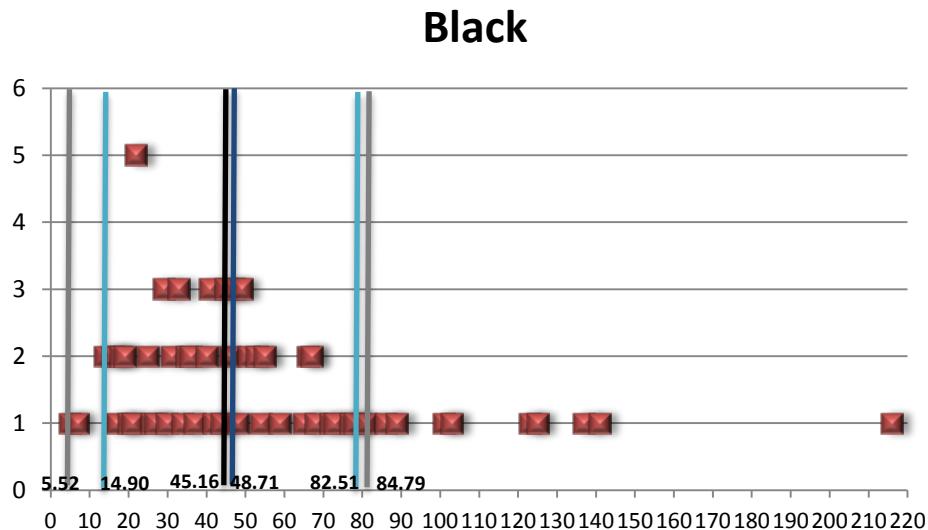
**Figure Fourteen: Length of All Stops of White Drivers**  
12<sup>th</sup> OLEPS Reporting Period



than one standard deviation below the mean while 9.8% were more than one standard deviation above the mean.

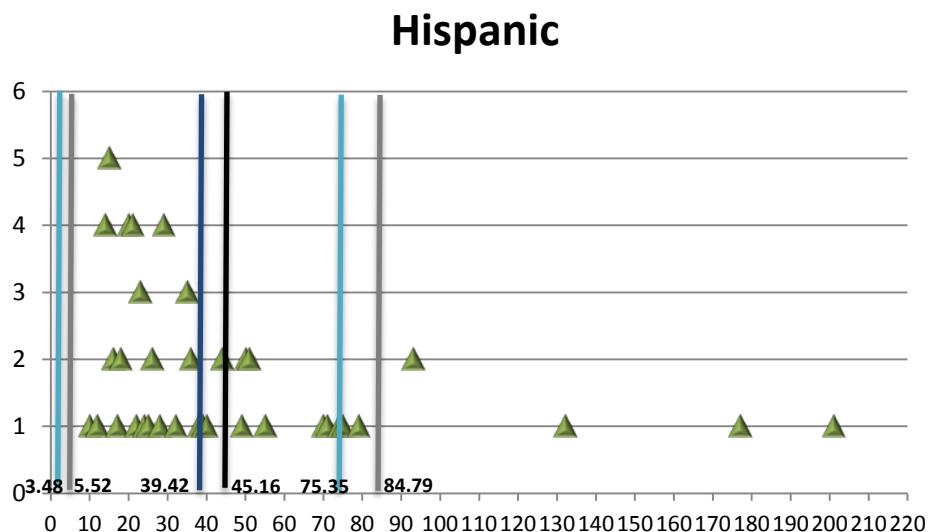
The figures indicate that for White drivers, the racial/ethnic group mean is very similar to the overall mean. For White drivers alone, the average stop length is 46.22 minutes and the standard deviation is 44.74, similar to the numbers for all stops. The similarity is largely a reflection of the number of stops of White drivers; nearly half of all stops involved White drivers. Overall, no stops of White drivers fell more

**Figure Fifteen: Length of All Stops of Black Drivers**  
12<sup>th</sup> OLEPS Reporting Period



White drivers. Thus, it appears that the length of stops for Black drivers were on average, longer, but less variable in length than the distribution of all stops and of White drivers. As noted previously, Black drivers were involved in a smaller proportion of stops reviewed in this reporting period than White drivers (28% compared to 48% for White drivers). Of stops of Black drivers, 4.76% fall more than one standard deviation below the mean and 10.71% fall more than one standard deviation above the mean.

**Figure Sixteen: Length of All Stops of Hispanic Drivers**  
12<sup>th</sup> OLEPS Reporting Period



shorter than the mean noted for all stops. Additionally, for Hispanic drivers, no stops fell more than one standard deviation below the mean but 9.38% fell more than one standard deviation above the mean.

For Black drivers, larger differences from all stops are apparent in the mean and standard deviation. Stops with Black drivers were on average, 48.71 minutes. The standard deviation for these stops was 33.81 minutes. The mean for stops of Black drivers is larger than that of all stops and of stops of White drivers. However, the standard deviation for the length of stops of Black drivers is less than that of all drivers and

Hispanic drivers were involved in a much smaller proportion of stops than White or Black drivers. The distribution of the length of stops of Hispanic drivers is similar to that of White drivers. However, the mean for Hispanic drivers is 39.42 minutes, smaller than that of White drivers, and the standard deviation is 35.94 minutes, also smaller than that of White drivers. The mean and standard deviation for Hispanic drivers are

Though these figures indicate that stops of Black drivers are, on average, lengthier than those of White or Hispanic drivers, these differences should be examined in the context of the activity of the stops.

#### *All Stops*

To explore this further, Table Eleven identifies the average length of all motor vehicle stops reviewed in this reporting period based on race and ethnicity. White drivers have an average stop length of 46.22 minutes, while Black drivers have an average of 48.71 minutes, Hispanic drivers have an average of 39.42 minutes, Asian drivers have an average of 31.40 minutes, and Other drivers have an average of 41 minutes. There were no statistically significant differences in the length of all stops between any of racial/ethnic groups.

**Table Thirty-Four: Average Length (minutes) of Motor Vehicle Stops by Race/Ethnicity**  
12<sup>th</sup> OLEPS Reporting Period

#### **Part A**

	All Stops	Consents	RAS Consents	PC Consents
<b>White</b>	46.22	75.85	81.32	43.75
<b>Black</b>	48.71	70.45	73.92	56
<b>Hispanic</b>	39.42	82.56	90.29	75.43
<b>Asian</b>	31.40	45.50	48.00	43.00
<b>Other</b>	41.00	85.00	85.00	---

11<sup>th</sup> OLEPS Reporting Period

#### **Part B**

	All Stops	Consents	RAS Consents	PC Consents
<b>White</b>	43.23	64.45	67.37	53.23
<b>Black</b>	50.68	69.88	76.74	64.45
<b>Hispanic</b>	43.71	59.86	62.94	51.67
<b>Asian</b>	47.67	99.00	99.00	---
<b>Other</b>	---	---	---	---

#### *Consent Requests*

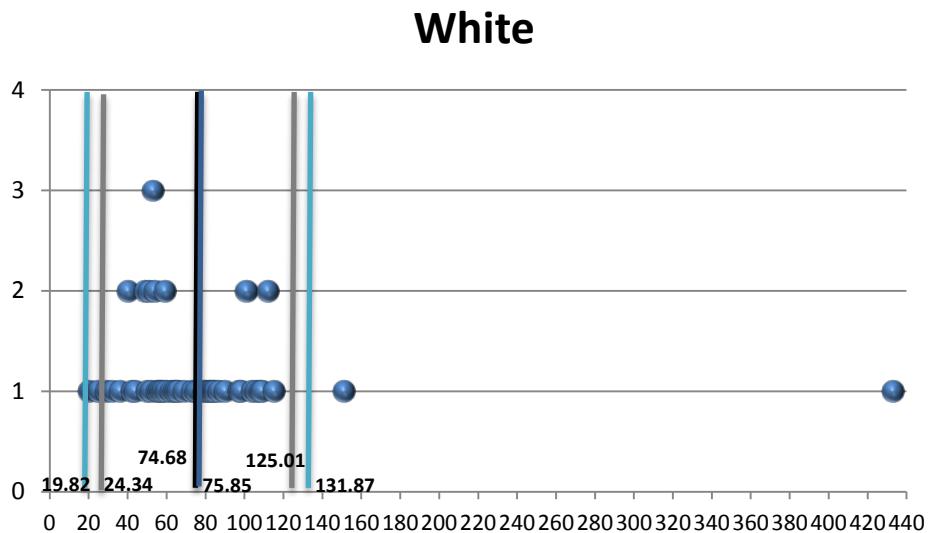
In the current reporting period, the average length of the 103 motor vehicle stops with a consent to search request<sup>29</sup> increased for White, Black, and Hispanic drivers while decreasing for Asian drivers. The average length of motor vehicle stops with consent to search requests increased for White drivers from 64.45 minutes to 75.85 minutes, increased for Black drivers from 69.88 minutes to 70.45 minutes, increased for Hispanic drivers from 59.86 minutes to 82.86 minutes, and decreased for Asian drivers from 99 minutes to 45.50 minutes. Because there are typically a small number of stops of Asian drivers in each reporting period, the average may be susceptible to influence from a few anomalous stops.

An independent samples *t*-test revealed significant differences between the length of stops of Asian drivers ( $M=45.5$ ,  $s=3.53$ ) and White drivers ( $M=75.85$ ,  $s=56.02$ ),  $t(40.34)=3.82$ ,  $p=.000$ ,  $\alpha=.05$  (two-tailed), between Asian drivers and Black drivers ( $M=70.45$ ,  $s=40.871$ ),  $t(26.62)=3.22$ ,  $p=.000$ ,  $\alpha=.05$  (two-tailed), and between Asian drivers and Hispanic drivers ( $M=82.56$ ,  $s=52.23$ ),  $t(13.66)= 2.634$ ,

<sup>29</sup> This assessment includes both denied and granted consent to search requests.

$p=.000$ ,  $\alpha=.05$  (two-tailed). The average length of stops of Asian drivers with consent requests are shorter than the average for White, Black, or Hispanic drivers. However, because there were no significant differences between any other racial/ethnic groups, we cannot state the relationship in terms of length of stops between White, Black, and Hispanic drivers. Additionally, there were only two stops of Asian drivers with a consent request, so caution is warranted before generalizing about the length of these stops.

**Figure Seventeen: Length of Stops with Consent Requests of White Drivers**  
12<sup>th</sup> OLEPS Reporting Period



more than one standard deviation above the mean. As noted for all stops, the mean for White drivers (dark blue line) is more than that for all stops (black line), suggesting that stops with a consent request involving White drivers are slightly longer than the average noted for all drivers.

As noted above, the average length of stops with consent requests involving White drivers was 75.85 minutes and the standard deviation was 56.02. As shown in Figure Seventeen, the majority of stops fall within one standard deviation below or above the mean. There was only one stop with a consent request involving White drivers one standard deviation below the mean and two stops that were

**Figure Eighteen: Length of Stops with Consent Requests of Black Drivers**  
12<sup>th</sup> OLEPS Reporting Period

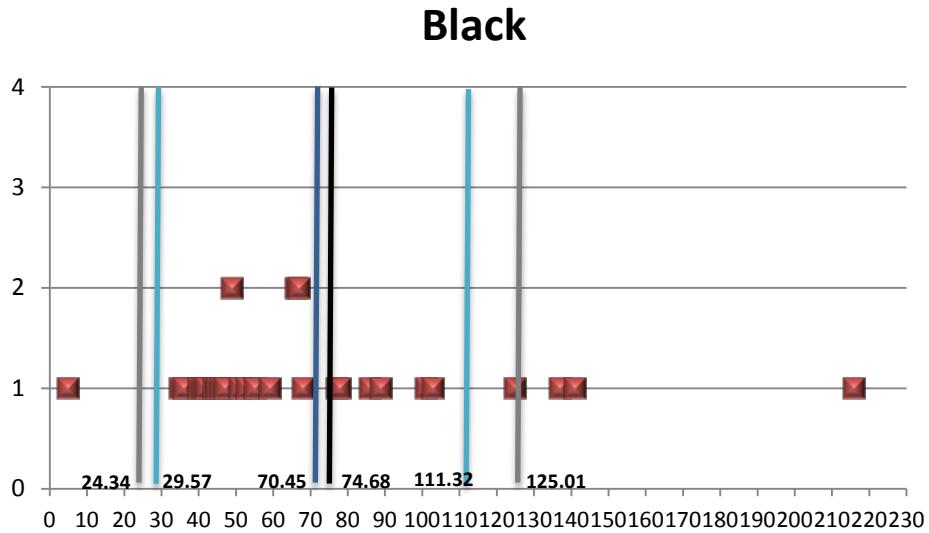
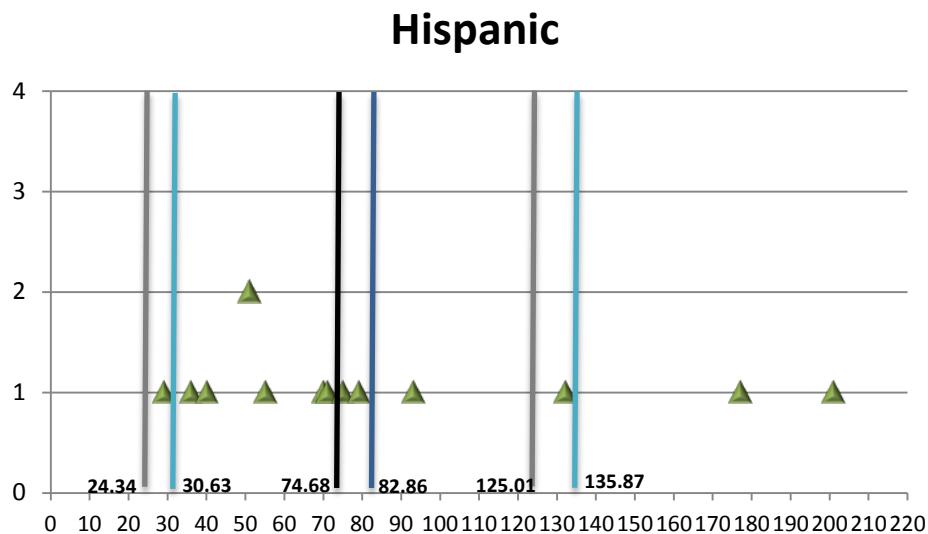


Figure Eighteen depicts the distribution of stops with a consent request involving Black drivers. As shown, the mean for Black drivers (dark blue line) is slightly less than that of all drivers (black line). On average, stops with consent requests involving Black drivers were 70.45 minutes and the standard deviation was 40.87 minutes. A larger portion of stops of Black drivers with a consent request were outside one standard

deviation; one stop was one standard deviation below the mean and four stops were more than one standard deviation above the mean. Despite the smaller average, this indicates that the average length of stops with a consent request involving Black drivers varies more than that of other groups of drivers.

**Figure Nineteen: Length of Stops with Consent Requests of Hispanic Drivers**  
12<sup>th</sup> OLEPS Reporting Period



above the mean.

#### *RAS Consent Requests*

The average length of all stops with RAS consent requests is larger than the average for stops with any consent requests. The same results are found when examined by race and ethnicity as shown in Table Thirty-Four. In the current reporting period, Hispanic drivers have the longest average length of stops with RAS consent requests, 90.29 minutes. White drivers have the second longest average, 81.32 minutes, followed by Black drivers with 73.92 minutes, and then Asian drivers with 48 minutes. Compared to the previous reporting period, the average for Black and Asian drivers is shorter while the average for White and Hispanic drivers is longer in the current reporting period.

Figure Nineteen depicts the distribution of the length of stops with consent requests involving Hispanic drivers. As shown, the average length for Hispanic drivers, 82.86 minutes, is more than the average noted for all groups of drivers. The standard deviation is 52.23. There is one stop more than one standard deviation below the mean for Hispanic drivers and only two stops more than one standard deviation

**Figure Twenty: Length of Stops with RAS Consent Requests of White Drivers**  
12<sup>th</sup> OLEPS Reporting Period

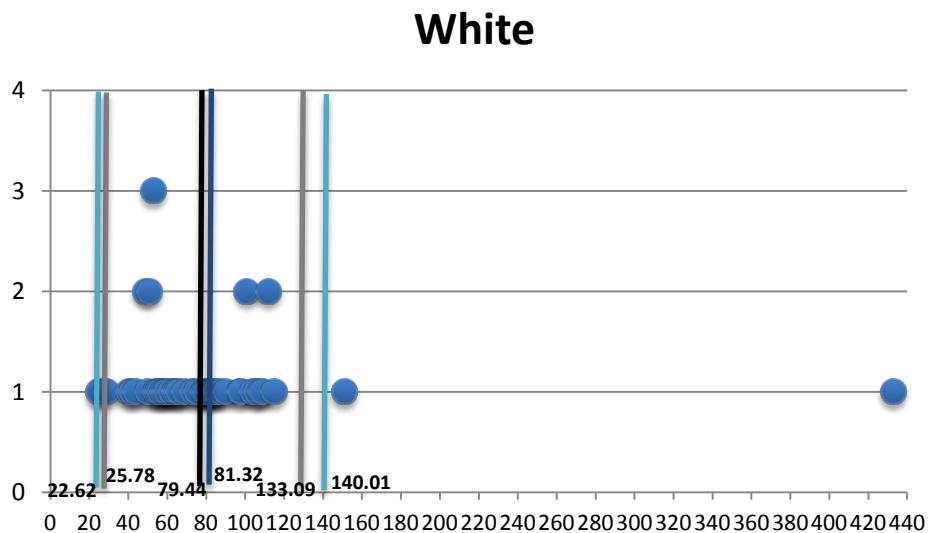
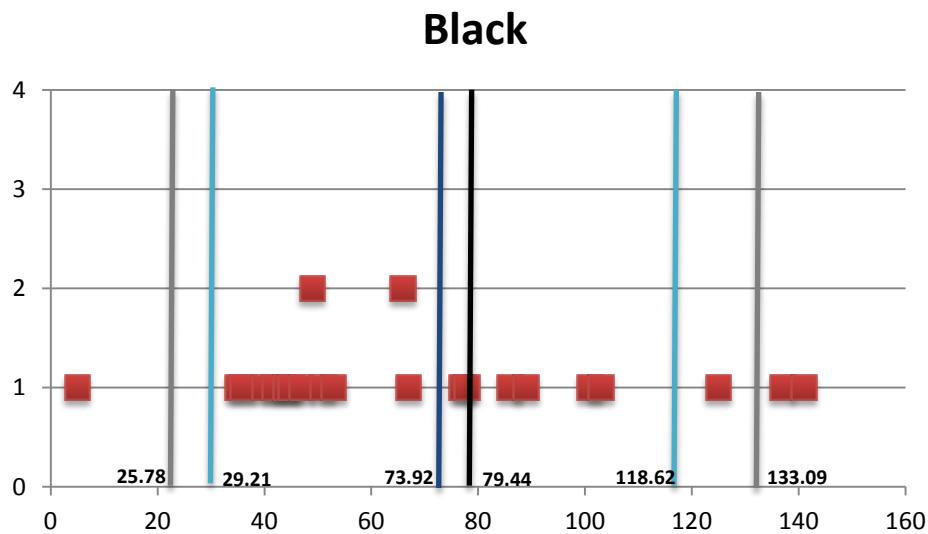


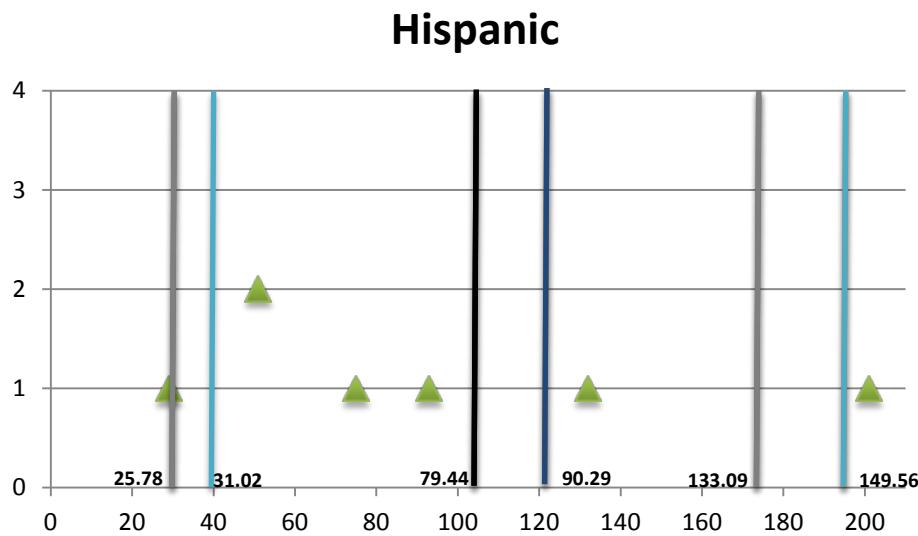
Figure Twenty depicts the distribution of stops of White drivers where consent was requested based on RAS. The average length of these stops was 81.32 minutes and the standard deviation was 58.69 minutes. There was one stop more than one standard deviation below the mean and two stops more than one standard deviation above the mean.

**Figure Twenty-One: Length of Stops with RAS Consent Requests of Black Drivers**  
12<sup>th</sup> OLEPS Reporting Period



The distribution depicted in Figure Twenty-One indicates that for Black drivers who were requested consent to search based on RAS, the average length was 73.92 minutes and the standard deviation was 44.70 minutes. The mean is shorter than that for White drivers. There was one stop more than one standard deviation below the mean and four stops more than one standard deviation above the mean.

**Figure Twenty-Two: Length of Stops with RAS Consent Requests of Hispanic Drivers**  
**12<sup>th</sup> OLEPS Reporting Period**



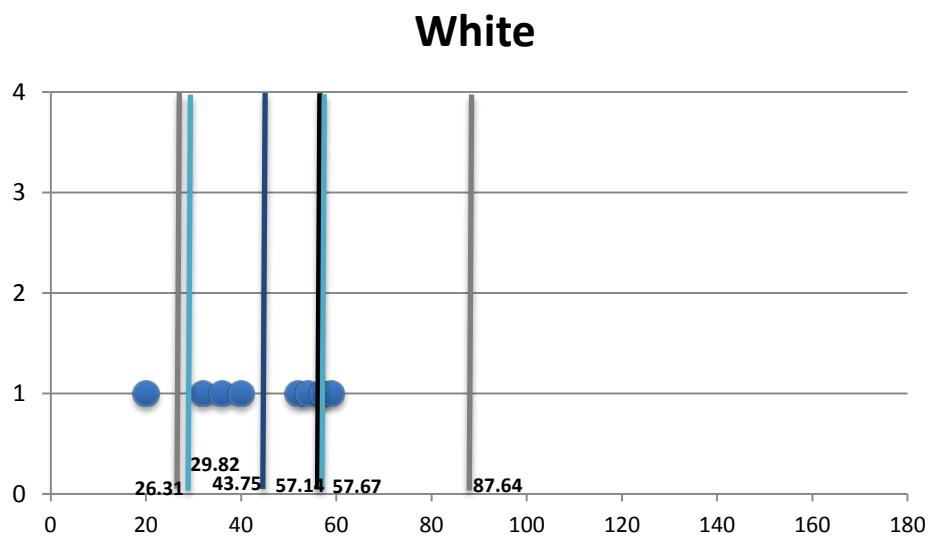
There were only seven stops of Hispanic drivers where consent to search was requested based on RAS. As indicated in Figure Twenty-Two, the average length was 90.29 minutes, longer than that noted for all other drivers. The standard deviation was 59.27 minutes. There was one stop more than one standard deviation below the mean and one stop more than one standard deviation above the mean.

An independent samples *t*-test revealed no significant differences between the length of stops with RAS consent requests for any combination of racial/ethnic groups for the current reporting period. The average length of a stop with a consent request for White, Black, Hispanic, or Asian drivers is not significantly different from each other. The lack of significance may be due to the limited number of stops with RAS consent to search requests for each racial/ethnic group. There were 103 stops with a consent request: 55 stops of White drivers, 31 of Black drivers, 14 of Hispanic drivers, two of Asian drivers, and one of an Other driver.

*PC Consent Requests*

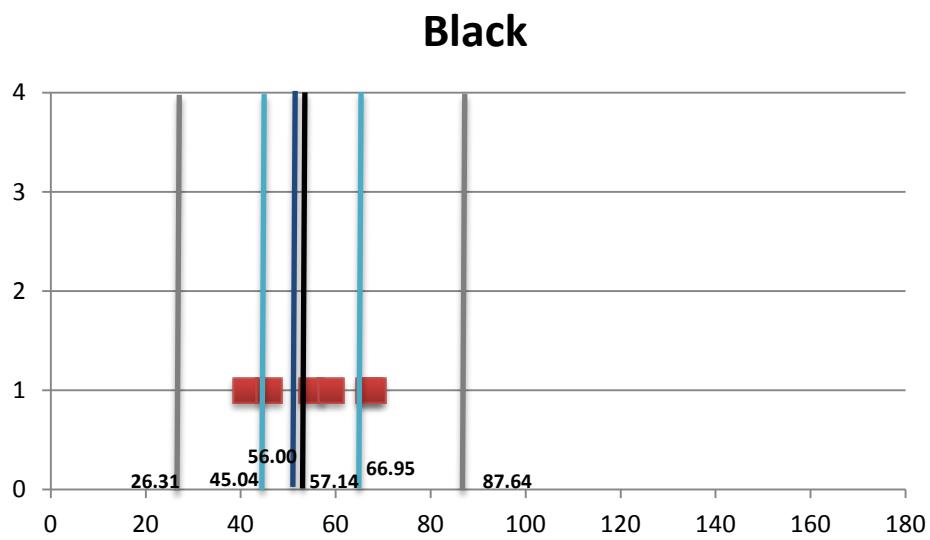
Stops with PC consent requests are slightly longer in the current reporting period compared to the previous reporting period for Hispanic drivers and shorter for White and Black drivers. The average length of stops with PC consent requests for White drivers is 43.75 minutes here and was 53.23 minutes in the previous period. Black drivers decreased from 64.45 to 56 minutes while Hispanic drivers experienced an increase from 51.67 minutes in the previous period to 75.43 minutes in the current period. Asian drivers were involved in one stop with a PC consent request in the current reporting period, it was 43 minutes long.

**Figure Twenty-Three: Length of Stops with PC Consent Requests of White Drivers**  
**12<sup>th</sup> OLEPS Reporting Period**



deviation above the mean. This indicates that the lengths of stops with PC consent request involving White drivers are very similar.

**Figure Twenty-Four: Length of Stops with PC Consent Requests of Black Drivers**  
**12<sup>th</sup> OLEPS Reporting Period**

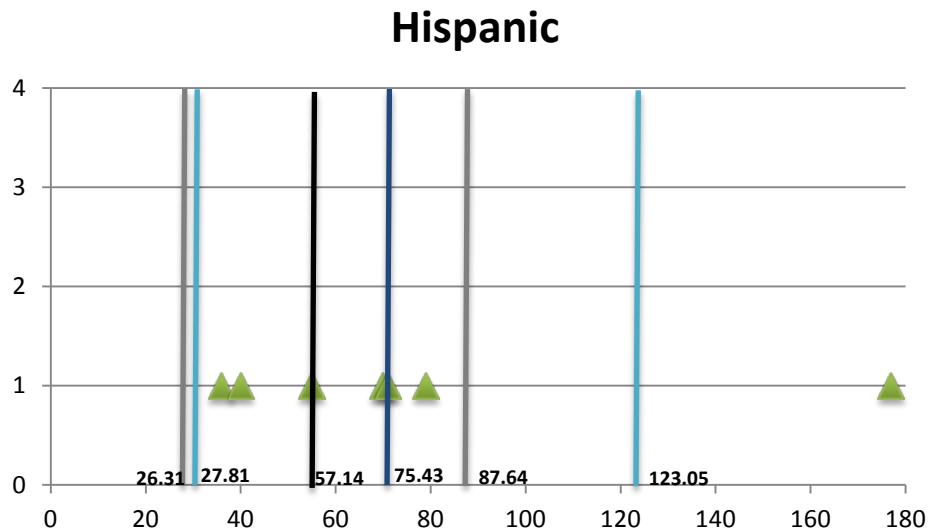


than noted for White drivers.

Figure Twenty-Three depicts the distribution of the length of stops with PC consent requests with White drivers. On average, these stops were 43.75 minutes, shorter than the 57.14 minutes noted for all stops with PC consent requests. The standard deviation was 13.93 minutes. There was one stop more than one standard deviation below the mean of this distribution and one stop more than one standard

For stops of Black drivers where consent was requested based on PC, the average length was 56 minutes, shorter than the average noted for all stops with PC consent requests. The standard deviation was 10.95 minutes. There was one stop more than one standard deviation below the mean and two stops more than one standard deviation above the mean. There is less dispersion in these stops

**Figure Twenty-Five: Length of Stops with PC Consent Requests of Hispanic Drivers**  
12<sup>th</sup> OLEPS Reporting Period



Finally, in stops of Hispanic drivers where consent was requested based on PC, the average length was 75.43 minutes. The standard deviation was 47.62 minutes. There were no stops more than one standard deviation below the mean and one stop was more than one standard deviation above the mean. Further, there were only six stops of Hispanic drivers where consent was requested

based on PC. Due to the small number of stops, the one stop that is substantially longer than others, 177 minutes, exerts influence on the distribution. Without this stop, the average length of stops with a PC consent to search request would be 58.5 minutes.

An independent samples *t*-test revealed no significant differences between the lengths of stops with PC consent requests for any combination of racial/ethnic groups for the current reporting period. The average length of stops with PC consent requests for White, Black, Hispanic, or Asian drivers are not significantly different from each other.

## **Summary of Standard 8**

Overall, stops are, on average, similar in length to the previous reporting period. Further, the dispersion of the stop length distributions in the current reporting period was smaller in the current than the previous reporting period; there were very few stops that were outliers in terms of length. OLEPS continues to recommend that State Police supervisors include examination of motor vehicle stop length in reviews.

## **Supervisory Review**

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### **Performance Standard 9: Supervisory Review of Motor Vehicle Stops**

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#### **Standards**

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According to State Police policies and procedures, motor vehicle stops must be reviewed by State Police supervisory personnel. Specifically, review is required for all critical incidents and the first consent request of the quarter. Additionally, supervisors may review motor vehicle activity in the course of assessing a trooper's performance relative to his/her peers or as part of an investigation of a complaint. These reviews are detailed, requiring the supervisor to assess adherence to policies and procedures and to assess adherence to applicable legal standards (RAS or PC).

This performance standard refers to errors made in connection with any aspect of a motor vehicle stop (from appropriate levels of RAS or PC to reporting and recording requirements). Because this standard assesses supervisory review, a violation of policy made by a trooper is an error when it is found by OLEPS and not noted by a previous State Police supervisory review. This standard refers to ALL errors not caught by supervisory review.

#### **Assessment**

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The State Police has specific guidelines that detail the requirements, trooper responsibilities, and appropriate actions required in motor vehicle stops. To ensure adherence to these procedures, supervisory personnel in the State Police review motor vehicle stops to determine whether all requirements were followed and to ensure that there were no violations of individual rights or deviations from policy. In addition, OLEPS reviews these motor vehicle stops and notes instances in which supervisors did or did not identify violations of State Police policies and procedures.

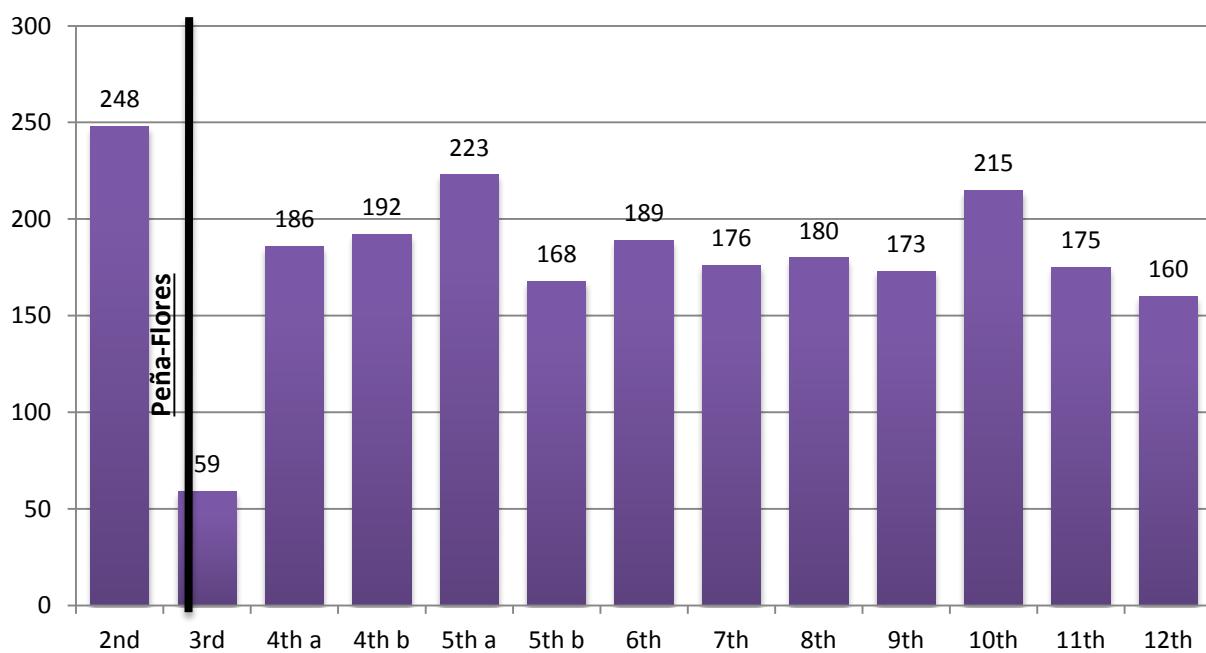
All determinations of whether an error is caught are based on the review completed of the motor vehicle stop by State Police reviewers. OLEPS pulled all documentation of stops, including reviews of stops in September 2015. At this time, State Police supervisory reviews were noted for 149 stops of the 298 stops selected for OLEPS review. State Police did not review 149 stops that OLEPS reviewed.

It is possible that a stop was reviewed after OLEPS pulled the records for the stop. In total, there were 118 stops reviewed after OLEPS pulled motor vehicle stop records for this reporting period. While OLEPS conducted motor vehicle stop reviews this reporting period, State Police endeavored to simultaneously review all stops selected by OLEPS. Because these reviews were not completed prior to OLEPS review, any errors noted by State Police are not considered caught for this report. However, these simultaneous reviews are an attempt to address the central concern of stops without reviews—that is, those errors of which troopers were previously unaware.

### *All Errors*

In the current reporting period, 160 stops contained errors (54% of all stops selected), less than the number of stops with errors found in the previous reporting period. Figure Twenty-Six depicts trends in the total number of stops with errors since the 2<sup>nd</sup> reporting period. The figure indicates a large increase in the number of stops with errors since the first half of 2010 (4<sup>th</sup>a reporting period). Since the first half of 2011 (5<sup>th</sup>a reporting period) the number of errors has declined, remaining relatively steady since then. In total, there were 138 motor vehicle stops (46.31%) conducted by the State Police that did not contain any errors in the current reporting period. The total number of stops without errors (138) is higher in the current period than in the previous period, and the proportion of stops without errors (46%) is higher than the 41% in the previous reporting period.

**Figure Twenty-Six: Total Stops with Errors, by Reporting Period<sup>30</sup>**  
2<sup>nd</sup> through 12<sup>th</sup> OLEPS Reporting Periods



Of the 160 stops with errors, 99 stops contained errors caught by the State Police and 69 stops contained errors not caught by supervisory review. That is, 23.15% (69 of 298) of all motor vehicle stops contained an error not caught by supervisory review. This is less than the percentage of stops with errors not caught in the previous reporting period, 26%. As noted in previous reports, beginning in July 2011, the State Police revised its motor vehicle stop review policy. This program retained the required reviews of critical stops, but non-critical stops would undergo a selection process rather than a review of all stops. The current reporting period contains a small portion of stops that would not typically be subject to the review process- motor vehicle stops with frisks. There were 51 stops categorized as uncaught errors that did not undergo review by the State Police. Thus, only 18 stops contained errors not caught by the State Police despite supervisory reviews.

<sup>30</sup> The high number of errors noted in the 2<sup>nd</sup> reporting period were generally procedural in nature and stem from changes pursuant to Peña-Flores.

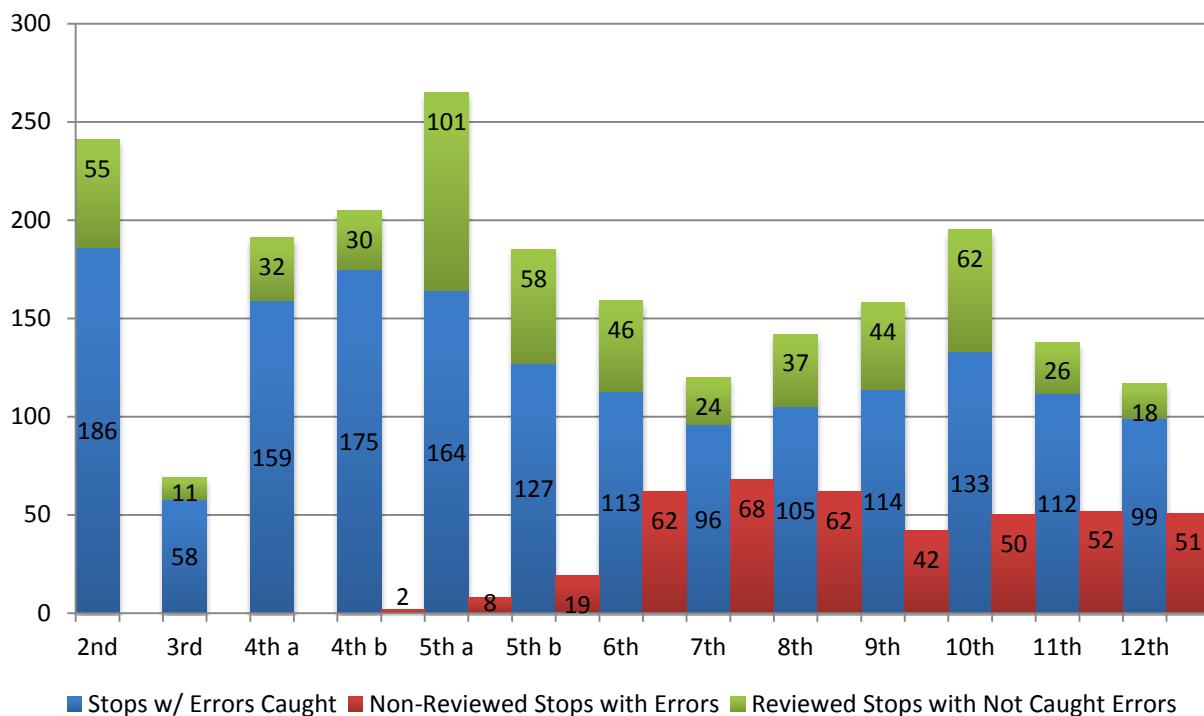
OLEPS has noted for several reporting periods that the State Police catch the majority of errors made in stops. Figure Twenty-Six compares the number of stops where errors were caught and the number of stops where errors were not caught. In a single stop, some errors may be caught while other errors may not be caught; each stop can appear as either a stop with errors caught, a stop with errors not caught, or both. As shown in Figure Twenty-Seven, the number of stops where errors were caught is generally higher than the number of stops where errors were not caught. In the previous reporting period, State Police caught a higher number of errors than they failed to catch. The State Police caught errors in 99 stops and failed to catch errors in 69 stops in the current reporting period. Across reporting periods, the proportion of stops with errors caught compared to stops with errors not caught varies. Due to State Police's review schedule, OLEPS reviews a sample of stops not routinely subject to review by State Police in each reporting period. The fluctuation may be the result of the review schedule and sample selection. Because of this, it is necessary to examine the number of errors not caught in stops with and without State Police reviews.

**Figure Twenty-Seven: Stops with Errors Caught v. Stops with Errors Not Caught**  
2<sup>nd</sup> through 12<sup>th</sup> OLEPS Reporting Periods



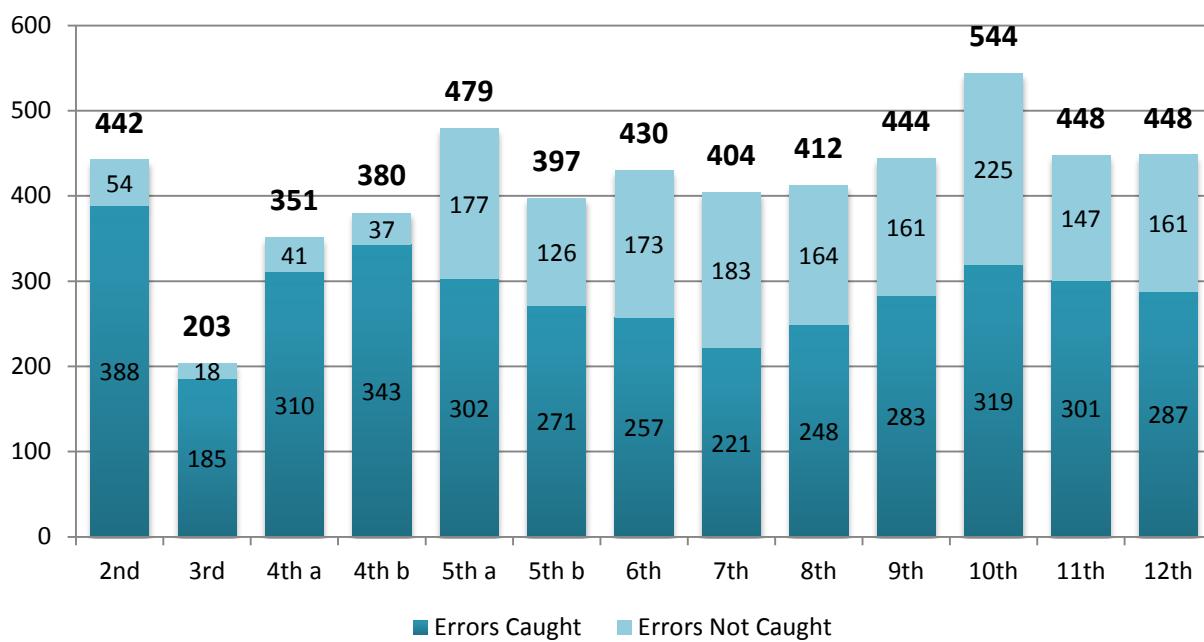
OLEPS compared the number of stops with errors caught, not caught, and those with errors that were not reviewed. State Police reviewed 26% (18 of 69 stops) of the stops where OLEPS noted an uncaught error. Thus, roughly 74% (51 of 69 stops) of all stops identified with an uncaught error were not actually reviewed by State Police. Figure Twenty-Eight depicts the number of stops with errors caught, with errors not caught in stops with a State Police review, and with errors in stops without State Police review. As shown in the figure, the number of stops with an uncaught error reviewed by State Police is actually the lowest number since the 3<sup>rd</sup> reporting period. OLEPS commends State Police on its diligence in ensuring that motor vehicle stops are reviewed and done so accurately.

**Figure Twenty-Eight: Stops with Errors Caught, Not Caught, and Non-Reviewed**  
2<sup>nd</sup> through 12<sup>th</sup> OLEPS Reporting Periods



**Figure Twenty-Nine: Errors Caught v. Errors Not Caught**

2<sup>nd</sup> through 12<sup>th</sup> OLEPS Reporting Periods



In the current reporting period, while there were only 160 motor vehicle stops with errors, there were 448 errors in those 160 stops. The total number of errors has historically been much higher than the total number of stops with an error. Because each stop may include both errors caught and errors not caught, Figure Twenty-Eight presents the total number of errors that were caught and the total number of errors that were not caught. As shown in Figure Twenty-Nine, the State Police generally

catch more errors than it does not catch. The number of errors not caught decreased in the previous reporting period, but increased slightly in the current reporting period. In the current reporting period, State Police noted 287 errors in 99 stops while OLEPS noted an additional 161 errors in 69 stops.

As noted above, State Police only reviewed about a quarter of stops with an error not caught. Figure Thirty identifies the 448 errors as caught, not caught, or non-reviewed by State Police. As shown, the majority of the errors are caught, 287. Of the 161 errors identified in Figure Twenty-Eight as not caught, 29 (18.01%) errors occurred in a stop with State Police review. The majority of the not-caught errors from Figure Twenty-Eight, 132 (81.99%) occurred in stops that were not reviewed by State Police. Because of that, State Police was unaware that these errors occurred until OLEPS shared the results of this review with them.

**Figure Thirty: Errors Caught, Not Caught, and Non-Reviewed**  
2<sup>nd</sup> through 12<sup>th</sup> OLEPS Reporting Periods

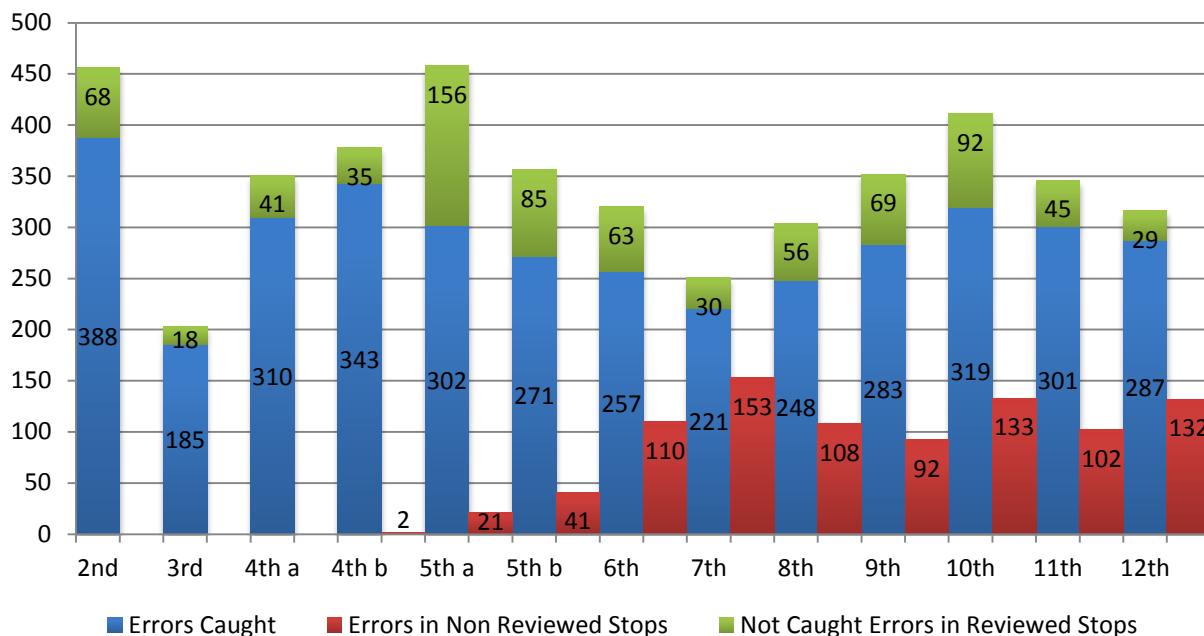
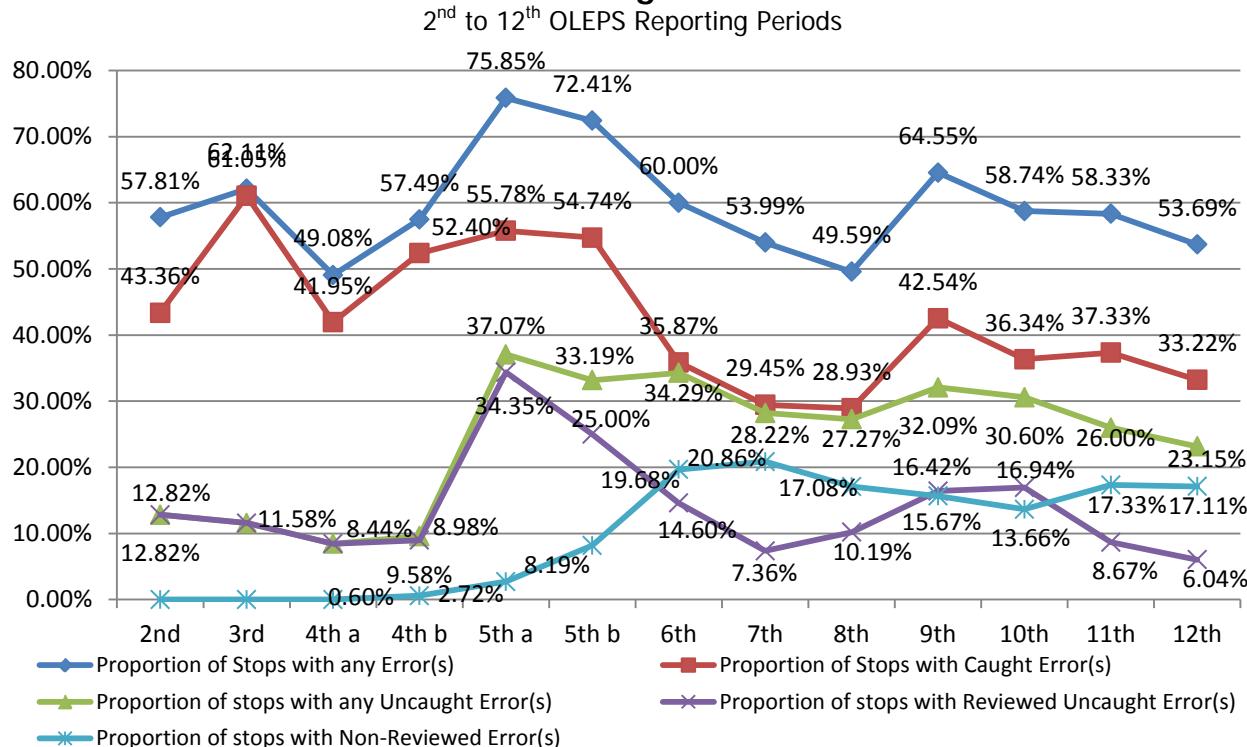


Figure Thirty-One depicts the proportion of stops with any error, any error(s) caught, any error(s) not caught, and any error in a non-reviewed stop for the 2<sup>nd</sup> through current reporting periods. As shown, the highest proportion is that of stops with any error for all reporting periods. The proportion of stops with an error caught is smaller than the proportion of all stops with any error, but is consistently higher than the proportion of stops with any error(s) not caught.<sup>31</sup> In the current reporting period, 54% of all stops selected by OLEPS were found to contain at least one error (caught or uncaught). This proportion is less than the 58% noted in the previous reporting period and consistent with the proportion in the 7<sup>th</sup> reporting period. The proportion in the current period is lower than the average proportion (60%) between the 2<sup>nd</sup> and 11<sup>th</sup> periods. Roughly 33% of all stops contained an error caught in the current reporting period. This proportion is smaller than that noted in the previous reporting period, 37%. The proportion of stops with uncaught errors is consistently smaller than the

<sup>31</sup> As noted earlier, a stop may contain multiple errors. Therefore, a single stop may be represented among stops with errors caught and among stops with errors not caught. As such, the proportions of stops with errors caught and proportion of stops with errors not caught do not necessarily add up to the total number of stops with any error(s).

proportions of stops with any errors and stops with caught errors. The proportion in the current reporting period, roughly 23%, is smaller than that noted in the previous period. Further, this proportion is the lowest since the 5<sup>th</sup> reporting period, when OLEPS resumed reviews of stops that may not have been also reviewed by State Police. For this reporting period, OLEPS added two additional lines to this figure- the proportion of stops with reviewed uncaught errors and the proportion of stops with non-reviewed errors.

**Figure Thirty-One: Proportion of Stops with any Error, Errors Caught, & Errors Not Caught**

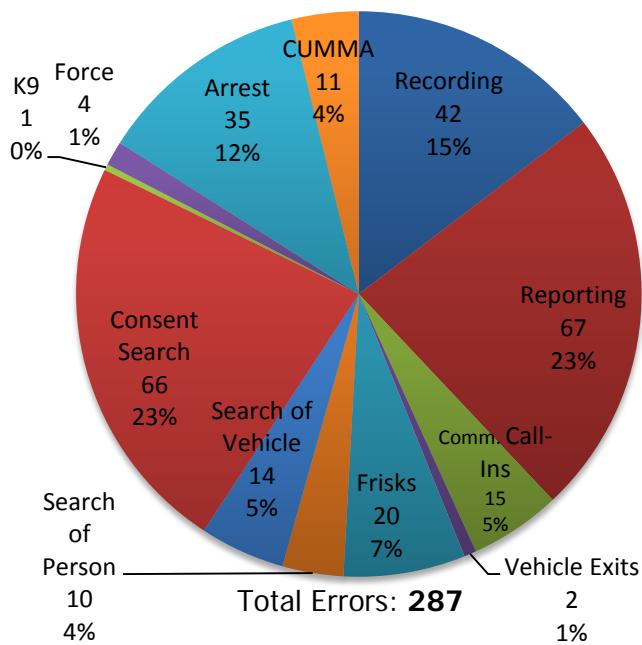


#### *Types of Errors*

Errors can further be classified based upon the type of error. Certain errors refer to actions that are procedural in nature, that is, they are governed only by State Police procedures. Other errors refer to actions that are constitutional in nature, in that they touch upon an individual's constitutional rights. OLEPS has classified errors into several categories based on the nature of the error. Recording errors are those referring to whether the recording was activated at the beginning of the motor vehicle stop and whether the audio and video continued to the completion of the stop. Reporting errors are errors made in completing of the motor vehicle stop report or the investigation report. A trooper's failure to call-in the appropriate information to the communication center are communication call-in errors. Vehicle exit errors are those made when an individual is asked to exit a vehicle. Frisk errors are those errors made during the course of a frisk. Search of a person and search of a vehicle errors are made when searching a person or vehicle, respectively, without consent. Consent search errors are those made in connection with the rules governing consent to search requests, including all reporting and recording requirements. Canine deployment errors are made when a canine is improperly deployed or the deployment is not properly documented. Use of force errors are made during a use of force or in the documentation of a use of force. Arrest errors are those made during the course of an arrest or

the documentation of the arrest. CUMMA errors are those pertaining to the determination of whether a motorist is a medical marijuana patient prior to arrest when the odor of marijuana is detected. For all of the aforementioned categories, the errors may stem from a possible violation of an individual's rights or violations of State Police policy. Figure Thirty-Two presents this categorization for all errors caught in the current reporting period.

**Figure Thirty-Two: Type of Errors Caught**  
12<sup>th</sup> OLEPS Reporting Period

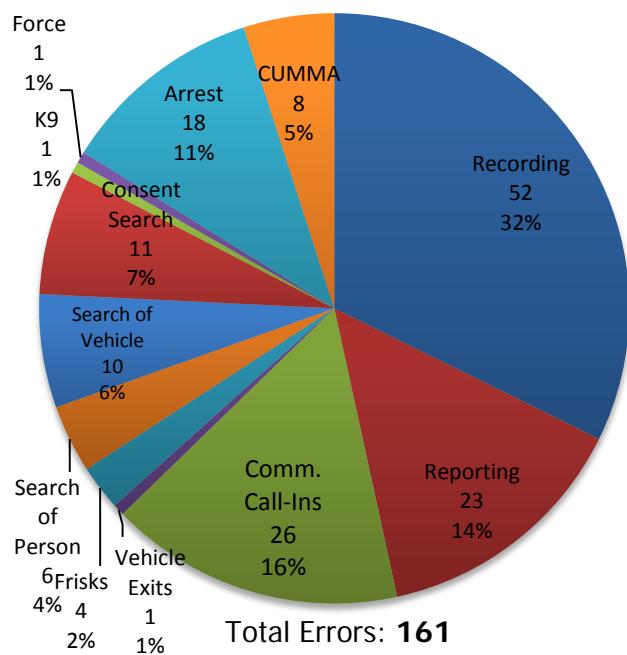


The most common errors caught by the State Police for this reporting period are all errors related to consent search requests and those pertaining to reporting. State Police supervisory review noted 66 errors pertaining to the consent to search requests and 67 pertaining to reporting of stops. There were 42 recording errors noted by State Police review. In total, these three categories of errors account for over half, 61%, of all errors caught. In the current period, the proportion of errors pertaining to arrests increased from 9% to 12%. Errors pertaining to frisks increased from 4% to 7% of all errors caught. The proportion of errors caught regarding communication call-ins increased in the current reporting period, from 1% in the previous to 5%

in the current. The proportion of other categories of errors remained fairly consistent in the current reporting period; all other error categories each make up 5% or less of errors caught. Changes in the proportion of each error type does not necessarily mean that the State Police failed to catch these errors, it may mean that the State Police just made fewer errors of that type.

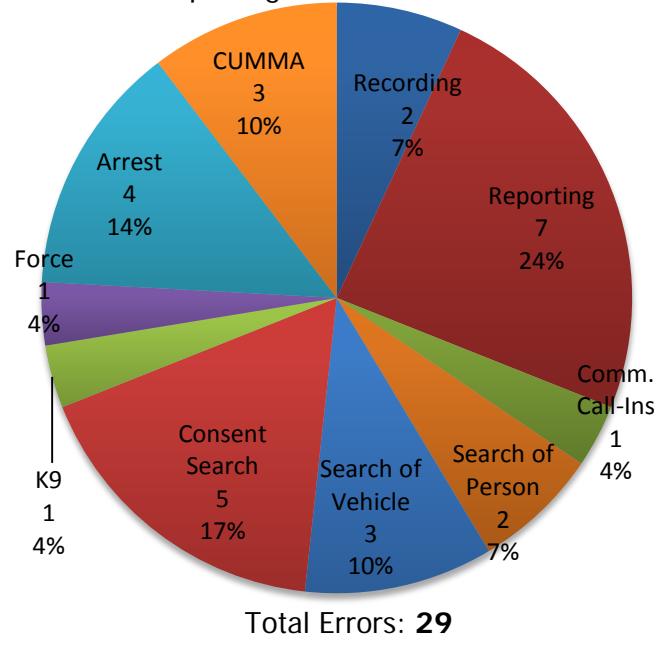
### Figure Thirty-Three: Type of Errors Not Caught

12<sup>th</sup> OLEPS Reporting Period



### Figure Thirty-Four: Type of Errors Not Caught in State Police Reviewed Stops

12<sup>th</sup> OLEPS Reporting Period



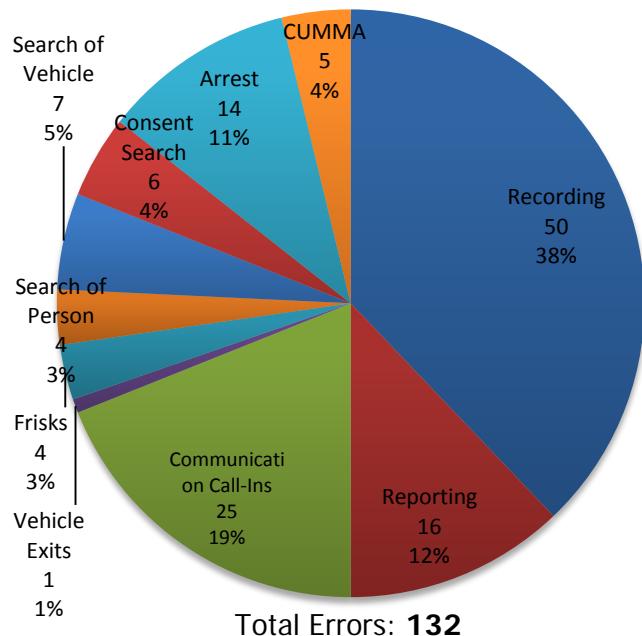
As noted in previous reporting periods, OLEPS increased its attention to the reviews of stops since 2012 to assess the appropriateness of the new motor vehicle stop review schedule. OLEPS' approval of a revised review schedule, which allowed State Police to review a smaller number of stops, was contingent upon continued detail in these reviews. OLEPS has noted State Police's improvement in errors caught over several reporting periods and commends State Police for the improvement.

In previous reporting periods, the number of errors not caught in a particular category were generally low if the number of errors caught in that category were high. However, this is not necessarily the case in the current reporting period, as shown in Figure Thirty-Three. The majority of errors not caught, 73%, pertained to recording, reporting, arrests, or communication call-ins. Thirty-two percent of all errors not caught pertained to recordings, 16% pertained to communication call-ins, 14% pertained to reporting, and 11% pertained to arrests. There were also 11 uncaught errors pertaining to consent searches, 10 pertaining to search of vehicles, eight pertaining to CUMMA, six pertaining to searches of persons, four pertaining to frisks, and one pertaining to uses of force, canine deployments, and vehicle exits each.

As noted throughout this performance standard, there were a large number of stops examined during this reporting period that did not receive a State Police supervisory review. As such, it is appropriate to discuss the errors that State Police did not catch only in those stops that underwent review. In total, there were 27 errors not caught in the stops reviewed by State Police. There were seven reporting errors (24%), five consent request errors (17%), four arrest errors (14%), three search of vehicle errors (10%), three CUMMA errors (10%), two each (7%) for recording and searches of persons, and one error (4% each) for communication call-ins, uses of force, and canine deployments. Compared to errors caught, State Police caught a higher number of errors in each category type than State Police failed to catch with the exception of canine errors.

However, OLEPS notes that, though the stops State Police does review have a small number of uncaught errors, the same types of errors are noted in stops not reviewed by State Police. Figure Thirty-Five illustrates the overall universality of errors made by troopers; the recognition of errors by supervisors in reviewed stops does not appear to impact larger trooper behavior. With continued issuance of interventions for errors noted, trooper behavior may be improved.

**Figure Thirty-Five: Type of Errors Not Caught in Stops Without State Police Review**  
12<sup>th</sup> OLEPS Reporting Period



One-hundred thirty-two of the 161 not caught errors occurred in stops not reviewed by State Police. The majority of these errors, 69%, pertained to recording, reporting, and communication call-ins, similar to the errors caught by State Police. Consent search errors are a frequently caught error, however, there were only six consent request errors in stops not reviewed by State Police. This low frequency is not truly representative of consent request errors in non-reviewed stops. Of all stops not reviewed by State Police only 9% had a consent request, while 60% of stops reviewed by State Police had a consent request. There were seven search of vehicle errors noted, five CUMMA errors, four search of person and frisk errors, and one vehicle exit error noted.

### *Interventions*

Interventions are a tool used by State Police to improve a member's performance. Interventions are recorded in MAPPS and, generally, memorialize a supervisor's review of a trooper's activities. Interventions may be positive or negative; they may commend a trooper for a job well done or note a deficiency in a trooper's behavior. Interventions are vital to a trooper's improvement as they are likely the only searchable and accessible record of a supervisor's comments. For example, interventions may be utilized to note that a trooper failed to activate video recordings on motor vehicle stops. An intervention allows the trooper to review the supervisor's feedback and allows future supervisors to also review the feedback. Without an intervention, a future supervisor may be unaware of areas in which a trooper might need improvement. Thus, the supervisor would be unaware that the next level of remediation might be more effective, such as retraining.

OLEPS examined the extent to which supervisors note that they informed the trooper of errors by reviewing MAPPS for evidence of interventions. According to State Police policy, interventions are required when a supervisor notes that a trooper has made an error during a motor vehicle stop. The current reporting period is the seventh where OLEPS recorded the number of interventions issued. While State Police caught 287 errors, only 153 interventions were issued. About 53% of all errors caught by State Police resulted in an intervention, very similar to the previous reporting period. Figure Thirty-Six depicts the trend of the proportion of errors caught that resulted in interventions. As shown, the proportion of errors caught in each reporting period had increased steadily until the previous

reporting period. The current period is the second where over half of all errors noted by State Police resulted in an intervention.

**Figure Thirty-Six: Proportion of Errors Caught with Interventions Issued**  
12<sup>th</sup> OLEPS Reporting Period

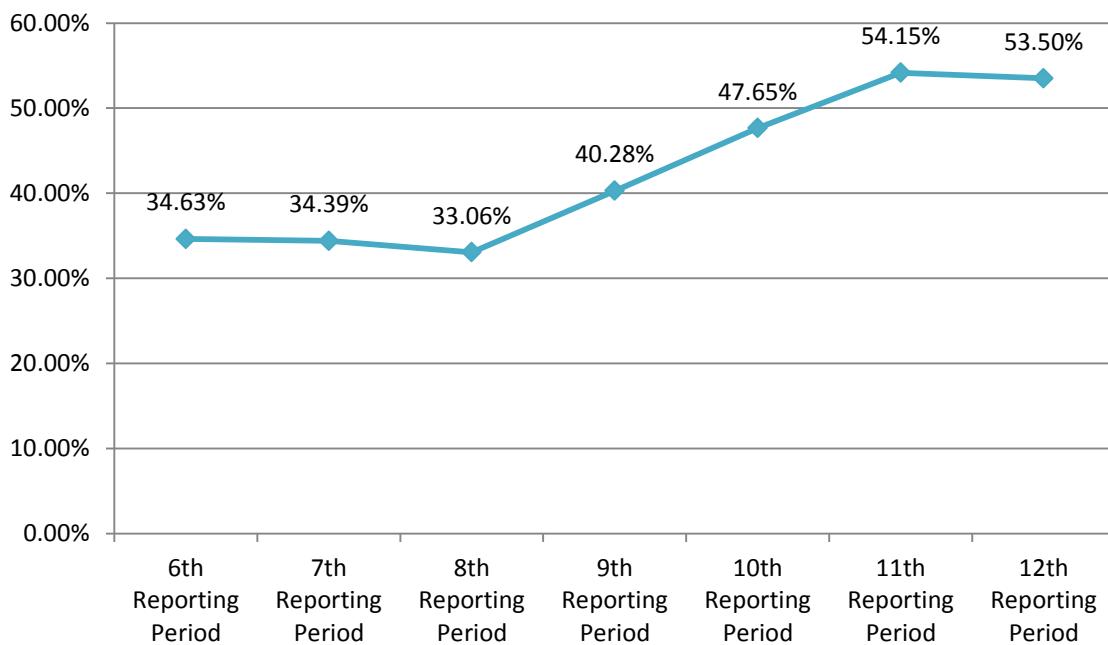


Table Thirty-Five depicts the number and proportion of stops with interventions by category of error. In the current reporting period, there are five categories of caught errors where the rate of intervention was above 70%. Caught errors pertaining to vehicle exits resulted in an intervention in 100% of instances, caught errors pertaining to frisks resulted in an intervention in 85% of instances, caught errors pertaining to a search of a person resulted in an intervention in 80% of instances, caught errors pertaining to communication call-ins resulted in an intervention in 73.33% of instances, and caught errors pertaining to CUMMA resulted in an intervention in 72.73% of instances. Additionally, 57.14% of caught errors pertaining to searches of a vehicle and arrests resulted in an intervention, 46.97% of errors pertaining to consent requests resulted in an intervention, 44.78% of caught errors pertaining to reporting resulted in an intervention, and 42.86% of recording errors caught resulted in an intervention. Increases were noted in the proportion of communication, frisk, search of person, and CUMMA caught errors that resulted in an intervention. Overall, 53.31% of all errors caught resulted in an intervention in the current reporting period, similar to the 54.15% in the previous reporting period.

**Table Thirty-Five: Proportion and Type of Caught Errors Resulting in an Intervention**  
**12<sup>th</sup> OLEPS Reporting Period**

	<b>Number of Interventions</b>	<b>Number of Errors Caught</b>	<b>% of Errors Caught</b>
<b>Recording</b>	18	42	42.86%
<b>Reporting</b>	30	67	44.78%
<b>Communication Call-Ins</b>	11	15	73.33%
<b>Vehicle Exits</b>	2	2	100.00%
<b>Frisks</b>	17	20	85.00%
<b>Search of Person</b>	8	10	80.00%
<b>Search of Vehicle</b>	8	14	57.14%
<b>Consent Requests</b>	31	66	46.97%
<b>K9</b>	0	1	0.00%
<b>Use of Force</b>	0	4	0.00%
<b>Arrest</b>	20	35	57.14%
<b>CUMMA</b>	8	11	72.73%
<b>Total</b>	153	287	<b>53.31%</b>

While the proportion of stops with an intervention in the current period is consistent with the previous reporting period and higher than that noted in earlier periods, only slightly more than half of all errors noted by State Police resulted in an intervention. OLEPS continues to recommend the use of interventions to note a caught error to ensure that troopers are aware of mistakes made and have the opportunity to remedy those errors in the future.

## **Summary of Standard 9**

The current reporting period is the seventh with a number of stops that did not receive a supervisory review by State Police. As such, the overall number of errors caught by OLEPS that were not identified by State Police remains high. State Police failed to note a number of errors in the stops that State Police did review, especially pertaining to consent to search requests and reporting. The errors noted by OLEPS in non-reviewed stops were most frequently recording, communication, reporting, and arrest errors. The State Police should continue their improvement in detailed reviews and note all trooper errors during stops. Further, the State Police should notify troopers of all errors to help minimize these errors in all stops.

OLEPS notes that about 12% of all stops reviewed by State Police contained errors not noted in reviews, an improvement from the previous reporting period. Roughly 34% of all stops not reviewed by State Police contained errors. Accordingly, there were actions that violated State Police policies and procedures that were not identified and could not be corrected. However, State Police reviewed 118 stops that were not previously reviewed during OLEPS review period. OLEPS anticipates that State Police will catch errors and notify troopers of errors made during these stops.

As stated in previous reports, a trooper can only correct behavior if s/he knows there is an issue. Interventions are a vital tool for self-analysis, allowing both troopers and supervisors to record areas of both excellence and need for improvement. While acknowledging State Police's increase in the use of interventions in the current reporting period, OLEPS continues to recommend that State Police more frequently and effectively utilize the intervention tool.

## **Performance Standard 10: Supervisory Referral to OPS**

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### **Standards**

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If in the review of a motor vehicle stop, State Police or OLEPS personnel determine that the conduct recorded during a motor vehicle stop reasonably indicates misconduct (*i.e.*, a failure to follow any of the documentation requirements of State Police policies, procedures or operating procedures, an intentional constitutional violation, an unreasonable use of force, or a threat of force), a Reportable Incident Form is required to be filled out.

This standard is assessed through OLEPS' review of stops and audit of OPS.

### **Assessment**

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OLEPS has reviewed records of referrals to OPS based on actions or omissions by road personnel. Such referrals are generally rare. During the current reporting period, OLEPS did not refer any incidents to OPS for review.

## **Performance Standard 11: Supervisory Presence in the Field**

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### **Standard**

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This standard remains unchanged from the Consent Decree:

*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.*

In light of motor vehicle stop review requirements that take up much of a supervisor's available road time, a specific numeric requirement of supervisory presence will not be given at this time. Since the State Police is exploring potential changes to their MVS Review plan, an official requirement will not be specified. Recommended however, is that State Police should, at minimum, maintain, but ideally improve, its rate of supervisory presence in the field.

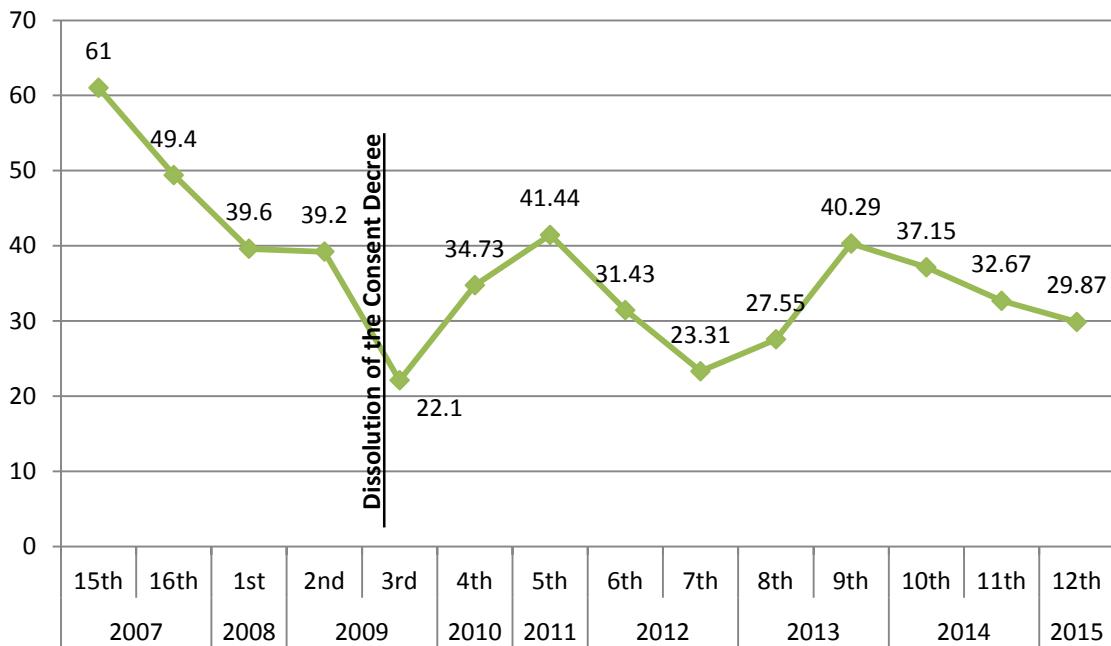
### **Overview**

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For several reporting periods, OLEPS has noted a trend of low supervisory presence in the field. Supervisory presence began increasing in the fifth reporting period, but has since declined. Figure Thirty-Seven presents this trend. In the current reporting period, supervisors were present in 89, 29.87%, stops. Sixty-seven stops were verified by video and 22 were only verifiable through stop reports. In the previous reporting period, a supervisor was present in about 33% of all stops. Since the 15<sup>th</sup> reporting period (under the independent monitors), the percent of stops where a supervisor was present has declined, reaching a low of 22.1% in the third reporting period. Since this time, OLEPS has noted varying levels of supervisory presence during motor vehicle stops. The proportion of stops with a supervisor present in the current reporting period is lower than the previous reporting period. This is the third reporting period to indicate a decline in supervisory presence. However, this may be a reflection of the sample reviewed. Many of the stops in the current reporting period, as indicated earlier, did not involve any critical activities- consent requests, canine deployments, or uses of force.

Supervisors were present in 39 stops or 37.86% of all stops with consent requests, nine stops or 56.25% of all stops with official canine deployments, and 11 stops or 37.93% of stops with uses of force. Compared to the previous reporting period, there was a smaller proportion of supervisory presence in stops with consent requests and uses of force and a similar proportion of stops with canine deployments.

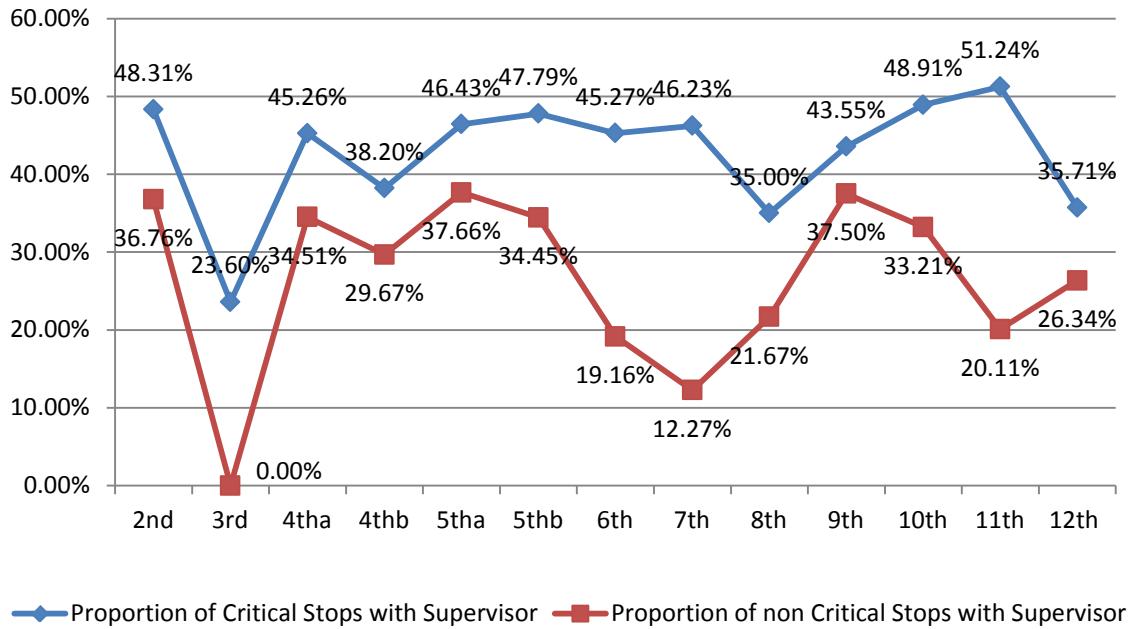
**Figure Thirty-Seven: Trend of Supervisory Field Presence**  
12<sup>th</sup> OLEPS Reporting Period



Unlike the previous reporting period, there was not a statistically significant difference in the number of errors caught in a stop when the supervisor was present at the scene of a stop ( $M=1.03$ ,  $s=1.89$ ) compared to when a supervisor was not present ( $M=.933$ ,  $s=1.89$ ),  $t(296)=.419$ ,  $p=.559$ . There is not a significantly different number of errors not caught in stops with supervisory presence ( $M=.74$ ,  $s=1.51$ ) and those without supervisory presence ( $M=.45$ ,  $s=1.35$ ),  $t(296)=1.61$ ,  $p=.067$ , though this distribution approaches statistical significance. Analysis did not reveal a significant difference in the total number of errors made between stops with ( $M=1.77$ ,  $s=2.17$ ) and without ( $M=1.38$ ,  $s=2.18$ ) supervisory presence,  $t(296)=1.404$ ,  $p=.687$ .

Critical stops, those with RAS consent requests, canine deployments, and uses of force, undergo mandatory reviews and their activities require supervisory approval and additional reports. Figure Thirty-Eight depicts supervisory presence in critical stops compared to non-critical stops. The proportion of stops with supervisors present is generally greater among critical stops than non-critical stops. In the current reporting period, there were 112 critical stops. A supervisor was present in 35.71% of these stops (40 stops). This proportion is a decrease from the previous reporting period and lowest since the 8<sup>th</sup> reporting period. While there were more non-critical stops reviewed by OLEPS in the current reporting period, 186, only 26.34% of these stops (49) had a supervisor present on the scene. The proportion of non-critical stops with supervisory presence fluctuates across reporting periods in Figure Thirty-Five because of changes to the secondary sample of stops reviewed in each reporting period. In the third reporting period, only 95 stops were reviewed, 89 of which were critical stops; there were only six non-critical stops reviewed. In all other reporting periods, the majority of stops reviewed were non-critical stops. The activities occurring in these stops vary across reporting periods, which may impact the likelihood that a supervisor might be on scene.

**Figure Thirty-Eight: Trend of Supervisory Field Presence in Critical & Non-Critical Stops**  
**12<sup>th</sup> OLEPS Reporting Period**



### **Summary of Standard 11**

While OLEPS anticipated an increase in supervisory presence in the field after State Police implemented a revised review schedule for motor vehicle stops in 2011, supervisory presence has decreased. Given that the State Police have recently graduated several Academy classes, an increase in supervisory presence in the field was expected due to an increase in staffing. In the current reporting period, however, an overall decrease in the proportion of stops with supervisors present was noted. A decrease among critical stops was noted while an increase among non-critical stops was noted. OLEPS stresses the importance of supervisory presence and directs State Police to the Consent Decree for specifications on this requirement.

# Office of Professional Standards & Investigations

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OLEPS monitors the Office of Professional Standards (OPS) based on the timeliness and appropriateness of investigations; OLEPS also conducts an audit of the citizen complaint process.

## **Methodology**

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Currently, OLEPS monitors the activities of OPS in two ways. First, OLEPS conducts a legal review of substantiated disciplinary investigations. The purpose of each legal review is to determine whether there is sufficient evidence to move forward with disciplinary action; that is, whether the findings are supported by a preponderance of the evidence. This is accomplished by examining the investigative activities undertaken by OPS and assessing the quality and admissibility of the evidence. OLEPS also reviews the proposed penalty for each substantiated investigation. In conducting its review, OLEPS has full access to MAPPS and IAPRO information concerning the trooper's prior disciplinary history. This information is evaluated in conjunction with the evidence developed in the investigation before disciplinary charges are filed and a penalty recommended. OLEPS also reviews the proposed penalty for each substantiated investigation, providing guidance and advice on the level of discipline imposed to guarantee that it is appropriate and fair. In doing so, OLEPS may consider: the member's history of discipline; discipline imposed on other members with the same or similar substantiated charges; and any other factors deemed relevant to the recommendation of discipline.

Second, OLEPS conducts audits of OPS investigations on a biannual basis. The audits include a determination of whether the evidence in the case supports the findings of either "substantiated," "insufficient evidence," "exonerated," or "unfounded." The audits involve a review of all complaints regarding racial profiling, disparate treatment, excessive force, illegal or improper searches, false arrests, and domestic violence. In addition to a review of these complaints, a sample of all other complaints received by the State Police is selected for review. For each complaint, a complete review of the written investigative file is conducted including a review of all required investigative tasks. In some instances, those reviews lead to a review of all available investigative evidence, such as audio and video tapes assembled by OPS. Additionally, OLEPS publishes aggregated analyses of misconduct cases available here: <http://www.nj.gov/oag/oleps/aggregate-misconduct.html>.

## **Performance Standard 12: Appropriate & Timely Investigations**

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### **Standards**

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OPS is required to attempt to complete misconduct investigations within 120 working days. In instances where an investigator believes the case will extend beyond 120 working days, an extension is required to be filed with the IAIB Bureau Chief.

Additionally, discipline should be appropriate to the case and must be proportionate to the facts, circumstances, nature, scope of the misconduct case, past disciplinary history of the trooper, and comparable substantively similar charges.

OLEPS may re-open any case for further investigation.

### **Assessment**

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In the current reporting period, OLEPS performed an audit of investigations conducted by OPS, covering January 1, 2015-June 30, 2015.

This audit consisted of a review of 101 closed misconduct cases. Of this total, 85 consisted of complaints involving racial profiling, disparate treatment, excessive force, illegal or improper searches, and domestic violence. An additional 16 cases were selected for review from all other misconduct and administrative investigations. Reviews of the written files for all 101 closed cases were conducted. An additional review of audio and video evidence was conducted for nine cases.

### ***Investigation Length***

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During the OLEPS audit of OPS, OLEPS examined the length of misconduct investigations to determine if they were appropriate based on justifiable reasons. These reasons include:

- Pending criminal investigation/prosecution
- Concurrent investigation by another jurisdiction/plea
- Witness unavailability
- Evidence unavailability
- Investigator changes
- Changes to the investigation (addition or change to allegations/principals)
- Case complexity (*i.e.*, number of principals, witnesses, allegations)
- Conflict of interest development
- Criminal conspiracy requiring isolation of principal
- Awaiting opinion from DAG/county prosecutor

For the audit covering the current reporting period, OLEPS noted that 26.73%, 27 cases, were not completed within the 120 working day requirement. During this audit, OLEPS noted that 18 of these cases included an appropriate request for extension while nine cases did not. OLEPS also noted 58 cases where an extended period of time passed between receipt of a complaint and assignment to an

investigator, thus delaying the beginning of the investigation. Additionally, OLEPS noted an extended period of time between investigator completion of a misconduct case and supervisory review of the case in 9 cases.

### *Appropriate Interventions*

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In addition to evaluating the investigation length of all misconduct cases, OLEPS also reviews the proposed penalty for each substantiated investigation. During this review, OLEPS has full access to the involved trooper's disciplinary history. This is evaluated in conjunction with the evidence developed by the investigation before disciplinary charges are filed and a penalty recommended. Disciplinary matters cannot move forward unless OLEPS has performed a legal sufficiency and penalty review. In the first half of 2015, OLEPS performed roughly 53 legal sufficiency and penalty reviews.

### *Re-Open Cases*

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In the current reporting period, OLEPS did not recommend that State Police re-open any cases.

## **Performance Standard 13: Internal Audits of Citizen Complaint Processes**

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### **Standards**

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According to State Police policies and procedures, the following requirements govern the citizen complaint process:

- All calls must be recorded
- All complaints reviewed as to whether they constitute allegations of misconduct and whether the allegation is:
  - criminal
  - requires administrative investigation
  - non-disciplinary performance matter
  - administratively closed

### **Assessment**

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OLEPS is tasked with auditing the citizen complaint process. This is accomplished through an audit of the complaint hotline, checking for proper classification and reception of complaints. This audit covered the time period of January 1, 2015 to June 30, 2015. A total of 84 complaint calls were made to the hotline during the review period, and OLEPS reviewed a selected portion of these calls. All calls reviewed were assigned an OPS case number and handled appropriately.

# MAPPS

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Responsibility for data in the MAPPS system is spread across multiple units within the State Police. The system itself is maintained primarily by an outside vendor that implements upgrades and enhancements to the system. The vendor is responsive to needs of the MAPPS Unit (within the Office of the Chief of Staff and under the Office of Quality Assurance). The information contained in MAPPS is pulled from other information systems in the Division. Stop data stored in MAPPS comes from the CAD system and RMS, which are managed by the Information Technology Bureau. Misconduct data and complaints that are handled as performance issues (i.e., Performance Investigation Disposition Reports or PIDRs) come from the IAPro database of the Office of Professional Standards. Information in MAPPS on assignments and promotions is fed from the Human Resources Bureau. Training information displayed in MAPPS is a live view of the Academy's database known as the Academy Computerized Training System (ACTS).

MAPPS data are the responsibility of multiple Divisional units. All supervisors, regardless of their assignment, are required to review MAPPS data and to note certain reviews in MAPPS. All evaluations and quarterly appraisals are to be entered into MAPPS, as are any interventions taken for members, regardless of assignment. Most stop data reviews of individuals and video reviews are primarily conducted by supervisors in Field Operations. Unit and troop analyses of stop data and trends are analyzed by the MAPPS Unit and presented to a command-level panel for review during the Risk Analysis Core Group (RACG). The RACG is also responsible for analyzing MAPPS data for specific units, such as for the Academy, to determine trends that indicate potential training issues. Patterns of individual misconduct are primarily reviewed by OPS.

## **Methodology**

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This reporting period, OLEPS assessed MAPPS to ensure that the system is used according to State Police policy. MAPPS tasks assess whether appropriate data are available in a timely manner and stored in a secure way. Additionally, whether the system is used as a management tool to inform supervisory and management decision making is assessed.

A formal audit of MAPPS is conducted in two parts. First, OLEPS accesses MAPPS to find evidence of specific information as required by State Police policy and procedures. Second, all troopers subject to a meaningful review<sup>32</sup> in the current reporting period are queried in MAPPS to determine whether there was a resolution of the review. OLEPS audits the MAPPS system by selecting a sample of troopers and accessing all records in MAPPS to ensure that all requirements per State Police policies and procedures are appropriately recorded.

OLEPS also communicates with the MAPPS Unit regularly. Any issues with MAPPS are noted and communicated to the Unit. Additionally, since this Unit creates the Risk Analysis Core Group (RACG) report, discussions of trends and patterns in trooper behavior are also discussed.

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<sup>32</sup> Meaningful reviews are conducted on troopers who receive 3 misconduct allegations within 2 years.

## Performance Standard 23: Maintenance of MAPPS

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# Performance Standard 23

### **Standards**

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According to State Police policies and procedures, MAPPS must include the following data:

- Motor Vehicle Stop Data
- Misconduct Data
- Performance Data
- Interventions
- Assignments
- Training
- Compliments
- Motor Vehicle Stop Reviews (MVR)
- Journals

### **Assessment**

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A sample of troopers involved in motor vehicle stops is selected to audit MAPPS. OLEPS reviewed 298 motor vehicle stops in the current period conducted by 234 troopers. Of these troopers, 14 were probationary troopers on the date of the motor vehicle stop reviewed in this reporting period. All 234 troopers were selected for the MAPPS audit, representing about 9.3% of the State Police. The troopers selected are from all troops. Each trooper's MAPPS records were accessed to determine whether the required information was recorded for the reporting period in question.

#### *Motor Vehicle Stop Data*

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MAPPS must contain information on all motor vehicle stops performed by a given trooper. This module contains several analytic tools that allow a trooper's stop data to be examined in relation to both internal and external benchmarks. MAPPS contained motor vehicle stop data for all 234 troopers for the current reporting period.

#### *Performance Data*

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##### *Trooper Reviews*

For this reporting period, OLEPS accessed the MAPPS Performance Module for evidence of at least one quarterly review and/or evaluation and one annual evaluation. Quarterly reviews are conducted three times a year, and an annual evaluation is conducted in December of each year.

Of the troopers sampled, 200 troopers received quarterly reviews. As of April 2016, 34 troopers had not received quarterly reviews for the first half of 2015. Of these troopers, 21 received the requisite annual evaluations.

Annual evaluations are categorized as Partial, First Probationary, Second Probationary, and Third Probationary evaluations. There were 87 evaluations conducted in the first half of 2015; 25 Partial evaluations, 31 First Probationary evaluations, 22 Second Probationary evaluations, and nine Third Probationary evaluations conducted.

In total, there were 13 troopers who did not receive any quarterly or annual evaluations for this reporting period. Nine of the troopers with missing evaluations had recently graduated from the Academy. Additionally, one trooper was transferred during this reporting period; the responsibility of evaluations may have been unclear as a result. Thus, there were three troopers who lacked the requisite reviews.

### *Assignments*

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MAPPs provides information on trooper assignments, containing both current and historical assignments for each trooper. In the current reporting period, MAPPs listed current and past assignments for all 234 troopers.

### *Training*

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The Academy Computerized Training System (ACTS) feeds data into MAPPs regarding training completion. Annual in-service training, physical fitness, and firearms training will be discussed in the 13<sup>th</sup> Oversight Report.

Of the 234 troopers reviewed in this reporting period, all completed Spring 2015 firearms training.

As noted in previous reporting periods, NJ Learn and NJ.gov training do not appear in MAPPs as required.

### *Compliments*

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The compliments module in MAPPs contains records of all compliments received by troopers for service performed. OLEPS found that the State Police is successfully implementing this module and lists general information pertaining to the compliment. OLEPS found that 62 of the troopers sampled received a compliment in the current reporting period.

### *Motor Vehicle Stop Reviews*

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Motor vehicle stops are required to undergo supervisory review as determined by Field Operations' review schedule. For this requirement, OLEPS examined whether the stops conducted by the sampled troopers were reviewed and stored in MAPPs. OLEPS found evidence that 220 of the sampled troopers had reviews of motor vehicle stops on record for the current reporting period. Seven of the 14 troopers without any reviews did not routinely conduct motor vehicle stops. Additionally, MVRs were not required for the eight probationary troopers sampled. One trooper was on administrative absence

for half of the current reporting period; he may not have been conducting motor vehicle stops when his supervisor began reviews for that period.

### *Journals*

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MAPPS' Journal module provides supervisory personnel with a method to formally document non-intervention information. Supervisors are required to notify their subordinates of journal entries in which the staff member is the subject.

There were eleven journal entries in the current reporting period for the sample of troopers. Ten of these entries pertained to meaningful reviews and one was a scatter plot comprehensive review.<sup>33</sup> As noted in previous reports, OLEPS recommends that State Police more effectively use this module, especially given that the State Police does not regularly utilize interventions to record errors made in motor vehicle stops.

### *Interventions*

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#### *Interventions*

MAPPS contains an Interventions module wherein members may issue an intervention or task another member with administering an intervention directed toward improving a member's performance. OLEPS found that interventions were recorded for 184 of the 234 sampled troopers. These interventions resulted from a number of actions and behaviors, not necessarily from a motor vehicle stop. As noted in Performance Standard 9, interventions stemming from motor vehicle stops were noted in only 54% of errors caught by State Police.

#### *Commendation Performance Notices (PNs)*

Commendation PNs are stored within the Intervention module and are used by supervisors to commend a trooper for a job well done. OLEPS found that 179 troopers had at least one commendation performance notice in the current period.

#### *Counseling Performance Notices (PNs)*

Counseling PNs are stored within the Intervention module and are used by supervisors to counsel a trooper. OLEPS found that 15 troopers had at least one counseling performance notice in the first half of 2015.

### *Misconduct*

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MAPPS contains information regarding trooper misconduct. This information is intended to be used by supervisors to remedy any deficiencies through a progressive system of discipline. In the current reporting period, 23 of the 234 sampled troopers had at least one misconduct allegation listed in MAPPS.

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<sup>33</sup> Scatterplot Comprehensive Reports are conducted for troopers who have fallen outside of pre-determined criteria based on motor vehicle stop activity. These reviews focus on the totality of a trooper's motor vehicle stop data, misconducts, uses of force, PIDRs, Interventions, and training.

OLEPS also checked to ensure that all cases listed in IAPro (the database that houses misconduct information) were also listed in MAPPS for the troopers selected. OLEPS found that 20 of the 23 misconduct cases displayed in IAPro were also in MAPPS for the selected troopers. Of the three outstanding cases, IAPro contains information that the supervisor of the principal was notified of the allegation of misconduct. OLEPS has no further information why the notification was not entered into MAPPS by the supervisor.

### *Use of Force Supervisory Reviews*

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The State Police has set a threshold of two uses of force per trooper within a one year period before an alert is triggered that begins a supervisory review process. In the current reporting period, eight of the 234 troopers had documented use of force supervisory reviews in MAPPS.

### *Meaningful Reviews/ 3 in 2 Reviews*

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The procedure for evaluating meaningful reviews differs slightly from the overall MAPPS review. Instead of utilizing a sample of all troopers involved in stops, a list of all troopers receiving a meaningful review in the first half of 2015 was obtained from IAPro. In total, there were 19 meaningful reviews conducted during this period.

MAPPS contained an intervention and/or journal entry for 17 of the 19 meaningful reviews conducted during this reporting period. One meaningful review involved a trooper on administrative leave when the alert was triggered, explaining the lack of documentation. There was no documentation for the one remaining meaningful review in MAPPS.

### **Summary of Standard 23**

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OLEPS' audit of MAPPS indicated that MAPPS contains the requisite information and data. As noted in Performance Standard 9, OLEPS recommends that the State Police utilize the Intervention module in MAPPS to record communication with troopers who have made an error during a motor vehicle stop. Additionally, the audit continues to highlight the issue between the MAPPS, NJLearn, and NJ.gov databases, as discussed in previous reports. OLEPS also continues to recommend that an official policy on meaningful reviews be adopted, especially in relation to the cataloging of such reviews. Additionally, meaningful reviews are not routinely conducted if a trooper is on leave when the alert is triggered. A formal policy that details the instructions for these reviews is needed. In this reporting period, OLEPS noted three misconduct cases that were not entered into a trooper's records in MAPPS, a violation of State Police policies and procedures. Without appearing in MAPPS, future supervisors may be unaware of the trooper's history and cannot make completely informed recommendations regarding assignments, promotions, future misconduct cases, or other issues regarding the trooper's performance.

## Performance Standard 24: MAPPS Reports

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# Performance Standard 24

### **Standards**

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This standard was Task 50 in previous reports and remains unchanged. The data held within MAPPS is used in the creation of reports that assist the State Police in self-assessment and risk management. Pursuant to State Police policy, these reports are used to identify both organizational and member/personnel risk issues and trends over time. As noted in the Decree, analyses of MAPPS data concerning motor vehicle stops shall include comparisons of:

- Racial/ethnic percentages of all motor vehicle stops
- Racial/ethnic percentages of all motor vehicle stops by reason for the stop  
(e.g., moving violation, non-moving violation, other)
- Racial/ethnic percentages of enforcement actions and procedures taken in connection with or during the course of stops
- Racial/ethnic percentages for motor vehicle consent searches
- Racial/ethnic percentages for non-consensual searches/seizures of motor vehicles
- Racial/ethnic percentages of requests for consent to search vehicles with "find" rates
- Evaluations of trends and differences over time
- Evaluations of trends and differences between troopers, units and subunits
- To the extent possible, a benchmark racial/ethnic percentage should be used

### **Assessment**

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The requirements of this standard are assessed through OLEPS' review of the quarterly Risk Analysis Core Group (RACG) Reports. OLEPS reviewed reports published by MAPPS on the racial/ethnic distribution of stops and post-stop interactions. OLEPS also attended meetings in which these reports were reviewed. OLEPS ensured that trends found in trooper behavior continue to be reviewed.

For several reporting periods, the State Police presented detailed documentation regarding benchmarking and trend analysis. The State Police formed specific units and workgroups which are assigned to analyze motor vehicle stop data according to these requirements and to coordinate decision making regarding the results of this in-depth analysis.

These reports include the examination of racial/ethnic percentages for all stops based on reasons for the stop and enforcement actions. The analysis specifically focuses on both PC and RAS consent searches and the find rates for these searches. Non-consensual searches are also examined. Each report and presentation includes not only the current year, but also two previous years. The focus of these reports and presentations changes each quarter. One troop is selected for primary analysis each quarter, but analysis for the entire division is also presented.

The State Police created an external benchmark in 2000. However, the usefulness of this benchmark has expired. The population of the United States and New Jersey in particular has changed dramatically since 2000, rendering the benchmark an inappropriate comparison for current enforcement activities. Additionally, advancements and focuses in policing have shifted dramatically

since the measurement of the available benchmark. As such, the State Police utilize a rough internal benchmark (the Division-wide racial/ethnic percentages) to compare motor vehicle stops and associated activity.

OLEPS reviews the RACG Report and provides commentary and suggestions for future analytic directions.

Each RACG Report is also presented orally at quarterly RACG meetings. The results of the report are reviewed during the presentation. The meeting serves as a forum for questions, comments, and requests for further analysis of the reviewed data. The meeting is mandatory for Risk Management Advisory Panel members and the command staff for the Troop reviewed. Should a required member be unable to attend the meeting, s/he must send a designated replacement.

During the current reporting period, there were two RACG meetings- March and June 2015. In the March meeting, there were five panel members and three members of the Troop command staff invited. One of the panel members was unable to attend, but did send a designee to act on his/her behalf. All invited Troop command staff were in attendance. For the June 2015 meeting, there were five panel members invited. Two of these panel members were in attendance and only one of the non-attendees sent a designee in his/her place. All three invited Troop command staff were in attendance. These quarterly meetings provide the State Police with information and analysis detailing potential risks. The panel members have the unique ability to provide insight and suggestions based on their experience and their Bureau's work. Without all requisite members, potential resolutions and remedies may lack necessary insights. Further, lack of attendance from command staff and panel members may send a message that such meetings are not a priority for State Police, and in turn, promulgate future non-attendance.

Overall, the MAPPS Reports exceed the requirements of this performance standard. However, the attendance at RACG meetings is noted. OLEPS will continue to examine attendance levels in future reporting periods.

## **Oversight & Public Information**

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### **Performance Standard 25: Maintenance of the Office of Law Enforcement Professional Standards**

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#### **Standards**

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The Law Enforcement Professional Standards Act of 2009 (N.J.S.A. 52:17B-222, et seq.) (the Act), created the Office of Law Enforcement Professional Standards (OLEPS). OLEPS is tasked with auditing the State Police.

OLEPS is required to complete the following tasks:

- Publication of biannual reports assessing aggregate patterns and trends in motor vehicle stop data
- Publication of biannual monitoring/oversight reports assessing State Police compliance with all requirements put forth in the Act
- Publication of biannual reports on aggregate trends in misconduct

#### **Assessment**

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During the current reporting period, OLEPS published the following reports:

- Tenth Aggregate Report of the New Jersey State Police
- Supplement to the Tenth Aggregate Report: Troop B, Troop C, and Troop D
- Third Public Aggregate Misconduct Report

All of OLEPS' reports and publications can be found on the OLEPS' website:

<http://www.nj.gov/oag/oleps>

## **Performance Standard 26:** **Approval of Revisions to Protocols, Forms, Reports, and Logs**

### **Standards**

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The Act mandates that OLEPS review and approve, in writing, all changes to State Police rules, regulations, standing operating procedures, and operating instructions relating to any applicable non-discriminatory policy established by the Attorney General, and those relating to the law of arrest, search and seizure, and to the documentation of motor vehicle stops and law enforcement activities occurring during the course of motor vehicle stops.

### **Assessment**

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The State Police continues to discuss changes/revisions to protocols, forms, reports, and logs with OLEPS. OLEPS reviews and comments on proposed changes to State Police policies and procedures and associated documentation.

## **Performance Standard 26**

# Summary

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## Overview

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The results of OLEPS' analysis of State Police from January 1, 2015 to June 30, 2015 indicates that, generally, the State Police follows the guidelines regulating trooper activity. The 298 motor vehicle stops, MAPPS data, and OPS cases reviewed indicate that State Police adheres to its own policies and procedures.

The review of motor vehicle stops indicated that there was no clear evidence of a significant racial/ethnic bias in stops or post-stop activities. The analysis in the current reporting period indicates that there are no significant differences in the racial/ethnic distributions of the number of stops or those involving consent to search requests, canine deployments, uses of force, or arrests. Despite the lack of statistical significance, which is likely an artifact of the sample size, each racial/ethnic group is involved in a different number of enforcement activities in this reporting period. Further, the lack of significance does not preclude further examination into racial/ethnic differences in activities.

The majority of post-stop activities reviewed were performed in accordance with State Police policies, procedures, and legal standards. However, OLEPS noted several instances where troopers did not meet the appropriate legal standards for the post-stop activities used. Specifically, there were six instances where the legal standard of RAS was not met to request consent to search and one instance where the legal standard of PC was not met. State Police noted five of these errors and issued an intervention for two errors as a result. There was one canine deployment that did not meet the legal standard of RAS. This error was noted by State Police but no intervention was issued. There were two stops where passenger 1 was asked to exit in the absence of heightened suspicion. State Police noted one of these errors and issued an intervention. There was one stop where passenger 2 was asked to exit in the absence of heightened suspicion. This error was caught and an intervention was issued. There were 19 frisks that did not meet the standard of RAS. Sixteen of these errors were noted by State Police and 14 resulted in an intervention. OLEPS noted 12 stops with errors in non-consensual vehicle searches, nine of which were also noted by State Police, resulting in six interventions. OLEPS noted eight searches of a driver and eight of a passenger that were not conducted incident to arrest. State police noted 10 of these errors, eight of which resulted in an intervention.

Overall, stops reviewed in the current reporting period were, on average, shorter in length than the previous reporting period. Significant differences were found for the length of stops with and without a canine deployment; stops with a deployment are significantly longer than those without a deployment. Although the number of Asian drivers within this sample was smaller, mean differences were noted between the length of stops with consent requests for Asian and White drivers, Asian and Black drivers, and Asian and Hispanic drivers. Stops with a consent request of Asian drivers were shorter than those of White, Black, or Hispanic drivers. The differences between all other racial/ethnic groups for all types of stops were not significant. In previous reporting periods, OLEPS noted several instances of *de facto* arrests. Although none have been noted within this reporting period, OLEPS reminds State Police of this history and encourages supervisors to note issues regarding the length of motor vehicle stops.

While State Police has caught more errors than the past, improvement is still warranted. In the previous reporting period, 26% of all stops contained errors not caught while in the current reporting period 23% (69 of 298) of all stops reviewed by OLEPS contained errors not caught by State Police. This proportion had been decreasing for several reporting periods. Half of the stops OLEPS reviewed also received a State Police review. Among the stops State Police did review, they failed to note errors in 12% (18 of 149) of stops. Further, 34% (51 of 149) of stops not reviewed by State Police contained an error. Due to the number of errors noted in the current reporting period, even among those reviewed by State Police, OLEPS continues to reinforce the need for detailed reviews with appropriate feedback to troopers. Feedback on motor vehicle stops, especially any errors or deficiencies, ideally would influence a trooper's behavior in all stops, not just those reviewed.

Relatedly, the use of interventions following an error during a motor vehicle stop remained the same in this period. In the current reporting period, about 54% of all errors caught resulted in an intervention. Interventions were used most frequently for errors pertaining to frisks and searches of persons. OLEPS continues to recommend State Police supervisors use interventions when errors are noted.

There was a further decrease in the proportion of stops in which supervisors were present at the scene of the stop. Supervisors were present in 29.87% of stops within the current reporting period, a decrease from 32.67% in the previous reporting period. A supervisor was present in a higher proportion, 35.71%, of critical stops, however, this proportion is lower than the previous reporting period and the lowest since the 8<sup>th</sup> reporting period. While there were more non-critical stops reviewed by OLEPS in the current reporting period, a supervisor was present in 26.34% of these stops. Within the current reporting period, there was not a significant difference in the total number of errors made between stops with and without supervisory presence. OLEPS will continue to examine the proportion of supervisors on the road to determine whether the quality of reviews and use of interventions are inversely related to supervisor presence during stops. OLEPS expects that both supervisory presence and the quality of supervisory reviews should increase as State Police have recently added a number of new troopers to the ranks.

Recording issues persist in the current reporting period. Recordings of stops are still not ideal; many stops have missing recordings, malfunctions, or difficulties that make reviewing stops difficult. State Police should continue to ensure appropriate cataloging of motor vehicle stop recordings and to ensure that equipment remains current and in good working order. In the current reporting period, State Police upgraded their recording hardware, software, and cataloging database. While the upgrade will help address some of the issues noted in these reviews, as of the review of these stops, OLEPS was unable to view any stops recorded on this new equipment. OLEPS was granted access in April 2016 and updated reviews to reflect this new access. Regardless of access and this new equipment, recording errors remain high among errors caught, not caught, and especially among errors in stops that were not reviewed by State Police.

## **Recommendations**

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

- Continue analysis on racial/ethnic distributions and differences of motorists involved in stops.
- Conduct detailed, focused supervisory reviews, -as the overall number of errors caught by OLEPS but not identified by State Police remains high. State Police failed to note a number of

errors in the stops that State Police did review, especially pertaining to consent to search requests and reporting. The State Police should continue their improvement in detailed reviews, note all trooper errors during stops, and notify troopers of all errors to help minimize these occurrences in all stops.

- If necessary, reiterate the expectations of supervisory reviews by informing supervisors of OLEPS' concerns regarding these reviews.
- Continue to increase the use of interventions as a record of supervisory comments.
- Reiterate the requirements for RAS and PC to ensure that troopers appropriately engage in post-stop activities.
- Reinforce concerns regarding the length of stops. Refer to previous Monitoring Reports written by the Independent Monitor (see Appendix One) for more detail regarding the concerns surrounding *defacto* arrests.
- Increase supervisory presence in the field, especially given changes to the motor vehicle stop review workload.
- Ensure that State Police units that handle a large portion of tasks related to the Decree (*i.e.*, OPS, MAPPS, ITB, and Training Bureau) remain appropriately staffed to meet their mission.
- Ensure continuity of staff in highlighted areas (*i.e.*, OQA, OPS, MAPPS, ITB, and Training Bureau) to ensure the understanding of historical decisions, events, and issues. Consideration should be given to assign a civilian analyst to these units to lend technical support for the collection and analysis of data in addition to the provision of continuity during transfers and detachments of enlisted personnel.
- Clearly and formally detail the process for conducting 3 in 2, or meaningful reviews.
- Ensure that all information required to be stored in MAPPS is appropriately entered or transferred into the database.
- Continued vigilance in upgrades or repairs to aging audio and video equipment and ensure that troopers are appropriately activating this equipment.
- Continue efforts to resolve technical issues with OLEPS' access to motor vehicle stops recorded on upgraded recording equipment.

**APPENDIX ONE**  
Previously Published Monitoring/Oversight Reports

Report	Publication Date	Reporting Period
<a href="#"><u>Monitors' First Report: Long-term Compliance Audit Civil Number 99-5970(MLC)</u></a>	October 6, 2000	December 31, 1999-September 15, 2000
<a href="#"><u>Monitors' Second Report: Long-term Compliance Audit Civil Number 99-5970(MLC)</u></a>	January 10, 2001	September 30, 1999-December 15, 2000
<a href="#"><u>Monitors' Third Report: Long-term Compliance Audit Civil Number 99-5970(MLC)</u></a>	April 12, 2001	December 16, 2000-March 15, 2001
<a href="#"><u>Monitors' Fourth Report: Long-term Compliance Audit Civil Number 99-5970(MLC)</u></a>	July 17, 2001	January 1, 2001-March 31, 2001
<a href="#"><u>Monitors' Fifth Report: Long-term Compliance Audit Civil Number 99-5970(MLC)</u></a>	January 14, 2002	May 30, 2001-December 15, 2001
<a href="#"><u>Monitors' Sixth Report: Long-term Compliance Audit Civil Number 99-5970(MLC)</u></a>	July 19, 2002	December 31, 2001-May 30, 2001
<a href="#"><u>Monitors' Seventh Report: Long-term Compliance Audit Civil Number 99-5970(MLC)</u></a>	January 17, 2003	May 1, 2002-October 30, 2002
<a href="#"><u>Monitors' Eighth Report: Long-term Compliance Audit Civil Number 99-5970(MLC)</u></a>	August 21, 2003	October 1, 2002-March 31, 2003
<a href="#"><u>Monitors' Ninth Report: Long-term Compliance Audit Civil Number 99-5970(MLC)</u></a>	January 23, 2004	April 1, 2002-September 30, 2003
<a href="#"><u>Monitors' Tenth Report: Long-term Compliance Audit Civil Number 99-5970(MLC)</u></a>	July 16, 2004	October 1, 2003-March 31, 2004
<a href="#"><u>Monitors' Eleventh Report: Long-term Compliance Audit Civil Number 99-5970(MLC)</u></a>	December 20, 2004	April 1, 2004-September 30, 2004
<a href="#"><u>Monitors' Twelfth Report: Long-term Compliance Audit Civil Number 99-5970(MLC)</u></a>	July 12, 2005	October 1, 2004-March 31, 2005
<a href="#"><u>Monitors' Thirteenth Report: Long-term Compliance Audit Civil Number 99-5970(MLC)</u></a>	December 2005	April 1, 2005-September 30, 2005
<a href="#"><u>Monitors' Fourteenth Report: Long-term Compliance Audit Civil Number 99-5970(MLC)</u></a>	June 2006	October 1, 2005-March 31, 2006
<a href="#"><u>Monitors' Fifteenth Report: Long-term Compliance Audit Civil Number 99-5970(MLC)</u></a>	January 2007	April 1, 2006-September 30, 2006

<b>Report</b>	<b>Publication Date</b>	<b>Reporting Period</b>
<a href="#"><u>Monitors' Sixteenth Report: Long-term Compliance Audit Civil Number 99-5970(MLC)</u></a>	August 2007	October 1, 2006-March 31, 2007
<a href="#"><u>Monitors' Seventeenth Report: Long-term Compliance Audit Civil Number 99-5970(MLC)</u></a>	April 16, 2009	January 1, 2007-December 31, 2007
<a href="#"><u>First Monitoring Report Prepared by Office of Law Enforcement Professional Standards</u></a>	April 29, 2010	January 1, 2008-December 31, 2008
<a href="#"><u>Second Monitoring Report Prepared by Office of Law Enforcement Professional Standards</u></a>	August 2011	January 1, 2009-June 30, 2009
<a href="#"><u>Third Monitoring Report Prepared by Office of Law Enforcement Professional Standards</u></a>	July 2012	July 1, 2009-December 31, 2009
<a href="#"><u>Fourth Monitoring Report Prepared by Office of Law Enforcement Professional Standards</u></a>	October 2012	January 1, 2010-December 31, 2010
<a href="#"><u>Fifth Monitoring Report prepared by Office of Law Enforcement Professional Standards</u></a>	May 2013	January 1, 2011-December 31, 2011
<a href="#"><u>Sixth Oversight Report prepared by Office of Law Enforcement Professional Standards</u></a>	July 2013	January 1, 2012-June 30, 2012
<a href="#"><u>Seventh Oversight Report prepared by Office of Law Enforcement Professional Standards</u></a>	March 2014	July 1, 2012-December 31, 2012
<a href="#"><u>Eighth Oversight Report prepared by Office of Law Enforcement Professional Standards</u></a>	October 2014	January 1, 2013-June 30, 2013
<a href="#"><u>Ninth Oversight Report prepared by Office of Law Enforcement Professional Standards</u></a>	July 2015	July 1, 2013-December 31, 2013
<a href="#"><u>Tenth Oversight Report prepared by Office of Law Enforcement Professional Standards</u></a>	September 2015	January 1, 2014- June 30, 2014
Eleventh Oversight Report prepared by Office of Law Enforcement Professional Standards	October 2016	July 1, 2014-December 31, 2014

**APPENDIX TWO**

Table 2.1: Type of Errors Caught by Station

	<b>Recording</b>	<b>Reporting</b>	<b>Communication</b>	<b>Exits</b>	<b>Frisks</b>	<b>Search of Person</b>	<b>Search of Vehicle</b>	<b>Consent Requests</b>	<b>Canine Deploy.</b>	<b>Use of Force</b>	<b>Arrests</b>	<b>CUMMA</b>	<b>Total</b>
Atlantic City	0	1	0	0	2	0	0	0	0	0	0	0	3
Bass River	0	1	0	0	0	0	0	0	0	0	3	0	4
Bellmawr	1	1	0	0	3	1	2	0	0	1	1	0	10
Bloomfield	0	2	0	0	0	0	0	0	0	0	1	0	3
Bordentown	4	10	5	0	0	1	2	4	0	0	6	2	34
Bridgeton	2	0	0	0	0	0	0	1	0	0	0	0	3
Buena Vista	0	0	0	0	0	0	0	0	0	0	0	0	0
Cranbury	1	2	0	0	0	0	0	0	0	0	1	0	4
Hamilton	2	4	0	2	0	2	0	4	0	0	6	0	20
Holmdel	1	4	0	0	1	0	1	1	0	0	0	0	8
Hope	0	0	0	0	0	0	0	2	0	0	0	0	2
Kingwood	0	2	0	0	0	0	0	1	0	0	0	0	3
Metro North	0	0	0	0	0	0	0	0	0	0	0	0	0
Moorestown	0	3	0	0	1	2	0	3	0	0	0	0	9
Netcong	1	1	0	0	0	1	1	7	0	0	2	2	15
Newark	0	3	0	0	0	0	0	3	1	0	0	0	7
Other	1	9	4	0	3	0	0	13	0	0	9	3	42
Perryville	1	2	0	0	3	0	0	6	0	0	1	0	13
Port Norris	0	0	0	0	1	0	0	1	0	0	0	0	2
Red Lion	10	11	0	0	2	0	2	6	0	0	3	0	34
Somerville	4	2	0	0	0	0	1	2	0	1	0	2	12
Sussex	2	1	0	0	2	2	0	2	0	0	1	0	10
Totowa	0	2	6	0	0	0	2	3	0	1	0	0	14
Tuckerton	0	5	0	0	0	0	1	5	0	0	1	2	14
Washington	0	1	0	0	0	0	0	0	0	1	0	0	2
Woodbine	8	0	0	0	0	0	0	2	0	0	0	0	10
Woodstown	4	0	0	0	2	1	2	0	0	0	0	0	9
<b>Total</b>	<b>42</b>	<b>67</b>	<b>15</b>	<b>2</b>	<b>20</b>	<b>10</b>	<b>14</b>	<b>66</b>	<b>1</b>	<b>4</b>	<b>35</b>	<b>11</b>	<b>287</b>

Table 2.2: Type of Errors Not Caught by Station

	Recording	Reporting	Communication	Exits	Frisks	Search of Person	Search of Vehicle	Consent Requests	Canine Deploy.	Use of Force	Arrest	CUMMA	Total
Atlantic City	3	1		0	0	1	0	0	0	0	2	2	<b>9</b>
Bass River	0	0		0	0	0	0	0	0	0	0	0	<b>0</b>
Bellmawr	2	0		5	0	0	0	0	0	0	0	2	<b>9</b>
Bloomfield	0	0		0	0	0	0	0	0	0	1	0	<b>1</b>
Bordentown	0	0		0	0	0	0	0	0	0	0	0	<b>0</b>
Bridgeton	3	1		0	1	0	0	0	0	0	0	0	<b>5</b>
Buena Vista	6	0		0	0	0	0	1	0	0	0	0	<b>7</b>
Cranbury	0	1		0	0	0	0	0	0	0	1	0	<b>2</b>
Hamilton	1	0		0	0	0	0	0	0	0	0	0	<b>1</b>
Holmdel	0	0		0	0	0	1	0	0	0	4	0	<b>5</b>
Hope	0	0		3	0	0	0	0	0	0	0	1	<b>4</b>
Kingwood	0	0		0	0	0	0	0	0	0	0	0	<b>0</b>
Metro North	0	0		0	0	0	0	0	0	0	0	0	<b>0</b>
Moorestown	0	2		0	0	0	0	0	2	0	0	0	<b>4</b>
Netcong	0	0		0	0	0	0	0	1	0	0	0	<b>1</b>
Newark	0	1		0	0	0	1	0	0	0	0	0	<b>2</b>
Other	3	3		6	0	0	2	3	1	0	0	4	<b>22</b>
Perryville	10	4		0	0	0	1	1	3	1	1	0	<b>21</b>
Port Norris	0	0		0	0	0	0	0	0	0	0	0	<b>0</b>
Red Lion	6	2		0	0	0	0	1	0	0	0	0	<b>9</b>
Somerville	10	4		0	0	0	0	2	4	0	0	1	<b>21</b>
Sussex	2	0		1	0	0	0	2	0	0	0	0	<b>5</b>
Totowa	0	3		1	0	0	0	0	0	0	4	2	<b>10</b>
Tuckerton	0	0		0	0	0	0	0	0	0	0	0	<b>0</b>
Washington	0	0		0	0	0	0	0	0	0	0	0	<b>0</b>
Woodbine	2	0		5	0	3	1	0	0	0	0	0	<b>11</b>
Woodstown	4	1		5	0	0	0	0	0	0	2	0	<b>12</b>
<b>Total</b>	<b>52</b>	<b>23</b>		<b>26</b>	<b>1</b>	<b>4</b>	<b>6</b>	<b>10</b>	<b>11</b>	<b>1</b>	<b>1</b>	<b>18</b>	<b>8</b> <b>161</b>

Table 2.3: Type of Errors Non-Reviewed by Station

	<b>Recording</b>	<b>Reporting</b>	<b>Communication</b>	<b>Exits</b>	<b>Frisks</b>	<b>Search of Person</b>	<b>Search of Vehicle</b>	<b>Consent Requests</b>	<b>Canine Deploy.</b>	<b>Use of Force</b>	<b>Arrest</b>	<b>CUMMA</b>	<b>Total</b>	
<b>Atlantic City</b>	3	1		0	0	1	0	0	0	0	0	1	2	<b>8</b>
<b>Bass River</b>	0	0		0	0	0	0	0	0	0	0	0	0	<b>0</b>
<b>Bellmawr</b>	2	0		5	0	0	0	0	0	0	0	0	0	<b>7</b>
<b>Bloomfield</b>	0	0		0	0	0	0	0	0	0	0	1	0	<b>1</b>
<b>Bordentown</b>	0	0		0	0	0	0	0	0	0	0	0	0	<b>0</b>
<b>Bridgeton</b>	3	1		0	1	0	0	0	0	0	0	0	0	<b>5</b>
<b>Buena Vista</b>	6	0		0	0	0	0	1	0	0	0	0	0	<b>7</b>
<b>Cranbury</b>	0	0		0	0	0	0	0	0	0	0	1	0	<b>1</b>
<b>Hamilton</b>	1	0		0	0	0	0	0	0	0	0	0	0	<b>1</b>
<b>Holmdel</b>	0	0		0	0	0	0	0	0	0	0	2	0	<b>2</b>
<b>Hope</b>	0	0		3	0	0	0	0	0	0	0	0	1	<b>4</b>
<b>Kingwood</b>	0	0		0	0	0	0	0	0	0	0	0	0	<b>0</b>
<b>Metro North</b>	0	0		0	0	0	0	0	0	0	0	0	0	<b>0</b>
<b>Moorestown</b>	0	0		0	0	0	0	0	0	0	0	0	0	<b>0</b>
<b>Netcong</b>	0	0		0	0	0	0	0	1	0	0	0	0	<b>1</b>
<b>Newark</b>	0	1		0	0	0	1	0	0	0	0	0	0	<b>2</b>
<b>Other</b>	3	3		6	0	0	2	3	0	0	0	4	0	<b>21</b>
<b>Perryville</b>	10	3		0	0	0	0	1	1	0	0	0	0	<b>15</b>
<b>Port Norris</b>	0	0		0	0	0	0	0	0	0	0	0	0	<b>0</b>
<b>Red Lion</b>	6	2		0	0	0	0	1	0	0	0	0	0	<b>9</b>
<b>Somerville</b>	10	2		0	0	0	0	1	4	0	0	0	1	<b>18</b>
<b>Sussex</b>	0	0		0	0	0	0	0	0	0	0	0	0	<b>0</b>
<b>Totowa</b>	0	2		1	0	0	0	0	0	0	0	3	1	<b>7</b>
<b>Tuckerton</b>	0	0		0	0	0	0	0	0	0	0	0	0	<b>0</b>
<b>Washington</b>	0	0		0	0	0	0	0	0	0	0	0	0	<b>0</b>
<b>Woodbine</b>	2	0		5	0	3	1	0	0	0	0	0	0	<b>11</b>
<b>Woodstown</b>	4	1		5	0	0	0	0	0	0	0	2	0	<b>12</b>
<b>Total</b>	<b>50</b>	<b>16</b>		<b>25</b>	<b>1</b>	<b>4</b>	<b>4</b>	<b>7</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>14</b>	<b>5</b>	<b>132</b>

## APPENDIX THREE

### Supplemental Data Analysis Results

#### **Chi-Square Overview:**

Chi-square analysis is often referred to as a "Goodness-of-Fit Test". This test is used to estimate how closely an observed distribution matches an expected distribution. The expected distribution is what would be expected assuming all events had an equal likelihood of occurring.

For each use of chi-square in this report, the test is assessing a null and an alternative hypothesis. The null hypothesis is that the two variables- generally race/ethnicity and the enforcement activity- are independent. This means that the likelihood of each enforcement activity is the same for all racial/ethnic groups. The alternative hypothesis is that these two variables are not independent; that the likelihood of an enforcement activity is not the same for all racial/ethnic groups.

Using a statistical program, an estimate of the expected distribution of each enforcement is calculated. The expected distribution and the observed distribution are used in the chi-square formula:

$$\chi^2 = \sum \frac{(\text{observed} * \text{frequency} - \text{expected} * \text{frequency})^2}{(\text{expected} * \text{frequency})}$$

Once the chi-square statistic is calculated, assessment of significance can be done. First, to assess significance, a significance level must be agreed upon. Throughout statistics,  $p < .05$  is a common significance level. A " $p$ " level indicates the probability that a statistical relationship could reflect only chance. The smaller the size of " $p$ ," the smaller the probability the relationship happened by chance. If a reported chi-square statistic reaches a " $p$ " level of 0.05 (or smaller), there is no more than a five-percent probability that the distribution of the data in that table happened by chance, and therefore any differences across groups seen in the table are considered statistically significant.

After obtaining the agreed upon significance level, the degrees of freedom need to be calculated. "Degrees of freedom" (df) refer to the how much about the observed data needs to be known (or can "be free" to vary) before all the observations would be determined. The size of a statistic needed to achieve a particular level of significance (" $p$ ") is determined by the degrees of freedom. For the chi-square statistic, the degrees of freedom translate into the number of cells in a table for which the data distribution needs to be known before all the cells are determined. To calculate the degrees of freedom, use the following formula:

$$df = (\# \text{ of columns}-1) * (\# \text{ of rows}-1)$$

After calculating the chi-square statistic, the degrees of freedom, and establishing the significance level, you must consult a chi-square distribution table to determine whether the chi-square statistic allows you to reject your null hypothesis or fail to reject it. If your chi-square value is less than the value under your level of significance, you cannot reject your null hypothesis that the likelihood of each enforcement activity is the same. If your value is more than the value reported on the Distribution table, you can reject the null hypothesis and conclude that the likelihood of enforcement is not the same for all racial/ethnic groups.

**Example:**

As an example, the calculation of the chi-square will be reviewed for Table One.

Table one presents the observed frequencies for whether a consent request was made of White, Black, or Hispanic drivers. The null hypothesis is that White, Black, and Hispanic drivers have an equal chance of receiving a consent request. The alternative hypothesis is that White, Black, and Hispanic drivers do not have an equal chance of receiving a consent request.

**Table One: Consent Requests by Race/Ethnicity of Driver**  
12<sup>th</sup> OLEPS Reporting Period

	No Consent Request	Consent Request	Total
<b>White</b>	87	55	<b>142</b>
<b>Black</b>	53	31	<b>84</b>
<b>Hispanic</b>	50	14	<b>64</b>
<b>Total</b>	<b>190</b>	<b>100</b>	<b>290</b>

While a statistical program usually calculates the expected frequencies, they can also be calculated by hand. To do this we will use the following formula:

$$\frac{\text{Row total} * \text{Column Total}}{\text{Total n for the table}}$$

First, calculate the expected frequency for White drivers with no consent request. The row total is 190 and the column total is 142. The total n for the table is 290.

$$\frac{190 * 142}{290} = 93.03$$

Thus, the expected value of White drivers without a consent request is 11.25. The same formula is calculated for each racial/ethnic group for no consent request and for consent request. The table below presents the expected values for each cell in parentheses.

**Table Two: Expected Values for Consent Requests by Race/Ethnicity of Driver**  
12<sup>th</sup> OLEPS Reporting Period

	No Consent Request	Consent Request	Total
<b>White</b>	87 (90.03)	55 (48.96)	<b>142</b>
<b>Black</b>	53 (55.03)	31 (28.96)	<b>84</b>
<b>Hispanic</b>	50 (41.93)	14 (22.09)	<b>64</b>
<b>Total</b>	<b>190</b>	<b>100</b>	<b>290</b>

Using the chi-square formula, the chi-square value is calculated.

$$\chi^2 = \sum \frac{(\text{observed} * \text{frequency} - \text{expected} * \text{frequency})^2}{(\text{expected} * \text{frequency})}$$

$$\chi^2 = \frac{(87-90.03)^2}{90.03} + \frac{(55-48.96)^2}{48.96} + \frac{(53-55.03)^2}{55.03} + \frac{(31-28.96)^2}{28.96} + \frac{(50-41.93)^2}{41.93} + \frac{(14-22.09)^2}{22.09}$$

$$\chi^2 = 5.85$$

We will use the standard significance level of  $p < .05$ .

Next, calculate the degrees of freedom.

$$df = (\# \text{ of columns}-1) * (\# \text{ of rows}-1)$$

$$df = (2-1) * (3-1)$$

$$df = 2$$

The Chi-Square Distribution Table (available in most basic statistics books or online), indicates that in order to reject the null hypothesis at a significance level of .05, the chi-square statistic needs to be 5.99 or greater. Our value is 5.85, slightly less than the required value. This means that we fail to reject the null hypothesis; there is not a significant difference between the racial/ethnic distribution of consent requests. However, it would be appropriate to say that this number approaches statistical significance.

**Table Three: Canine Deployments by Race/Ethnicity of Driver**  
12<sup>th</sup> OLEPS Reporting Period

	No Canine Deployment	Canine Deployment	Total
<b>White</b>	134	8	<b>156</b>
<b>Non-White</b>	134	8	<b>142</b>
<b>Total</b>	<b>282</b>	<b>16</b>	<b>298</b>

$\chi^2 = .037$ , df=1  
 $p = .847$

**Table Four: Uses of Force by Race/Ethnicity of Driver**  
12<sup>th</sup> OLEPS Reporting Period

	No Force	Use of Force	Total
<b>White</b>	130	12	<b>142</b>
<b>Non-White</b>	139	17	<b>156</b>
<b>Total</b>	<b>269</b>	<b>29</b>	<b>298</b>

$\chi^2 = .597$ , df=1  
 $p = .477$

**Table Five: Arrest Data by Race/Ethnicity of Driver**  
12<sup>th</sup> OLEPS Reporting Period

	Arrest	No Arrest	Total
<b>White</b>	121	21	<b>142</b>
<b>Non-White</b>	141	15	<b>156</b>
<b>Total</b>	<b>262</b>	<b>36</b>	<b>298</b>

$\chi^2 = 1.418$ , df=1  
 $p = .171$

**Table Six: Sampled Vehicle Stop Rates by Reason for Stop**  
12<sup>th</sup> OLEPS Reporting Period

	White	Non-White	Total
<b>FTML</b>	21	32	<b>53</b>
<b>Equipment Violations</b>	9	11	<b>20</b>
<b>Safety Violations</b>	25	24	<b>49</b>
<b>Rate of Speed</b>	25	35	<b>60</b>
<b>Unsafe Lane Change</b>	7	9	<b>16</b>
<b>Total</b>	<i>A</i> <i>D</i>	<b>87</b>	<b>111</b>
			<b>298</b>

$\chi^2=1.534$ , df=4  
 $p=.821$

**Table Seven: Consent Request Stop Rates by Reason for Consent**  
12<sup>th</sup> OLEPS Reporting Period

	Reasonable Articulable Suspicion	Probable Cause	Total
<b>White</b>	47	8	<b>55</b>
<b>Non-White</b>	34	14	<b>48</b>
<b>Total</b>	<b>81</b>	<b>22</b>	<b>103</b>

$\chi^2=3.262$ , df=1  
 $p=.071$

**Table Eight: Canine Deployment Rates by Reason for Deployment**  
12<sup>th</sup> OLEPS Reporting Period

	Reasonable Articulable Suspicion	Probable Cause	Total
<b>White</b>	6	1	7
<b>Non-White</b>	7	1	8
<b>Total</b>	<b>13</b>	<b>2</b>	<b>15</b>

$\chi^2=.010$ , df=1

$p=.919$

Two cells have an expected count of less than five.

**Table Nine: Arrest Reasons by Race/Ethnicity of Driver**  
12<sup>th</sup> OLEPS Reporting Period

	Probable Cause	Warrant	Warrant and PC	Total
<b>White</b>	88	15	18	121
<b>Non-White</b>	91	29	20	140
<b>Total</b>	<b>179</b>	<b>44</b>	<b>38</b>	<b>261</b>

$\chi^2=3.244$ , df=2

$p=.197$

**Table Ten: Day v. Night Stops**  
12<sup>th</sup> OLEPS Reporting Period

	Day	Night	Total
<b>White</b>	67	75	141
<b>Non-White</b>	74	82	156
<b>Total</b>	<b>141</b>	<b>157</b>	<b>298</b>

$\chi^2=.002$ , df=1

$p=.965$

## Independent Samples *t*-test

### **Overview**

This test can be used to determine whether two means are different from each other when the two samples are independent. For this report, the independent samples are the racial/ethnic categorizations of drivers involved in motor vehicle stops. These groups are independent; they have not been matched.

The first step in a *t*-test is to develop hypothesis. The null hypothesis is that the lengths of stops for each group are equal. The alternative is that the lengths of stops are not equal. Because these hypotheses only mention difference and not direction, a two-tailed test will be used. As with the Chi-square test, the significance level to be used is .05.

SPSS was used to calculate the *t* value; however this can also be done by hand using the following formula:

$$t = \frac{(\bar{x}_1 - \bar{x}_2) - (\mu_1 - \mu_2)}{S_{\bar{x}_1 - \bar{x}_2}}$$

$\bar{x}_1$ = mean of group 1

$\bar{x}_2$ = mean of group 2

$\mu_1$ = population 1

$\mu_2$ =population 2

$S$ = estimated standard error

### **Example:**

Hypothesis: Do White and Black drivers differ in the length of their motor vehicle stops? The mean stop length for White drivers is 46.22, the standard deviation is 44.74, and n=142. The mean stop length for Black drivers is 48.71, the standard deviation is 33.81 and n=84.

Hypothesis:

$H_0$ = the length of stops are equal for White and Black drivers

$H_1$ = the length of stops are not equal for White and Black drivers

Set criteria:

Significance level ( $\alpha$ )= .05

For this test, the degrees of freedom are calculated using this formula:

$$df = n_1 + n_2 - 2$$

$n_1$ =the number of observations in sample 1

$n_2$ = the number of observations in sample 2

$$df = 142 + 84 - 2$$

df=224

Critical value for the *t*-test:

This is determined by looking at a t-distribution and finding where the degrees of freedom for the sample and the desired significance level intersect. For this example, *t* critical is: 1.98

Calculate the mean and standard deviation. This information has been provided. The mean stop length for White drivers is 46.22, the standard deviation is 44.74, and n=142. The mean stop length for Black drivers is 48.71, the standard deviation is 33.81 and n=84.

To calculate the *t*-statistic begin by plugging in values into the above equation.

$$t = \frac{(46.22 - 44.74) - (\mu_1 - \mu_2)}{S_{x1-x2}}$$

$(\mu_1 - \mu_2)$  defaults to 0

$$t = \frac{(46.22 - 44.74)}{S_{x1-x2}}$$

To calculate S, use this equation:

$$S_{\bar{x}_1 - \bar{x}_2} = \sqrt{\frac{s_{pooled}^2}{n_1} + \frac{s_{pooled}^2}{n_2}}$$

First, the estimated standard error of the difference must be calculated:

$$s_{pooled}^2 = \frac{(df_1)s_1^2 + (df_2)s_2^2}{df_1 + df_2}$$

$$df_1 = n_1 - 1 \quad df_1 = 142 - 1 \quad df_1 = 141$$

$$df_2 = n_2 - 1 \quad df_2 = 84 - 1 \quad df_2 = 83$$

$$s_{pooled}^2 = \frac{(141)44.74^2 + (83)33.81^2}{141 + 83}$$

$$s_{pooled}^2 = \frac{(141)2001.66 + (83)1143.12}{224}$$

$$s_{pooled}^2 = \frac{282234.06 + 94878.961}{224}$$

$$S_{\bar{x}_1 - \bar{x}_2} = \sqrt{\frac{S_{pooled}^2}{n_1} + \frac{S_{pooled}^2}{n_2}}$$

$$S_{x1-x2} = \sqrt{\frac{1683.54}{141} + \frac{1683.54}{83}}$$

$$S_{x1-x2} = \sqrt{11.94 + 20.28}$$

$$S_{x1-x2} = \sqrt{32.22}$$

$$S_{x1-x2} = 5.67$$

Plug this value back into the equation for  $t$ :

$$t = \frac{(46.22 - 44.74)}{S_{x1-x2}}$$

$$t = \frac{(46.22 - 44.74)}{5.67}$$

$$t = \frac{1.48}{5.67}$$

$$t = .261$$

Compare the  $t$  value calculated, .261, to the critical  $t$  value from the table, 1.98.

Since the calculated  $t$  value is lower than the critical  $t$  value, we fail to reject the null hypothesis.

Therefore, there is not a statistically significant difference in the length of motor vehicle stops for White drivers and Black drivers.

## **APPENDIX FOUR**

### Definitions of Acronyms and Abbreviations

BOLO: Be On the Look Out

CAD: Computer Aided Dispatch. The dispatch system employed by State Police.

DOR: Daily Observation Report completed by Trooper Coaches for Troopers enrolled in the Trooper Coach Program.

DSO: Deputy Superintendent of Operations

DTT: Duty to Transport

EEO: Equal Employment Opportunity.

FTML: Failure to Maintain Lane

IAIB: Internal Affairs Investigation Bureau

IAPro: Internal Affairs Professional. The database used by OPS.

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

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

MDT: Mobile data terminal. The computer inside State Police vehicles.

MVR: Motor vehicle stop review

MVSR: Motor vehicle stop report

O.I.: Operations Instructions

OLEPS: Office of Law Enforcement Professional Standards, formerly OSPA.

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

OSPA: Office of State Police Affairs

PC: Probable Cause

RAS: Reasonable Articulable Suspicion

RMS: Records Management System

SOP: Standing Operating Procedure. Policies and procedures that govern all activity and behavior of the State Police.

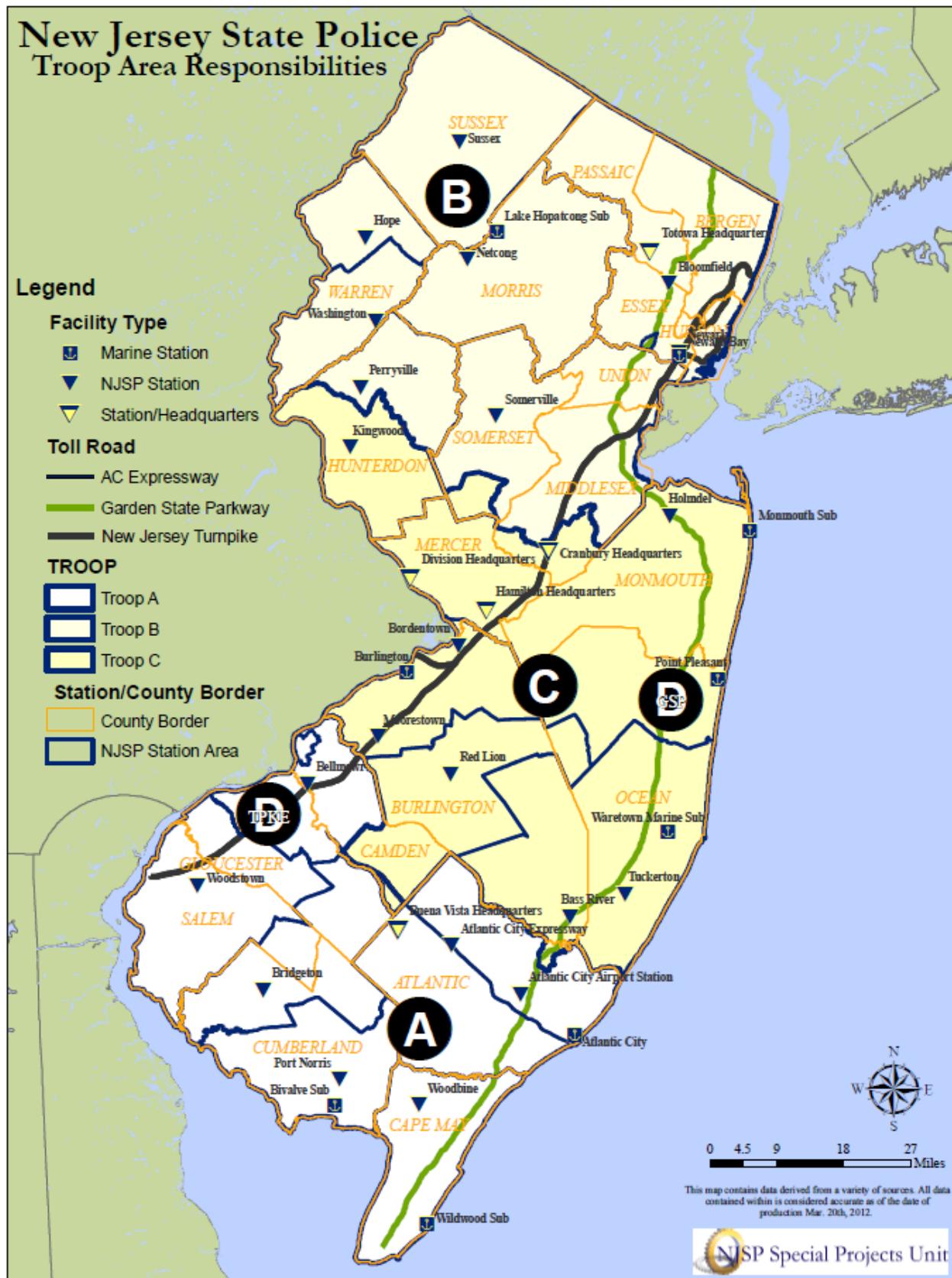
SPPAR: Section Patrol Practice Assessment Reviews.

TCS: Trooper Coach System.

The Act: Law Enforcement and Professional Standards Act (2009) (N.J.S.A. 52:17B-222, et seq.)

The Decree: The Consent Decree. State Police entered the Decree in 1999 to promote law enforcement integrity.

**APPENDIX FIVE**  
New Jersey State Police Troop Area Responsibilities



## Appendix Five