

# Monitors' Seventh Report

Long-term Compliance Audit

Civil Number 99-5970(MLC)

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

United States Department of Justice  
Civil Rights Division

State of New Jersey

Submitted by:

Public Management Resources  
San Antonio, Texas  
and  
Lite, DePalma, Greenberg and Rivas  
Newark, New Jersey

January 17, 2003

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## Executive Summary

This report is the seventh to assess the levels of compliance of the State of New Jersey and the New Jersey State Police with the requirements of a consent decree agreed to in 1999 by the State of New Jersey and the United States Department Justice. The State has been working to gain compliance for more than three years, with mixed results. Progress continues to be made; however, some areas of concern remain. Six processes have characterized the State's progress toward compliance:

1. Continued change at command levels of the New Jersey State Police and at the Office of State Police Affairs, the entity created by the State to oversee compliance with the consent decree;
2. Qualified progress in improving on-road performance of State Police personnel and State Police supervisors relating to traffic stop activities;
3. Qualified progress in building supervisory systems to improve trooper performance;
4. Qualified progress in bringing the Management Awareness and Police Performance System (MAPPS) on-line throughout the New Jersey State Police;
5. Difficulty organizing and staffing the training function at the New Jersey State Police training academy;
6. Continued strong performance in investigation and resolution of citizens' complaints by the Office of Professional Standards.

Five of these six processes are both inter-related and directly controlling of the sixth: changes in leadership, supervision, training, MAPPS and OPS effectiveness all affect on-road performance.

### 1. Changes at the Top

Since the advent of the consent decree, the New Jersey State Police have been led by a succession of two superintendents and an acting superintendent pending selection of an individual to fill the existing vacancy.

The changes in leadership positions have been exacerbated, in the opinion of the monitors, by the failure of the State to establish, early on, a strategic plan for implementation of the requirements of the consent decree, and integration of those requirements into the operational fabric of the New Jersey State Police. As a result, as change occurs at the top, momentum is lost. Without a clear vision about the role of procedures and practices required by the decree in the daily life of the New Jersey State Police, effective implementation of the requirements has proven difficult. The consent decree, obviously, is resource-intensive, and decisions about resource allocation lie at the heart of executive-level leadership. Strong, well-crafted strategic plans are essential in turbulent environments. The monitors have recommended to the State that development of a vision for the "fit" of consent decree-mandated practices and implementation and institutionalization of the modalities required by the decree should be a high priority of executive-level leadership of both the New Jersey State Police and the Office of State Police Affairs.

As with the New Jersey State Police, the Office of State Police Affairs, the agency created by the State to oversee compliance with the consent decree, has had three directors in the past three years (albeit one acting in a temporary capacity). Despite these changes, OSPA has made continual progress in its role as a "partner in reform" with the state police. Since the last reporting period, OSPA has augmented its legal staff, providing OSPA attorneys, on a rotating basis, to the Office of Professional Standards within the New Jersey State Police. OSPA has designated an attorney for each state police troop to provide legal advice and consent decree guidance. OSPA has assigned a full-time representative to serve as liaison with the monitors, the state police training academy, and the state police superintendent's office. In addition, OSPA has created a team of state police officers to conduct audits and documentation reviews at each state police road station. These audit teams serve both as a quality control mechanism and as a mentoring presence for state police supervisors regarding supervisory review of on-road activities. OSPA has also fostered improved training modalities for supervisory personnel. Finally, OSPA has hired a full-time quantitative methodologist whose sole responsibility is ensuring the implementation of MAPPS. Despite the leadership changes at OSPA, progress toward compliance continues to be fostered by OSPA.

## 2. Progress on the Road

Since the earliest monitoring reports, the members of the monitoring team have noted progress in changing the way in which the New Jersey State Police delivers law enforcement practices on the road. Early on, the monitors found small numbers of, but nonetheless serious, instances of state police personnel apparently deliberately circumventing the requirements of policies and procedures supporting the consent decree. These practices were met, almost immediately, by the state police with OPS investigations and appropriate discipline. Other violations relating to policies and procedures supporting the decree were dealt with, appropriately, by counseling, retraining and other non-punitive measures. As a result, the numbers of serious violations of consent decree requirements (relating to consent requests, deployment of drug detection canines, use of force, and non-consensual searches) observed by the monitors have reduced steadily over the past three years. During the seventh reporting period, in monitoring team reviews of law enforcement practices at ten New Jersey State Police road stations in Troops B and D, the monitors found one problematic non-consensual search, one problematic consent search request, and no problematic drug canine deployments or uses of force. During this reporting period, as in past reports, none of the law enforcement actions monitored by the monitoring team included any indication that the law enforcement actions engaged in were undertaken based on a consideration of race or ethnicity.

During this reporting period, the monitors conducted intensive reviews (including comprehensive reviews of police reports and video tapes) of 294 state police interactions this reporting period. The monitoring team found no deliberate violations of decree provisions by state police personnel during the seventh reporting period. Instead, the problematic searches appeared to indicate a lack of understanding of decree requirements and state police procedures.

Despite this obvious progress, however, the State has not achieved compliance for its field operational components of the consent decree. During this reporting period, the monitors noted one problematic consent search request and search, one problematic non-consensual search, and twelve instances in which troopers articulated insufficient reason



to support a frisk of drivers or passengers in vehicles stopped by the New Jersey State Police. Failures in specific aspects of the decree, for example failure to notify the communications center prior to conducting a non-consensual search, failure to activate in-car cameras or audio recording equipment, and failure to accurately report police activities, continue to be problematic. In addition, while the frequency and quality of supervision has improved over the years, the monitoring team found frequent instances in which errors were made in the field, but not noted during the supervisory review process. Thus, while performance has improved in field operations, compared to what the monitors were observing early on in the monitoring process, work remains to be done in order for the State to come into compliance with the requirements of the decree in this area.

Members of the monitoring team have come to the conclusion that the state police and OSPA—which has in place detailed, comprehensive and productive field audit systems, including mentoring components to improve performance—have reached the limits of the non-automated performance management system. The monitoring team has noted several instances in which an automated MAPPS system is critical in further improving the performance of the field operations component. These include managing the supervisory review process, tracking and reviewing “error history” for individual troopers when problems are noted with the trooper’s performance, identifying division-wide training initiatives needed to correct in-field performance problems, identifying supervisory deficiencies and tracking supervisor “error histories,” and assessing division, troop and station training requirements.

### 3. Building Supervisory Systems

The monitors note in this report that the New Jersey State Police have made important progress in developing supervisory systems designed to improve trooper performance on the road. A structured “check-box” form has been developed to facilitate supervisory review of Motor Vehicle Recordings. The position of “road sergeant” has been created, placing a new level of supervision on the road, where consent decree-related activities take place. State police supervisors now review all consent search request video recordings, all use of force video recordings, and all video recordings of canine deployments.

Supervisory personnel have begun to note and correct problematic trooper behavior at a greater rate than in the past, and the quality of these reviews has improved relative to some aspects of the decree. The monitors continue to note problems with supervisors missing critical aspects of decree compliance in their MVR reviews. This period, the monitors noted one problematic consent request and search, one problematic non-consensual search, and twelve problematic frisks conducted by New Jersey State Police personnel. None of these activities were noted by supervisory personnel in their review of MVR recordings and/or police reports.

Supervision is **the critical factor** in making change within the New Jersey State Police. Adequate and, the monitors would argue, excellent training for supervisory personnel is an essential first step to achieving the goals of the consent decree. The cadre of road sergeants, in the opinion of the monitors, must be expert in the decree. More importantly, however, they must be expert in field contacts, detentions, detention interrogations, arrest, frisks, search, seizure, and use of force. In addition, they must be expert in the concepts of reasonable suspicion, articulable suspicion, and probable cause. Obviously, training is a critical element for these personnel—and any other personnel charged with review of motor vehicle stop activity. This report notes continuing deficiencies in the training process relative to supervision.

#### 4. Delays in Implementing MAPPS

Substantial progress has been made by the State in bringing a test-version of several of the subsystems of MAPPS to two road stations during this reporting period. The monitors have reviewed the MAPPS systems, and find that they include 340 programmed functions that allow users to access a wide variety of performance-related information. The State has made more progress with MAPPS in the past six months than the monitors have seen in the previous two years; however, a substantial amount of work remains to be done to bring the system into its final form and to train supervisors and managers in its use.

The monitors estimate that we are a year away from the date when MAPPS will be used division-wide as a supervisory and

management tool to improve state police performance on the road. The monitors have often encouraged the State to "get it right" rather than "getting it early," and this drive to "get it right" is lauded by the monitors. In the interim, however, it is the opinion of the monitors that the State has reached the limits of its manual system of tracking trooper and supervisory performance.

As noted in Section 2 above, the limits of the manual system of tracking trooper and supervisory performance appear not to meet the needs of the organization or the requirements of the decree to the level that they facilitate compliance with the consent decree. The state police have managed to reduce serious, constitutionally based errors (with one problematic consent request/search, one problematic non-consensual search, and twelve problematic frisk reports this period). However, other errors (mostly consistent with requirements to notify communications centers prior to non-consensual searches, activation of recording equipment, and report writing) continue to plague the compliance process.

Development of the necessary quality control appears to require the capabilities planned for MAPPS: automated tracking of management and supervisory review process, tracking and reviewing "error history" for individual troopers when problems are noted with the trooper's performance, identifying division-wide training initiatives needed to correct in-field performance problems, identifying supervisory deficiencies and tracking supervisor "error histories," and assessing division, troop and station training requirements.

As importantly, these processes must integrate with the training process in order to remedy problematic behavior. Full implementation of MAPPS, it appears, may be essential to enable the State to monitor the implementation of training practices by troopers and supervisors in the field, a central requirement of the consent decree. Obviously, a functioning MAPPS is central to meeting the demands placed on the New Jersey State Police by the consent decree. The monitors have advised the parties of their detailed assessment of the current MAPPS plan, and the state is continuing to refine MAPPS based, in part, on those comments.

##### 5. Issues in Organizing and Staffing the Training Academy

The monitors have continually noted problematic issues with the training process at the New Jersey State Police, often noting that these issues appear to be related to understaffing. For the past two years, the monitors have expressed concern about the organization and staffing of the state police training academy. Training is critical if troopers are to implement adequately the requirements of the consent decree, if supervisors are to supervise adequately trooper performance, and its managers are to provide and organize the resources needed to attain and retain compliance. The monitors contend, again, that the academy is inadequately staffed and not well organized to meet the training challenges presented by the consent decree.

The monitors have outlined a detailed training development cycle for the State—one used by most training processes to develop on-target training. The academy has begun implementing this development cycle, and, in the monitors' opinion, the quality of training has improved.

During the seventh reporting period, the state received the report of an external consultant contracted to conduct a staffing and organizational review of the academy. The monitors have reviewed that report, and have noted substantial deficiencies in the document. The monitors have shared with the parties their observed deficiencies regarding the staffing report. For the most part, it appears that the State concurs with many of the monitors' observations.

Again, the State has taken some preliminary steps to address these issues; however, the monitors estimate that the academy is 8-12 months from being effectively staffed with well-trained personnel organized to meet adequately the training demands placed on the organization by the consent decree.

## 6. Performance of OPS

Performance of OPS, overall, is strong. Of the 196 investigations opened by OPS this reporting period, 191 were closed within 120 days. The quality of those investigations was strong, again, leading the monitors to note that OPS continues to be a "bright spot" in the

State's compliance efforts, despite five returned cases this period.

The Office of Professional Standards cleared 472 investigations this reporting period, and opened 196 new investigations, thus reducing the backlog of cases by 276 cases. The monitors reviewed 261 of the 472 closed cases, focusing mostly on allegations of racial profiling, illegal search, excessive force, and other critical consent decree-related issues. For the first time, the monitors returned cases to OPS for additional work. Of the 261 cases reviewed, the monitors found problems with five cases, and returned them to the State for additional work. Cases were returned for failing to adequately investigate collateral misconduct; failure to canvass for, locate and interview potential witnesses; and submission of incomplete investigative reports. An error rate of five of 261 cases, however, indicates that more than 98 percent of the cases reviewed this period met the monitors' requirements.

#### Summary

The State has made progress this reporting period. Phase I compliance exceeds 95 percent. Phase II compliance remains at the 70 percent level. Field operations practices continue to improve, although still not to levels resulting in compliance. MAPPS is available as a test system, and is undergoing revision so that it can be fielded division-wide. The State is beginning to get a handle on the training development cycle, and the quality of training is improving. Internal investigations remain strong. Much work remains to be done, however, before the State achieves substantial compliance with the decree.

## Independent Monitors' Seventh Report Period Ending October 30, 2002

### 1 Introduction

This document represents the seventh of an anticipated twelve "Independent Monitors' Reports" (IMRs) assessing the levels of compliance of the State of New Jersey (the State) with the requirements of a consent decree (decree) entered into between the State and the United States Department of Justice on December 30, 1999. This document reflects the findings of the monitoring team regarding compliance monitoring for the period May 1, 2002, through October 30, 2002. In order to complete the report in a timely fashion, monitoring activities were accomplished during the weeks of October 22, 2002 through November 15, 2002.

The report is organized into three sections, identified below:

- Introduction;
- Compliance Assessment; and
- Summary.

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

#### 1.1 Overall Status Assessment

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

#### 1.2 Format for Compliance Assessment

The IMR is organized to be congruent with the structure of the consent decree. It reports on the State's compliance using the individual requirements of the decree. For example, the first section, the compliance assessment, deals with the requirements, in paragraph 26 of the decree, relating to a specific prohibition against using "to any degree the race or national or ethnic origin of civilian drivers

or passengers in deciding which vehicles to subject to any motor vehicle stop” (Decree at para 26). The following components of the decree are treated similarly. Compliance is classified as “Phase I,” and “Phase II,” with the definitions specified in Section 1.4, below.

### 1.3 Compliance Assessment Processes

#### 1.3.1 Structure of the Task Assessment Process

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

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

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

The performance of the New Jersey State Police on each task outlined in the consent decree was assessed by the monitoring team during the period ending October 30, 2002. The seventh independent monitors’ report was submitted to the court during the week of January 13, 2003.

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







- Official New Jersey State Police documents prepared in the normal course of business<sup>1</sup>; and/or
- Electronic documents prepared by the State or components of state government during the normal course of business.

#### 1.3.2 Operational Definition of Compliance

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

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

Compliance levels for this monitoring process are reported both through a narrative description and a graphic description. The narrative describes the nature of the task requirement being assessed, a description of the methodology used to assess the task, and a statement of compliance status. It is critical to note, however, that a finding of non-compliance does not mean the State is engaging in inappropriate behavior. It simply means the State has not yet completed its efforts toward compliance. The graphic description depicts compliance status using a standard bar graph to indicate status in each compliance area. Each graphic consists of four segments, depicted below. The first segment depicts each of the anticipated 12 reporting periods (four quarterly reports for the first year and two reports for each following year). The second segment depicts the time allowed by the consent decree to complete the particular task. This time period is represented by the solid, dark blue bar . The third and fourth segments represent the time required to complete the task, and to achieve Phase I or Phase II compliance. A vertically patterned light blue bar  indicates that compliance was achieved in the time allotted. A diagonally patterned yellow bar  indicates that compliance was achieved at a later date than originally allocated in the decree, but that the delay, in the opinion of the monitors, does not seriously affect the State's eventual compliance with the decree. A horizontally patterned orange bar  indicates that compliance was achieved at a later date than originally allocated in the decree, and the delay *may* seriously affect the State's eventual compliance with the decree. A solid red bar  indicates expired time which is more than that allowed by the decree, and which, in the judgment of the monitors *does* seriously threaten the State's successful compliance with the decree. A task that was not, or could not be monitored is represented by a hollow bar .

### 1.3.3 Standards for "Compliance"



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

### 1.3.4 Compliance with a Hypothetical Task

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

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

### 1.4 Flow of the Monitoring Process

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

## 2 Assessment of Compliance

### 2.1 Methodology

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

The following sections of the Seventh Monitors' Report contain a detailed assessment of the degree to which the State has complied with the 97 tasks to which it agreed on December 30, 1999. The reporting period for this report deals with actions of the State to comply with the decree between May 30, 2002 and November 30, 2002.

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

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

Task 26 stipulates that:

**26. Except in the "suspect-specific" ("be on the lookout" or "BOLO") situation described below, state troopers shall continue to be prohibited from considering in any fashion and to any degree the race or national or ethnic origin of civilian drivers or passengers in deciding which vehicles to subject to any motor vehicle stop and in deciding upon the scope or substance of any enforcement action or procedure in connection with or during the course of a motor vehicle stop. Where state troopers are seeking to detain, apprehend, or otherwise be on the lookout for one or more specific suspects who have been identified or described in part by race or national or ethnic origin, state troopers may rely in part on race or national or ethnic origin in determining whether reasonable suspicion exists that a given individual is the person being sought.**

Methodology

Numerous changes in New Jersey State Police policies regarding this task were made in the fourth reporting period, and were fully implemented in the sixth reporting period. New Jersey State Police policies F-19 (MVR Equipment), F-7 (Radio Procedures), F-31 (Consent to Search) and F-55 (Patrol Procedures) were revised in October, 2001 to reflect changes in operational practices designed to better assess New Jersey State Police patrol actions relative to prohibiting race- or ethnicity-based decision making. For example, supervisory personnel now review motor vehicle stop recordings (MVSRs) of all motor vehicle stops involving consent search requests. Supervisors also are required to routinely monitor and review, using a new, highly structured "checklist" a larger number of "routine" MVSRs, and now are required to review all consent searches, uses of force, and

canine deployments engaged in by their personnel. In addition, law enforcement personnel who have exhibited problematic on-road behavior in the past are selected for enhanced monitoring through review of a larger number of MVSRs on a quarterly (and in some cases even daily) basis. The position of "road sergeant" has been implemented, thus increasing substantially the level of direct supervision of road activities. Supervisors are now required to approve all consent searches, and, where practicable, to be present when consent searches are conducted. Training in these new procedures and policies has also been provided to all supervisory personnel and troopers involved in law enforcement activities. During this reporting period, additional revisions were made to SOPs F-7, F-31 and F-55. These changes were designed to improve performance on call-ins prior to search and consent search.

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

During the seventh site visit, members of the monitoring team conducted structured on-site reviews of the operations of ten New Jersey State Police Road Stations. These reviews were conducted of operations reported during the dates of May 1, 2002 through August, 2002, inclusive (the last month for which electronic data were available). The team conducted these reviews of the Hope, Sussex, Netcong, Totawa, Perryville, Somerville and Washington stations in Troop B, and the Moorestown, Cranbury and Newark stations in Troop D. As part of this review, members of the monitoring team collected and or reviewed course-of-business data on 294 New Jersey State Police motor vehicle stop incidents. In addition, the team reviewed video recordings of 210 motor vehicle stop incidents involving law enforcement procedures stipulated in the decree. Supporting documentation was reviewed for each of the motor vehicle stops assessed by the monitoring team. The following paragraphs describe the monitoring team's methodology for data collection and analysis of the structured site visits. These descriptions apply to the assessment of compliance of various tasks required by the decree, and are critically important in the assessment of tasks 26 through 36.

#### Data Requests

Prior to its site visits in October and November, 2002, the monitoring team requested of the State electronic and hard-copy data regarding state police operations. These data requests included the following electronic-format data, in addition to other non-electronic data requests:

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

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

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

#### Motor Vehicle Stops

Based on the data provided by the State, the monitoring team selected specific law enforcement activities for further assessment and analysis. The methodology for selecting these law enforcement activities consisted of identifying all post-stop law enforcement procedures of interest to the decree, i.e., request for permission to search; conduct of a consensual or non-consensual

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

Type of Activity	Report Reviews	Tape Reviews
Selected MVS Incidents	294	210
MVS Involving Consent Search	20	10
MVS Involving Canine Deployment	14	5
MVS Involving Use of Force	14	6
Probable Cause Searches	15	9
Plain View Searches	9	7

search; ordering occupants out of a vehicle; frisks of vehicle occupants; deployment of a drug-detection canine; seizure of contraband; arrest of the occupants of the vehicle; or use of deadly, physical, mechanical or chemical force, for each road station assessed. These events were identified using the CAD records provided by the State.

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

- Events which were reviewed using reported data, i.e., motor vehicle stops which resulted in post-stop activities of interest to the decree, which were reviewed by comparing the electronic data to data included in motor vehicle stop reports and supporting documents (patrol logs, summonses, consent to search reports, etc.), referred to as Type I data;
- Events that were reviewed using both reported data **and** by reviewing recordings of the motor vehicle stop in question, referred to as Type II data; and
- Events that were reviewed simply by viewing video recordings events following a selected motor vehicle stop incident, using a procedure developed to ensure that all events, which should be reported by MVSR, are actually reported, referred to as Type III data.

These records indicated ten events from among the stations selected that resulted in a consent search, and ten events from other stations resulting in consent searches, for a total of 20 consent search requests.<sup>2</sup> All consent

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<sup>2</sup> One consent request was declined by a driver during the reporting period, the same number as for the sixth reporting period.

searches were assessed by reviewing New Jersey State Police reports documenting the consent and execution of the search. In addition, all ten consent searches occurring within selected stations were subjected to both documentation and video recording review by the monitoring team. Similarly, the New Jersey State Police deployed canine units 14 times during the reporting period. Reports from all 14 of these events were reviewed by the monitoring team, and videos from five of those events were also reviewed by the monitoring team. Force reportedly was used by New Jersey State Police personnel in 14 motor vehicle stop incidents during the reporting period, and reports from each of these incidents were reviewed by the monitoring team. Video tapes of six of the use of force events were reviewed by members of the monitoring team during the seventh site visit.

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

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

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

#### Type I Event Reviews

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

State Police, and clarifications were requested and received in instances in which there was doubt about the status of an event or supporting documentation.

### Type II Event Review

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

### Type III Event Review

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

**Table Two: Distribution of Monitoring Events**

Station	Type I Reviews	Type II Reviews	Type III Reviews
1 Sussex	31	13	0
2 Totowa	55	29	0
3 Netcong	43	36	0
4 Hope	24	24	0
5 Washington	8	8	0
6 Perryville	6	6	0
7 Sommerville	26	13	0
8 Cranbury	37	36	0
9 Moorestown	15	13	0
10 Newark	16	16	0
Other	33	16	0
	294	210	0

## Status

The monitoring team's review of New Jersey State Police SOPs indicates that the agency is in Phase I compliance with Task 26: effective policies have been promulgated and distributed to state police personnel, as reflected in paragraphs III.B.1, IV.C.1, F55, "Traffic Stop Procedures: Motor Vehicle Searches and Seizures, Inventory and Impoundment." The topic is also covered in SOP F3, "State Police Patrol Procedures," at page two, III.A.5 and at page four, III.D.2 and 3. In addition, SOP F31, "Consent Searches," at page two, II.C, also covers specific prohibitions from using race or ethnicity in deciding to effect motor vehicle stops.

In-service training was provided to all members of the state police on revisions to the specific provisions of the SOPs and this provision of consent decree between April through August, 2001. Training for supervisors on the policy was completed during the fifth reporting period. Training for supervisors regarding how to monitor potential race-ethnicity based motor vehicle stop decisions was completed by the State in November, 2001. Members of the monitoring team monitored this training, and found it to be of excellent quality, consistent with the quality of other training programs produced by the New Jersey State Police. Development of an automated support system for supervisors, designed to assist in the process of supervision of this task, is pending.

None of the law enforcement actions monitored by the monitoring team included any specific indication that the law enforcement actions undertaken were undertaken based on a consideration of race or ethnicity. More comprehensive mechanisms to monitor this task will not be available until the proposed MAPPS system is completed. A detailed discussion of the elements of the monitoring team's assessment of this task is included in the sections that follow.

Further, members of the monitoring team continue to note a clear and positive change in the operational focus of the New Jersey State Police during this reporting period. With a few exceptions, the motor vehicle stops conducted by the New Jersey State Police and reviewed by the monitoring team continue to be focused on the "core mission" of the agency: public safety on the roadways. The monitors continue to review state police activity for processes that indicate that relatively minor infractions serve as the only precursory violation resulting in requests for consent searches, requests to exit the vehicle, frisks, or other law enforcement procedures. The vast majority of all searches and frisks conducted by members of the state police are "non-discretionary," e.g., searches incidental to arrest and frisks conducted under "duty to transport" situations. However, members of the monitoring team did note at least one instance (out of 210 Type II reviews) of troopers protracting a stop apparently to obtain reason to search vehicles. The monitors commend the State for improving the quality and tenor of



the “average” traffic stop observed by the monitoring team during this reporting period.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

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

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

Task 27 stipulates that:

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

Methodology

Numerous changes in New Jersey State Police policies regarding this task were made in the fourth reporting period, and were fully implemented in the sixth reporting period. New Jersey State Police policies F-19 (MVR Equipment), F-7 (Radio Procedures), F-31 (Consent to Search) and F-55 (Patrol Procedures) were revised in October, 2001 to reflect changes in operational practices designed to better assess New Jersey State Police patrol actions relative to prohibiting race- or ethnicity-based decision making. For example, supervisory personnel now review motor vehicle stop recordings (MVSRs) of all motor vehicle stops involving consent search requests. Supervisors also are required to routinely monitor and review, using a new, highly structured “checklist” a larger number of “routine”

MVSRs, and now are required to review all consent searches, uses of force, and canine deployments engaged in by their personnel. In addition, law enforcement personnel who have exhibited problematic on-road behavior in the past are selected for enhanced monitoring through review of a larger number of MVSRs on a quarterly (and in some cases even daily) basis. The position of "road sergeant" has been implemented, thus increasing substantially the level of direct supervision of road activities. Supervisors are now required to approve all consent searches, and, where practicable, to be present when consent searches are conducted. Training in these new procedures and policies has also been provided to all supervisory personnel and troopers involved in law enforcement activities. During this reporting period, additional revisions were made to SOPs F-7, F-31 and F-55. These changes were designed to improve performance on call-ins prior to search and consent search.

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

Problems continue to surface in this new system of supervision, however. Members of the monitoring team have noted that field supervisors were present in only 12.6 percent of all monitored activity this reporting period, up from three percent last period. While there were some exceptional success stories for supervision this reporting period, supervisory review of video tapes of motor vehicle stops has failed to note some rather significant errors on the part of troopers in the completion of their motor vehicle stop reports.

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

## Status

A review of the polices developed, the training provided to date and the pending MAPPS process indicates that the agency is in Phase I compliance with the requirements of this task. The State continues to review, independently of the monitors, Motor Vehicle Stop Reports (MVSRs) submitted by Division personnel, and continues to note deficiencies in operationalization of the training provided.

Retraining to address these deficiencies has been delivered. Training in use of the MAPPS is currently in the “Beta” stage, i.e., a select group of supervisory personnel at two state police road stations are being trained in the MAPPS test system. This group will constitute a focus group which will be used to make final modifications to the MAPPS system. Full compliance with this task cannot be monitored until the MAPPS is brought on-line. For example, the following issues were noted with 33 MVSRs (from among the 294 reviewed this reporting period), which were, apparently, not noted by supervisory personnel reviewing the motor vehicle stops.

- Twelve troopers articulated insufficient reason to suspect drivers or passengers were armed in their MVSRs detailing frisks of drivers or passengers of vehicles.
- One trooper conducted what appeared to be a protracted traffic stop which appeared to go beyond what was essential to enforce the infractions observed and which served as the basis for the stop, including highly focused questions about itinerary, reasons for the itinerary, locations of any stops made during the trip—all for failure to maintain lane.
- One group of troopers conducted a vehicle search incidental to arrest that appears to have gone beyond what was allowed by state police procedures, including a search of the engine compartment.
- Ten troopers submitted MVSRs with one or more substantial errors in the reports, which conflicted with events observed on the in-car video tapes reviewed by the monitoring team. Some of these errors appear minor, for example failing to check the consent request box on the MVSR; however, such a failure eliminates a critical data collection point for the state police.
- Nine troopers violated New Jersey State Police reporting or in-field practice procedures (ranging from failure to call-in to the communications center prior to conducting a search, failure to activate the in-car MVR when required, improper Miranda warnings, etc.), and supervisors reviewing these reports and MVRs failed to take note of the procedural errors.

Not all in-field errors were missed by supervisory personnel, however. In fact, the monitoring team has noted a dramatic increase in supervisory review processes, and resulting performance notices—both positive and negative—based on those reviews. Several of these reviews indicated to the monitoring team that the New Jersey State Police are beginning to note many procedural errors prior to the monitoring team’s noting them. A positive step indeed.

It appears that 33 of the 294 stop reports receiving a Type I or Type II review contained some type of reporting error that should have been noted by supervisory review. None of these 33 resulted in supervisory notice, constituting a "failure rate" of 33 of 294, or 11.2 percent<sup>3</sup>. The State had a smaller error rate during the fifth and sixth reporting periods, but these error rates still exceeded five percent. As a result, the State is found to be out of compliance with Task 27 for this reporting period.

Compliance

Phase I: In Compliance  
 Phase II: Not In Compliance

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

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

Task 28 stipulates:

**28. In order to help ensure that state troopers use their authority to conduct consensual motor vehicle searches in a nondiscriminatory manner, the State Police shall continue to require: that state troopers may request consent to search a motor vehicle only where troopers can articulate a reasonable suspicion that a search would reveal evidence of a crime; that every consent search of a vehicle be based on written consent of the driver or other person authorized to give consent which precedes the search; that the scope of a consent search be limited to the scope of the consent that is given by the driver or other person authorized to give consent; that the driver or other person authorized to give consent has the right to be present during a consent search at a location consistent with the safety of both the state trooper and the motor vehicle occupants, which right can only be waived after the driver or other person authorized to give consent is advised of such right; that**

<sup>3</sup> The monitors have advised the parties that, in an effort to encourage proactive supervisory review, if a supervisory review notes and remedies a problematic procedure, prior to the time the monitors notify the state of the stop incidents they will monitor for the site visit, the event will be noted in the monitors' report, but not counted as a "error."

**the driver or other person authorized to give consent who has granted written consent may orally withdraw that consent at any time during the search without giving a reason; and that state troopers immediately must stop a consent search of a vehicle if and when consent is withdrawn (except that a search may continue if permitted on some non-consensual basis).**

## Methodology

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

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

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

## Status

The monitoring team reviewed a total of 21 law enforcement actions involving consent requests conducted during the seventh report's operational dates. One of these 21 involved a consent search request that was declined, and that resulted in a discontinued process upon the driver's declination. Coincidentally, this is the same number of "declined" consent requests noted during the last reporting period. A description of consent request events, by race of driver, is presented in Table Three below. Tables Three through Five depict data from the 294 incidents reviewed this reporting period by the monitoring team. "Number of Drivers" depicts the number of drivers, by race, in the 294 incidents. The number in parentheses in this column depicts the *percentage* of drivers in the total sample, by race. Thus, for Tables Three through Five, there were 132 white drivers of the total of 294 drivers involved in motor vehicle stops reviewed by the monitoring team this period, constituting 44.9 percent of all drivers in the sample. The next column, "Number" depicts the number of law enforcement procedures observed in the motor vehicle stops reviewed. For example, Table Three depicts seven consent requests of white drivers, seven requests of black drivers, four requests of Hispanic drivers, and three requests of drivers of "other" race/ethnicity. The last column, "Percent" depicts the percent of drivers of a given race or ethnicity, which were, subjected to a given law enforcement procedures. This column will not total to 100 percent. The reviews depicted in this table constituted documentation and/or video tape reviews.

Table Three—Consent Request Activity

<b>Race/Ethnicity</b>	<b>Number of Drivers</b>	<b>Number of Requests for Search<sup>4</sup></b>	<b>Percent Consent Request by Race/Ethnicity</b>
White	132(44.9%)	7	5.3
Black	86(29.3%)	7 <sup>5</sup>	8.1
Hispanic	64(21.8%)	4	6.3
Other	12(4.1%)	3	25.0
Total	294	21	na

<sup>4</sup> One consent search request was refused.

<sup>5</sup> One black male driver refused consent.

All but one of the 20 consent searches were completed in conformance with the requirements of the consent decree. Supervisors were present in 50 percent of all consent searches this reporting period. The problematic consent search was developed from a stop for failure to maintain lane, and resulted in a consent request based on "nervousness," "failure to continue to answer questions," and "conflicting statements regarding itinerary."

An error rate of one of 20 consent searches constitutes five percent, falling within the >94 percent compliance rate agreed to by the parties as the standard for critical tasks outlined by the consent decree. The error rate for last quarter was ten percent, and the State was placed under warning for this task.

**Compliance**

Phase I: In Compliance  
 Phase II: In Compliance

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

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

Task 29a stipulates that:

**29. Motor Vehicle Stop Data**

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

5. license number/state of stopped vehicle;
- 5A. description of stopped vehicle;
6. the gender and race/ethnicity of the driver, and the driver's date of birth if known;
7. the gender and race/ethnicity of any passenger who was requested to exit the vehicle, frisked, searched, requested to consent to a vehicle search, or arrested;
8. whether the driver was issued a summons or warning and the category of violation (i.e., moving violation or non-moving violation);
- 8A. specific violations cited or warned;
9. the reason for the stop (i.e., moving violation or non-moving violation, other [probable cause/BOLO]);
10. whether the vehicle occupant(s) were requested to exit the vehicle;
11. whether the vehicle occupant(s) were frisked;
12. whether consent to search the vehicle was requested and whether consent was granted;
- 12A. the basis for requesting consent to search the vehicle;
13. whether a drug-detection canine was deployed and whether an alert occurred;
- 13A. a description of the circumstances that prompted the deployment of a drug-detection canine;
14. whether a non-consensual search of the vehicle was conducted;
- 14A. the circumstances that prompted a non-consensual search of the vehicle;
15. whether any contraband or other property was seized;
- 15A. a description of the type and quantity of any contraband or other property seized;
16. whether the vehicle occupant(s) were arrested, and if so, the specific charges;
17. whether the vehicle occupant(s) were subjected to deadly, physical, mechanical or chemical force;
- 17A. a description of the circumstances that prompted the use of force; and a description of any injuries to state troopers and vehicle occupants as a result of the use of force;
18. the trooper's race and gender; and
19. the trooper's specific assignment at the time of the stop (on duty only) including squad.

## Methodology

Numerous changes in New Jersey State Police policies regarding this task were made in the fourth reporting period, and were fully implemented in the sixth reporting period. New Jersey State Police policies F-19 (MVR Equipment), F-7 (Radio Procedures), F-31 (Consent to Search) and F-55 (Patrol Procedures) were



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

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

## Status

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

Use of the Motor Vehicle Stop Report was monitored for 294 incidents involving a post-stop law enforcement activity of interest to the decree. Use of force, non-consensual searches and deployment of canines received special attention from the monitoring team. The results of these reviews are depicted in Tables Four, Five and Six, below.

## Use of Force

New Jersey State Police personnel reported using force 14 times during the reporting period. The use of force rate for white drivers in the sample was 3.8 percent. For black drivers in the sample, the use of force rate was 5.8 percent, and for Hispanic drivers in the sample, 6.3 percent. Members of the monitoring team reviewed reports of all use of force by personnel from the New Jersey State Police. All of the reports were included as part of the narrative of MVSRs. Members of the monitoring team found no problems with the reporting process.<sup>6</sup> All use of force narratives outlined specific reasons why force was necessary and identified the nature of the force used. Members of the monitoring team also reviewed six of 14 video tapes of a use of force incidents, and found no use of force events that were not accurately reflected in the use of force narrative.

Table Four depicts data from the 294 incidents reviewed this reporting period by the monitoring team. "Number of Drivers" depicts the number of drivers, by race, in the 294 incidents. The number in parentheses in this column depicts the *percentage* of drivers in the total sample, by race. Thus, for Tables Three through Five, there were 132 white drivers of the total of 294 drivers involved in motor vehicle stops reviewed by the monitoring team this period, constituting 44.9 percent of all drivers in the sample. The next column, "Number" depicts the number of law enforcement procedures observed in the motor vehicle stops reviewed. For example, Table Four depicts five uses of force against white drivers (or occupants), five uses of force against black drivers (or occupants), four uses of force against Hispanic drivers, and no uses against force of drivers of "other" race/ethnicity. The last column, "Percent" depicts the percent of drivers of a given race or ethnicity which were subjected to a given law enforcement procedure. This column will not total to 100 percent. The reviews depicted in this table constituted documentation and/or video tape reviews.

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<sup>6</sup> Members of the monitoring team assessed use of force reports and incidents for reasonable application of force and compliance with elements 17 and 17a of this requirement of the decree.

Table Four: Use of Force Activity

Race/Ethnicity of Drivers	Number of Drivers	Incidents of Use of Force	Percent by Race/Ethnicity
White	132(44.9%)	5	3.8
Black	86(29.3%)	5	5.8
Hispanic	64(21.8%)	4	6.3
Other	12(4.1%)	0	0
Total	294	14	na

### Canine Deployments

The New Jersey State Police deployed canine units 14 times during the reporting period. Members of the monitoring team reviewed all available documentation for each canine deployment, and reviewed video tapes of five canine deployments. No reporting problems were noted in any of the 14 deployments, and the five video taped incidents reviewed indicated that the written reports accurately reflected actual events. All canine deployments were professionally executed and were executed for legitimate cause.

Table Five depicts data from the 294 incidents reviewed this reporting period by the monitoring team. "Number of Drivers" depicts the number of drivers, by race, in the 294 incidents. The number in parentheses in this column depicts the *percentage* of drivers in the total sample, by race. Thus, for Tables Three through Five, there were 132 white drivers of the total of 294 drivers involved in motor vehicle stops reviewed by the monitoring team this period, constituting 44.9 percent of all drivers in the sample. The next column, "Number" depicts the number of law enforcement procedures observed in the motor vehicle stops reviewed. For example, Table Five depicts two canine deployments for white drivers, six canine deployments for black drivers, six canine deployments for Hispanic drivers, and no canine deployments for drivers of "other" race/ethnicity. The last column, "Percent" depicts the percent of drivers of a given race or ethnicity which were subjected to a given law enforcement procedure. This column will not total to 100 percent. The reviews depicted in this table constituted documentation and/or video tape reviews.

Table Five: Canine Deployments

Race/Ethnicity of Drivers	Number of Drivers	Canine Deployments	Percent by Race/Ethnicity
White	132(44.9%)	2	1.5
Black	86(29.3%)	6	7.0
Hispanic	64(21.8%)	6	9.4
Other	12(4.1%)	0	na
	294	14	na

### Non-Consensual Searches

Members of the New Jersey State Police conducted 157 non-consensual searches of vehicles among the 294 reports reviewed by the monitoring team during the reporting period. White drivers' vehicles constituted 48.4 percent of the "searched population," while black drivers' vehicles constituted 24.8 percent, and Hispanics drivers' vehicles constituted 23.6 percent of the searched vehicle population. Members of the monitoring team reviewed all 157 of these non-consensual searches of vehicles. Only one of these non-consensual searches was problematic.

Table Six depicts the results, by race/ethnicity and type of non-consensual vehicle search for the sample of 157 incidents reviewed by the monitoring team this reporting period. Table Six depicts the types of non-consensual searches, by race/ethnicity of the 157 incidents involving a non-consensual vehicle search. For example, 76 white drivers were subjected to non-consensual searches during this reporting period, with 64 white drivers searched incidental to arrest, three subjected to a search for "proof of ownership," four subjected to probable cause searches, etc. Numbers in parentheses reflect the percentage of type of search, by race. For example, the 64 searches incidental to arrest constitute 84.2 percent of all searches of white drivers. The reviews depicted in this table constituted documentation and/or video tape reviews.

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

Reason for Search	White # (%)	Black # (%)	Hispanic # (%)	Other # (%)	
Incidental to Arrest	64(84.2)	28(71.8)	29(78.4)	3(60.0)	124
Proof of Ownership	3(3.9)	1(2.5)	2(6.9)	1(20.0)	7
Probable Cause	4(5.2)	9(23.1)	3(8.1)	1(20.0)	17
Plain View	5(6.5)	1(2.5)	3(8.1)	0(0)	9
	76(100)	39(100)	37(100)	5(100)	157

Of the 157 MVSRs reviewed which entailed non-consensual searches of vehicles, members of the monitoring team found problems with one. These included one group of troopers conducting a vehicle search incidental to arrest that appears to have gone beyond what was allowed by state police procedures, including a search of the engine compartment. An error rate of one of 157 events equals 1.9 percent, within the acceptable level of error.

Table Seven depicts non-consensual search activity by race, for probable cause searches, and Table Eight depicts non-consensual search activity by race for plain view searches.

Table Seven: Probable Cause Searches, by Race/Ethnicity

Race/Ethnicity of Drivers	Number of Drivers	Probable Cause Searches	Percent by Race/Ethnicity
White	132(57.8%)	4	3.0
Black	86(29.3%)	9	10.4
Hispanic	64(11.4%)	3	4.7
Other	12(1.4%)	1	8.3
	294	17	

Table Eight: Plain View Searches, by Race/Ethnicity

Race/Ethnicity of Drivers	Number of Drivers	Plain View Searches	Percent by Race/Ethnicity
White	132(57.8%)	5	3.8
Black	86(29.3%)	1	1.2
Hispanic	64(11.4%)	3	4.7
Other	12(1.4%)	0	na
	294	9	

In all, members of the monitoring team noted 33 separate incidents in which procedural, reporting, or review issues were evident (see section 2.3, above, for a complete listing of these motor vehicle stop incidents). Several other errors were noted and corrected by retraining prior to the monitor’s noting the behavior. Thirty-three errors of 294 events yields an error rate of 11.2 percent, outside the allowable margin of error agreed to by the parties. This is the second consecutive quarter in which error rates have exceeded the allowable five percent.

Compliance

Phase I: In Compliance  
 Phase II: Not In Compliance

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

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

Task 29b stipulates that:

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

Methodology

Numerous changes in New Jersey State Police policies regarding this task were made in the fourth reporting period, and were fully implemented in the sixth

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

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

## Status

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

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

The reader should also note that the data collected in the traffic stop reporting process is among the most robust in the nation. The data analyzed for this reporting period included only those data generated by the electronic reporting process. Accuracy rates for these data, overall, exceeded 99 percent, well within the acceptable margin for error for this task. The earliest available electronic data in the State’s database, provided to the monitors, was September 2, 2000. In the opinion of the monitors, this qualifies as “expeditious” implementation.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

**2.5.2 Compliance with Task 29c: Forms to Support Execution of Tasks 31, 32 and 33**

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

Task 29c stipulates that:

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



## Methodology

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

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

## Status

Forms to support execution of tasks 31-33 have been developed and disseminated. The State currently has finalized automated data entry at road stations. Conformance to the policies supporting these forms is improving. The forms have been developed and disseminated and are being used by agency

personnel, and appear to have improved substantially the level of reporting and compliance with stipulated procedures.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

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

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

Task 29e stipulates that:

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

Methodology

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

Status

Implementation of revisions to protocols and/or forms has been held by the State, pending the approval of the monitors and the United States. No issues were noted relevant to this task for this reporting period.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

## 2.6 Compliance with Task 30: Communications Center Call-Ins

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

Task 30 stipulates that:

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

### Methodology

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

of road activities. Supervisors are now required to approve all consent searches, and, where practicable, to be present when consent searches are conducted. Training in these new procedures and policies has also been provided to all supervisory personnel and troopers involved in law enforcement activities. During this reporting period, additional revisions were made to SOPs F-7, F-31 and F-55. These changes were designed to improve performance on call-ins prior to search and consent search.

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

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

## Status

New Jersey State Police SOPs relating to the call-in of motor vehicle stops meet the requirements of the consent decree. In addition, training regarding motor vehicle stops is reasonably designed to affect the necessary behavior on the part of troopers conducting traffic stops. The recent revisions to New Jersey State Police SOPs noted above have formed the backbone for supervisory review and control of these processes, and when fully implemented, should further improve agency performance in these areas.

A sample of 76,523 electronic CAD records reflecting motor vehicle stops conducted by New Jersey State Police personnel, was reviewed by the monitoring team. These records reflected a 100 percent conformance to requirements for call-ins to the communications center established by the decree. In addition, 210 video recordings and documentation from 294 vehicle stops were reviewed this quarter, as were supporting documents, such as CAD abstracts, etc. Compliance with this task was assessed using both the electronic, video, and paper documentation. All data required by paragraphs 29 a, are recorded within the CADS records for vehicle stops, or within associated MVSRS.

## Compliance

Phase I: In Compliance  
 Phase II: In Compliance

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

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

Task 30a stipulates that:

- a. **The initial call shall be made at the beginning of the stop before the trooper approaches the stopped vehicle, unless the circumstances make prior notice unsafe or impractical, in which event the state trooper shall notify the communications center as soon as practicable. The State Police shall continue to require that, in calling in or otherwise notifying the communications center of a motor vehicle stop, state troopers shall provide the communications center with a description of the stopped vehicle and its occupants (including the number of occupants, their apparent race/ethnicity, and their apparent gender). Troopers also shall inform the communications center of the reason for the stop, namely, moving violation, non-moving violation, or other.**

#### Methodology

Numerous changes in New Jersey State Police policies regarding this task were made in the fourth reporting period, and were fully implemented in the sixth reporting period. New Jersey State Police policies F-19 (MVR Equipment), F-7 (Radio Procedures), F-31 (Consent to Search) and F-55 (Patrol Procedures) were revised in October, 2001 to reflect changes in operational practices designed to better assess New Jersey State Police patrol actions relative to prohibiting race- or ethnicity-based decision making. For example, supervisory personnel now review motor vehicle stop recordings (MVSRs) of all motor vehicle stops involving consent search requests. Supervisors also are required to routinely monitor and review, using a new, highly structured "checklist" a larger number of "routine" MVSRs, and now are required to review all consent searches, uses of force, and canine deployments engaged in by their personnel. In addition, law enforcement personnel who have exhibited problematic on-road behavior in the past are selected for enhanced monitoring through review of a larger number of MVSRs on a quarterly (and in some cases even daily) basis. The position of "road sergeant"

has been implemented, thus increasing substantially the level of direct supervision of road activities. Supervisors are now required to approve all consent searches, and, where practicable, to be present when consent searches are conducted. Training in these new procedures and policies has also been provided to all supervisory personnel and troopers involved in law enforcement activities. During this reporting period, additional revisions were made to SOPs F-7, F-31 and F-55. These changes were designed to improve performance on call-ins prior to search and consent search.

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

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

#### Status

A sample of 76,523 electronic CAD records was assessed for existence of a "stop time." All records had the time of stop recorded as part of the CAD record. In addition, members of the monitoring team also reviewed 210 video tapes of motor vehicle stops to assess the time of the call in. Data indicate that 100 percent of all stops in were assigned an incident number; 99.9 percent list the primary trooper's badge number; 99.9 percent list the race and gender of the primary trooper; 99.8 percent list the driver's race and gender; 99.9 percent list a reason for the stop and a final disposition. The State is in compliance with this task. Of the 210 stop records reviewed by the monitoring team, 95.8 percent indicated that the MVR began before the trooper approached the vehicle.

Phase I: In Compliance  
Phase II: In Compliance

## 2.6.2 Compliance with Task 30b: Notice Prior to Search

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

Task 30b stipulates that:

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

### Methodology

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

In addition, attorneys from the Office of State Police Affairs have been assigned to each of the state police's five troops, for the purpose of serving as legal advisors to the troops. These attorneys also perform site visits to state police road stations to obtain feedback from law enforcement personnel regarding

training and remediation of errors in traffic stop procedures. OSPA also initiated in-field audits of all consent searches, uses of force and canine deployments, with remedial mentoring of state police supervisors in instances in which problematic procedures are noted. OSPA has also modified, during this reporting period, the non-consensual search protocols, requiring enhanced supervisory presence at the scenes of such procedures, and also requiring supervisory approval of such procedures.

Status

New Jersey State Police SOPs relating to the call-in of consensual or non-consensual searches meet the requirements of the consent decree. In addition, training regarding all searches is reasonably designed to affect the necessary behavior on the part of troopers conducting traffic stops. Effective November 15, 2001, the New Jersey State Police had implemented effective global supervisory processes designed to assess the quality of motor vehicle stops. This process has now been reflected in the data reviewed by the monitoring team.

Of the 96 search events reported (and reviewed by video tape), 30 were called in to New Jersey State Police communications prior to the initiation of the search. This constitutes an error rate of 68.8 percent, beyond the >94 percent established as the criterion for this task. Supervisory reviews of motor vehicle stop activity are beginning to note these failures in the field (although it is still clear that not all supervisors are aware of the operationalization of the requirement). Substantial work still remains to be done, obviously, although improved supervisory review processes has improved performance in this area this reporting period.

Compliance

- Phase I: In Compliance
- Phase II: Not in Compliance

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

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

Task 30c stipulates that:



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

## Methodology

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

In addition, attorneys from the Office of State Police Affairs have been assigned to each of the state police's five troops, for the purpose of serving as legal advisors to the troops. These attorneys also perform site visits to state police road stations to obtain feedback from law enforcement personnel regarding training and remediation of errors in traffic stop procedures. OSPA also initiated in-field audits of all consent searches, uses of force and canine deployments,

with remedial mentoring of state police supervisors in instances in which problematic procedures are noted. OSPA has also modified, during this reporting period, the non-consensual search protocols, requiring enhanced supervisory presence at the scenes of such procedures, and also requiring supervisory approval of such procedures.

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

Status

New Jersey State Police SOPs relating to the call-in of motor vehicle stops meet the requirements of the consent decree. In addition, training regarding motor vehicle stops is reasonably designed to affect the necessary behavior on the part of troopers conducting traffic stops.

Computer Assisted Dispatch (CADS) were also requested by the monitors for all motor vehicle stop activity for the selected stations. A sample of 76,523 CAD records were reviewed electronically, and >99 percent were found to have “clearance codes” indicating a call in notifying the communications center of the trooper’s actions and time of clearance. Of the 210 stops reviewed by video tape, clearance codes were present in 93.1 percent of all video tapes reviewed, and in 99 percent of all electronic records. Overall, more than 95 percent of all records included the required codes.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

**2.6.4 Compliance with Task 30d: CADS Incident Number Notification**

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

Task 30d stipulates that:

**d. The communications center shall inform the trooper of an incident number assigned to each motor vehicle stop that involved a motor vehicle procedure (i.e., occupant requested to exit vehicle, occupant frisked, request for consent search, search, drug dog deployed, seizure,**

**arrest or use of force), and troopers shall utilize that incident number to cross reference other documents prepared regarding that stop. Likewise, all motor vehicle stop information recorded by the communication center about a particular motor vehicle stop shall be identified by the unique incident number assigned to that motor vehicle stop.**

## Methodology

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

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

## Status

Policies related to 30d reasonably cover the issue of CADS incident numbers and appropriate reporting methods. Training in this area is also reasonably designed to achieve compliance with this task. All of the automated records reviewed by the members of the monitoring team included a unique CADS incident number. Events were trackable using this CADS incident number.

## Compliance

Phase I: In Compliance

Phase II: In Compliance

### 2.7 Compliance with Task 31: Reporting Consent to Search Requests

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

Task 31 stipulates that:

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

## Methodology

Numerous changes in New Jersey State Police policies regarding this task were made in the fourth reporting period, and were fully implemented in the sixth reporting period. New Jersey State Police policies F-19 (MVR Equipment), F-7 (Radio Procedures), F-31 (Consent to Search) and F-55 (Patrol Procedures) were revised in October, 2001 to reflect changes in operational practices designed to better assess New Jersey State Police patrol actions relative to prohibiting race- or ethnicity-based decision making. For example, supervisory personnel now review

motor vehicle stop recordings (MVSRs) of all motor vehicle stops involving consent search requests. Supervisors also are required to routinely monitor and review, using a new, highly structured "checklist" a larger number of "routine" MVSRs, and now are required to review all consent searches, uses of force, and canine deployments engaged in by their personnel. In addition, law enforcement personnel who have exhibited problematic on-road behavior in the past are selected for enhanced monitoring through review of a larger number of MVSRs on a quarterly (and in some cases even daily) basis. The position of "road sergeant" has been implemented, thus increasing substantially the level of direct supervision of road activities. Supervisors are now required to approve all consent searches, and, where practicable, to be present when consent searches are conducted. Training in these new procedures and policies has also been provided to all supervisory personnel and troopers involved in law enforcement activities. During this reporting period, additional revisions were made to SOPs F-7, F-31 and F-55. These changes were designed to improve performance on call-ins prior to search and consent search.

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

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

## Status

New Jersey State Police SOPs F31, "Consent Searches," F55, "Traffic Stop Procedures: Motor Vehicle Searches and Seizures, Inventory and Impoundment," F55 "Traffic Stop Procedures; Motor Vehicle Searches and Seizures, Inventory and Impoundment," F7, "Radio Procedures," C22, "Activity Reporting System," and State Police Form 614, "Consent to Search," reasonably address the processes of requesting and recording consent searches, and training provided to road personnel reasonably prepares them to complete these processes in conformance to the requirements of this task. Supervisory systems necessary to effectively review, assess and remand consent search reports and to evaluate consent search processes of road personnel are still pending.

A MVSr form was completed accurately in 20 of the 21 events that the monitoring team reviewed, that included a consent search request. The 21st incident involved a consent request that was denied. This constitutes a 100 percent compliance rate. In addition, the information required to be presented to the driver was so presented in each of the 21 cases.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

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

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

Tasks 31a-c stipulate that:

- a. The State Police shall require that all "consent to search" forms include the following information :
  1. the date and location of the stop;
  2. the name and identification number of the trooper making the request for consent to search;
  3. the names and identification numbers of any additional troopers who actively participate in the discussion with the driver or passenger(s) concerning the request for consent to search;
  4. a statement informing the driver or other person authorized to give consent of the right to refuse to grant consent to search, and that if the driver or other person authorized to give consent grants consent, the driver or other person authorized to give consent at any time for any reason may withdraw consent to search;
  5. a statement informing the driver or other person authorized to give consent of the right to be present during the search at a location consistent with the safety of both the state trooper and the motor vehicle occupant(s) which right may be knowingly waived;
  6. check-off boxes to indicate whether consent has been granted, and if consent is granted, the driver or other person authorized to give consent shall check the appropriate box and sign and date the form; and

7. if the driver or other person authorized to give consent refuses consent, the trooper or the driver or other person authorized to give consent shall so note on the form and the driver or other person authorized to give consent shall not be required to sign the form.
- b. A state trooper who requests permission to conduct a consent search shall document in a written report the following information regardless of whether the request for permission to conduct a search was granted or denied:
  1. the name of the driver or other person authorized to give consent to whom the request for consent is directed, and that person's gender, race/ethnicity, and, if known, date of birth;
  2. the names and identification numbers of all troopers who actively participate in the search;
  3. the circumstances which constituted the reasonable suspicion giving rise to the request for consent;
  4. if consent initially is granted and then is withdrawn, the fact that this occurred, and whether the search continued based on probable cause or other non-consensual ground, or was terminated as a result of the withdrawal of consent;
  5. a description of the type and quantity of any contraband or other property seized; and,
  6. whether the discussion concerning the request for consent to search and/or any ensuing consent search were recorded using MVR equipment.
- c. The trooper shall sign and date the form and the report after each is fully completed.

## Methodology

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

of road activities. Supervisors are now required to approve all consent searches, and, where practicable, to be present when consent searches are conducted. Training in these new procedures and policies has also been provided to all supervisory personnel and troopers involved in law enforcement activities. During this reporting period, additional revisions were made to SOPs F-7, F-31 and F-55. These changes were designed to improve performance on call-ins prior to search and consent search.

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

Members of the monitoring team reviewed report information for 21 consent requests and 20 consent searches, and reviewed video tape recordings of 10 motor vehicle stops involving consent searches. Supporting documentation for all 21 consent search requests was reviewed, and the events depicted on the 10 video tapes reviewed were assessed in light of the reports generated by the trooper concerning the event. See section 2.2, above, for a detailed description of the data collection and analysis processes used to determine compliance levels for this task.

## Status

New Jersey State Police SOPs F31, "Consent Searches," F55, "Traffic Stop Procedures: Motor Vehicle Searches and Seizures, Inventory and Impoundment," F7, "Radio Procedures," C22, "Activity Reporting System," and State Police Forms, 614, "Consent to Search," and 338, "Motor Vehicle Stop Report," reasonably address the processes of requesting and recording consent searches, and training provided to road personnel reasonably prepares them to complete these processes in conformance to the requirements of this task. Supervisory systems necessary to effectively review, assess and remand consent search processes by road personnel are still pending.

Members of the monitoring team noted problems with one consent search report in which a trooper conducted what appeared to be a protracted traffic stop which appeared to go beyond what was essential to enforce the infractions observed



and which served as the basis for the stop, including highly focused questions about itinerary, reasons for the itinerary, locations of any stops made during the trip—all for failure to maintain lane.

One problematic report of a total of 20 constitutes an error rate of five percent, within the allowable margin of error.

Compliance

Phase I: In Compliance

Phase II: In Compliance

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

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

**32. Non-consensual Searches of Motor Vehicles (Excluding Vehicle Searches Begun as a Consent Search).** A state trooper shall complete a report whenever, during any motor vehicle stop, the trooper conducts a non-consensual search of a motor vehicle (excluding vehicle searches begun as a consent search). The report shall include the following information:

1. the date and location of the stop;
2. the names and identification numbers of all troopers who actively participated in the incident;
3. the driver's name, gender, race/ethnicity, and, if known, date of birth;
4. a description of the circumstances which provided probable cause to conduct the search, or otherwise justified the search;
5. a description of the type and quantity of any contraband or other property seized; and
6. whether the incident was recorded using MVR equipment.

#### Methodology

Numerous changes in New Jersey State Police policies regarding this task were made in the fourth reporting period, and were fully implemented in the sixth reporting period. New Jersey State Police policies F-19 (MVR Equipment), F-7 (Radio Procedures), F-31 (Consent to Search) and F-55 (Patrol Procedures) were revised in October, 2001 to reflect changes in operational practices designed to better assess New Jersey State Police patrol actions relative to prohibiting race- or

ethnicity-based decision making. For example, supervisory personnel now review motor vehicle stop recordings (MVSRs) of all motor vehicle stops involving consent search requests. Supervisors also are required to routinely monitor and review, using a new, highly structured “checklist” a larger number of “routine” MVSRs, and now are required to review all consent searches, uses of force, and canine deployments engaged in by their personnel. In addition, law enforcement personnel who have exhibited problematic on-road behavior in the past are selected for enhanced monitoring through review of a larger number of MVSRs on a quarterly (and in some cases even daily) basis. The position of “road sergeant” has been implemented, thus increasing substantially the level of direct supervision of road activities. Supervisors are now required to approve all consent searches, and, where practicable, to be present when consent searches are conducted. Training in these new procedures and policies has also been provided to all supervisory personnel and troopers involved in law enforcement activities. During this reporting period, additional revisions were made to SOPs F-7, F-31 and F-55. These changes were designed to improve performance on call-ins prior to search and consent search.

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

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

## Status

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

Members of the monitoring team monitored 157 non-consent searches using MVSRs and reviewed 77 of these non-consent searches, via video-tape review, during visits to New Jersey State Police road stations. All but one non-consent search appeared to be properly reported and conducted of the 77 full reviews

conducted by the monitoring team. One group of troopers conducted a vehicle search incidental to arrest that appears to have gone beyond what was allowed by state police procedures, including a search of the engine compartment.

One error in 77 cases constitutes an error rate of 1.3 percent, within the allowable margin of error for this task.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

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

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

Task 33 stipulates that:

- 33. Drug-Detection Canines.** A state trooper shall complete a report whenever, during a motor vehicle stop, a drug-detection canine is deployed. The report shall include the following information:
1. the date and location of the stop;
  2. the names and identification numbers of all troopers who participated in the incident;
  3. the driver's name, gender, race/ethnicity, and, if known, date of birth;
  4. a description of the circumstances that prompted the canine to be deployed;
  5. whether an alert occurred;
  6. a description of the type and quantity of any contraband or other property seized; and
  7. whether the incident was recorded using MVR equipment.

Methodology

Numerous changes in New Jersey State Police policies regarding this task were made in the fourth reporting period, and were fully implemented in the sixth reporting period. New Jersey State Police policies F-19 (MVR Equipment), F-7 (Radio Procedures), F-31 (Consent to Search) and F-55 (Patrol Procedures) were revised in October, 2001 to reflect changes in operational practices designed to

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

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

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

## Status

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

Members of the monitoring team monitored, by document review all 14 reported canine deployments effected by the New Jersey State Police. In addition, members of the monitoring team reviewed five canine deployments by reviewing video tapes of the deployments to ensure that the reports accurately reflected

the events depicted on the official reports. Members of the monitoring team found all of the canine deployments to be accurately reported, and canines to have been deployed in conformance with the requirements of procedures and the decree.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

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

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

Task 34a stipulates that:

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

**a. The State Police shall continue to operate all patrol vehicles engaged in law enforcement activities on the New Jersey Turnpike and the Atlantic City Expressway with MVR equipment. The state shall continue with its plans to install MVR equipment in all vehicles, both marked and unmarked, used for patrols on all other limited access highways in New Jersey (including interstate highways and the Garden state Parkway), and shall complete this installation within 12 months.**

Methodology

Numerous changes in New Jersey State Police policies regarding this task were made in the fourth reporting period, and were fully implemented in the sixth reporting period. New Jersey State Police policies F-19 (MVR Equipment), F-7 (Radio Procedures), F-31 (Consent to Search) and F-55 (Patrol Procedures) were revised in October, 2001 to reflect changes in operational practices designed to better assess New Jersey State Police patrol actions relative to prohibiting race- or ethnicity-based decision making. For example, supervisory personnel now review motor vehicle stop recordings (MVSRs) of all motor vehicle stops involving consent search requests. Supervisors also are required to routinely monitor and review, using a new, highly structured "checklist" a larger number of "routine" MVSRs, and now are required to review all consent searches, uses of force, and

canine deployments engaged in by their personnel. In addition, law enforcement personnel who have exhibited problematic on-road behavior in the past are selected for enhanced monitoring through review of a larger number of MVSRs on a quarterly (and in some cases even daily) basis. The position of "road sergeant" has been implemented, thus increasing substantially the level of direct supervision of road activities. Supervisors are now required to approve all consent searches, and, where practicable, to be present when consent searches are conducted. Training in these new procedures and policies has also been provided to all supervisory personnel and troopers involved in law enforcement activities. During this reporting period, additional revisions were made to SOPs F-7, F-31 and F-55. These changes were designed to improve performance on call-ins prior to search and consent search.

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

Members of the monitoring team identified every patrol vehicle used for patrol purposes by the ten road stations visited this reporting period. An inventory was conducted to ensure that video tape recordings were in the possession of the road station commander (in all cases in a secured storage area) for a random 25 percent sample of all patrol vehicles for each day of the current reporting period. In addition, members of the monitoring team requested to view video tapes for 210 events known to have occurred during the current reporting period.

## Status

Members of the monitoring team found evidence of video tape recordings and sequentially numbered and inventoried for every patrol vehicle identified for every day of the current reporting period.

## Compliance

Phase I: In Compliance  
Phase II: In Compliance

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

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

Task 34b-c stipulates that:

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

**c. Except when MVR equipment unforeseeably does not function, all motor vehicle stops conducted by State Police vehicles with MVR equipment shall be recorded by these vehicles, using both the video and audio MVR functions. The recording shall begin no later than when a trooper first signals the vehicle to stop or arrives at the scene of an ongoing motor vehicle stop begun by another law enforcement trooper; and the recording shall continue until the motor vehicle stop is completed and the stopped vehicle departs, or until the trooper's participation in the motor vehicle stop ends (the recording shall include requests for consent to search a vehicle, deployments of drug-detection canines, and vehicle searches). If a trooper operating a vehicle with MVR equipment actively participates in a motor vehicle stop and is aware that the motor vehicle stop was not recorded using the MVR equipment, the trooper shall notify the communications center of the reason the stop was not recorded, which the center shall record in a computerized information system.**

### Methodology

Numerous changes in New Jersey State Police policies regarding this task were made in the fourth reporting period, and were fully implemented in the sixth reporting period. New Jersey State Police policies F-19 (MVR Equipment), F-7 (Radio Procedures), F-31 (Consent to Search) and F-55 (Patrol Procedures) were revised in October, 2001 to reflect changes in operational practices designed to better assess New Jersey State Police patrol actions relative to prohibiting race- or

ethnicity-based decision making. For example, supervisory personnel now review motor vehicle stop recordings (MVSRs) of all motor vehicle stops involving consent search requests. Supervisors also are required to routinely monitor and review, using a new, highly structured "checklist" a larger number of "routine" MVSRs, and now are required to review all consent searches, uses of force, and canine deployments engaged in by their personnel. In addition, law enforcement personnel who have exhibited problematic on-road behavior in the past are selected for enhanced monitoring through review of a larger number of MVSRs on a quarterly (and in some cases even daily) basis. The position of "road sergeant" has been implemented, thus increasing substantially the level of direct supervision of road activities. Supervisors are now required to approve all consent searches, and, where practicable, to be present when consent searches are conducted. Training in these new procedures and policies has also been provided to all supervisory personnel and troopers involved in law enforcement activities. During this reporting period, additional revisions were made to SOPs F-7, F-31 and F-55. These changes were designed to improve performance on call-ins prior to search and consent search.

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

In addition to verifying the existence of a video tape in each patrol vehicle for each day of this reporting period (see above), members of the monitoring team pulled for review a sample of 294 post-stop law enforcement actions of interest to the decree. These included 84 events selected from New Jersey State Police databases, and 210 procedures selected by reviewing video tapes.

## Status

While policies have been implemented requiring video and audio recording of all consent-decree related traffic stops, not all stops are recorded in conformance with the decree. Members of the monitoring team noted that 95.8 percent of all video recordings were initiated "when first signaled to stop." In addition, 94.7 percent of the recordings were noted to "continue until completion" as required by the decree. Notice of completion and notice of action taken was recorded in



93 percent of the cases, but was captured on CAD information systems in 99.9 percent of the cases.<sup>7</sup>

A review of the 210 video tapes selected by the monitoring team indicates that the agency has resolved problems noted in earlier reports concerning “out of tape” issues and troopers patrolling with inoperative video units. The agency has, it appears, achieved general compliance with the requirements of the decree; however, some work remains to bring overall compliance rates up to the 95 percent level. While the vast majority of New Jersey State Police personnel are treating those whom they have stopped professionally, not all requirements of the decree regarding MVR operation are being met at this time. A problem, noted for the last few reporting periods, continues this period. This problem involves technical difficulties with audio recordings during motor vehicle stops. The State is has tested a new, high-frequency, duplexed audio system that may successfully address problems with audio recording, as this system integrates with patrol vehicle’s emergency lights, and activates the audio recording process when the emergency lights are activated. Troopers have begun activating their microphones during traffic stops at a much higher rate, with the monitoring team noting only four events (of 210 reviewed) in which activation was delayed for a reason other than technical difficulties.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

**2.12 Compliance with Task 35: Supervisory Review of Trooper Reports**

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

Task 35 stipulates that:

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

<sup>7</sup> Some actions are not recorded on in-car MVR, as they are made via portable radio away from the main recording microphone. These call-ins, however, are captured by CADS operators and entered into the State’s CADS system.

## Methodology

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

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

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

### Status

A review of all electronic records of motor vehicle stops, completed during the reporting period indicated that 100 percent of these were reviewed by

supervisory personnel. A review of 294 hardcopy records of motor vehicle stop activity indicates all reports were reviewed. Numerous instances were noted, however, which constituted lapses in the quality of the supervisory review process (see sections 2.4 and 2.5, above). The State continues to be out of compliance with this task, although two significant phenomenon were noted this quarter. First, supervisory personnel are reviewing a much higher **number** of motor vehicle stop tapes. Secondly, the number of supervisory reviews resulting in performance notices for positive trooper behavior has markedly increased, as well. Third, the number of supervisory reviews resulting in performance notices for trooper behavior that contradicts the consent decree has markedly increased. Unfortunately, however, in many instances, supervisory review has failed to note obvious errors that occurred in the field. The monitoring team reviewed all completed MVSRs for the 294 selected stops reviewed this quarter for evidence of reporting or procedural errors that should have been noted by supervisory personnel. From those 294 events, the monitors found 33 which exhibited some form of reporting problem that should have been noted by supervisory review, but was not. These included:

- Twelve troopers articulated insufficient reason to suspect drivers or passengers were armed in their MVSRs detailing frisks of drivers or passengers of vehicles.
- One trooper conducted what appeared to be a protracted traffic stop which appeared to go beyond what was essential to enforce the infractions observed and which served as the basis for the stop, including highly focused questions about itinerary, reasons for the itinerary, locations of any stops made during the trip—all for failure to maintain lane.
- One group of troopers conducted a vehicle search incidental to arrest that appears to have gone beyond what was allowed by state police procedures, including a search of the engine compartment.
- Ten troopers submitted MVSRs with one or more substantial errors in the reports, which conflicted with events observed on the in-car video tapes reviewed by the monitoring team. Some of these errors appear minor, for example failing to check the consent request box on the MVSR; however, such a failure eliminates a critical data collection point for the State Police.
- Nine troopers violated New Jersey State Police reporting or in-field practice procedures (ranging from failure to call-in to the communications center prior to conducting a search, failure to activate the in-car MVR when required, improper Miranda warnings, etc.), and supervisors reviewing these reports and MVRs failed to take note of the procedural errors .

This constitutes an error rate of 33 of 294, or 11.2 percent, outside the allowable five percent error rate for this task. The reader should note, however, a *qualitative difference* in these omissions. Since late in the sixth reporting period, supervisory personnel have been required to review *all* consent search, uses of force, and canine deployment reports. Errors in those activities have dropped substantially this period. Remaining errors (frisks, state police procedural violations, and less problematic consent decree violations—activation times for video and audio recordings, for example) are less troublesome than poor consent search request practices, arbitrary deployment of canines, and problematic uses of force. While a continuing problem exists of failure to notify communications prior to conducting a consent search or a non-consensual search, the monitors have found that, for the most part, the searches are being conducted properly. It is the process of *notification* that is not being followed.

A second issue has arisen with the supervisory review process. On several occasions, members of the monitoring team noted that troopers who engaged in practices outside New Jersey State Police SOPs were, appropriately, given performance notices. Supervisors on the scene of those events—some directly controlling the events—were not counseled regarding their activities. OSPA personnel conducting field audits are working with supervisory personnel to ensure that they understand the policy requirements, and correct deficiencies

Finally, monitors assessed all electronic records for MVSRs, and determined that greater than 99 percent of all MVSRs received initial supervisory review within 14 days of the event reported in the MVSR.

Compliance

- Phase I: In Compliance
- Phase II: Not in Compliance

**2.13 Compliance with Task 36: Supervisory Review of MVR Tapes**

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

Task 36 stipulates that:

**36. The state shall adopt a protocol requiring that State Police supervisors review MVR tapes of motor vehicle stops on a random basis. The protocol shall establish the**

**schedule for conducting random reviews and shall specify whether and in what manner the personnel conducting the review shall prepare a written report on each randomized review of an MVR tape. Prior to implementation, the protocol shall be approved by the United States and the Independent Monitor.**

## Methodology

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

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

## Status

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

During on-site reviews at New Jersey State Police road stations, members of the monitoring team reviewed more than 1,000 supervisors' MVR review reports. The quality of these reports has improved substantially. All reviews assessed this reporting period were completed using the new Form 528, a form requiring a highly structured review process. This process is a vast improvement over earlier processes. Members of the monitoring team were able to compare 93 supervisors' reviews with actual video tapes (the same tapes reviewed by supervisors as part of their review process). Members of the monitoring team noted 46 reporting or procedural issues in the 93 tapes they reviewed. Members of the supervisory cadre at the New Jersey State police noted 29 of these 46 errors in their review of the same video tapes. This constitutes an overall error rate for supervisory review of 36 percent, far beyond the agreed upon five percent margin for error.<sup>8</sup>

A second issue has arisen with the supervisory review process. On several occasions, members of the monitoring team noted that troopers who engaged in practices outside New Jersey State Police SOPs were, appropriately, given performance notices and counseling or retraining in an effort to ensure that the behavior does not reoccur. Supervisors on the scene of those events—some directly involved in or controlling the events—were not counseled regarding their actions. OSPA personnel conducting field audits are working with supervisory personnel to ensure that they understand the policy requirements, and correct deficiencies.

The monitors have advised the parties that incidents involving trooper errors identified and remediated by supervisors prior to being selected by the monitors for review will not be viewed as errors, but instead be viewed as indicative of

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<sup>8</sup> Seventeen of the 33 errors noted overall by the monitors (discussed at pages 13-14, *supra*) were made during events reviewed by both the monitors and supervisory personnel. The remaining 16 errors were noted by review of both video recordings and written reports. Supervisory personnel had not reviewed these additional video recordings.

good supervision. Conversely, however, supervisory miscues must, in turn, be remediated, in order to ensure that continued errors are not encouraged.

In addition, the number of supervisory reviews resulting in performance notices have risen to the level that it is difficult to track and review them. In order for the agreement to view supervisory notice as indicative of good supervision to hold true, the New Jersey State Police must ensure that past performance notices are taken into account when considering action on current errors. Repeated errors or mistakes require more than counseling or retraining, and it is incumbent on the state police to ensure that members' records (performance notices, counseling, retraining, etc.) are easily accessible to line supervisory personnel. The promised MAPPS systems will assist in resolving this issue.

Further, members of the monitoring team assessed each road station to determine whether or not there was a repeat of last reporting period's problem with one station conducting fewer than the required number of MVR reviews. All stations assessed this period conducted more than the required number of MVR reviews for the reporting period.

Compliance

Phase I: In Compliance  
 Phase II: Not In Compliance

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

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

Task 37 stipulates that:

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

**Office of the Attorney General ("OAG") as determined by the State. Appropriate personnel shall evaluate all incidents reviewed to determine the need to implement any intervention for the involved trooper.**

## Methodology

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

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

## Status



In the opinion of the monitors, none of the errors noted this reporting period warranted referral to OPS. None of the errors observed this period, in the opinion of the monitors, constituted intentional violations of policies or procedures developed in response to the consent decree. At least two incidents *were* referred to OPS during the fourth reporting period, and the monitors have been advised that at least one additional incident (an excessive force incident identified by the monitors in sixth report) was referred to OPS. An additional set of incidents was referred to OPS, based on information brought to New Jersey State Police attention during the fifth monitoring visit. In addition, it appears that referrals were made last reporting period based on supervisory reviews of MVR tapes. All referral decisions appear appropriate. Members of the monitoring team are waiting for resolution of the investigations. To date, members of the monitoring team have noted no inappropriate behavior which should have been referred to OPS but were not so referred.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

**2.15 Compliance with Task 38: Periodic Reviews of Referral Decisions**

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

Task 38 stipulates that:

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

Methodology

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

Referrals have been made to the Office of Professional Standards, and others are anticipated based on reviews conducted during the fourth, fifth and sixth reporting periods. Personnel from the OAG are aware of the requirement for periodic audits, and have conducted audits of New Jersey State Police activities during the last reporting period (see section 2.83, below). OSPA has in place an extensive audit process designed to identify and remedy problematic supervisory processes, including problematic referral decisions. Staff from OSPA routinely audit field supervisory personnel's review of field practice, their associated supervisory actions to remedy inappropriate action on the part of law enforcement personnel, and their decisions to (or not to) refer trooper behavior to OPS. To date, no supervisory personnel have been identified who have failed to appropriately refer trooper behavior to OPS when such a referral should have been made. While a system is in place to hold supervisory personnel accountable for their referral decisions, no such event has occurred, to date.

Status

At this point, members of the monitoring team were unable to audit this task

Compliance

Phase I: Unable to Monitor  
 Phase II: Unable to Monitor

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

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

Task 39 stipulates that:

**39. The State Police shall require supervisors of patrol squads that exclusively, or almost exclusively, engage in patrols on limited access highways to conduct supervisory activities in the field on a routine basis.**

Methodology

Numerous changes in New Jersey State Police policies regarding this task were made in the fourth reporting period, and were fully implemented in the sixth reporting period. New Jersey State Police policies F-19 (MVR Equipment), F-7

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

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

## Status

The New Jersey State Police have recently appointed and deployed patrol sergeants to serve as "road supervisors;" however, these personnel were noted to be "on scene," in only 12.5 percent of all of the 294 events reviewed by the members of the monitoring team (through MVR reviews at the road stations and via review of written documentation of motor vehicle stop incidents). This represents a dramatic improvement from the three percent observed during the last reporting period. Supervisors were present at 50 percent of all consent searches, and 35.7 percent of all canine deployments. It is unreasonable to expect supervisory presence at 95 percent of all motor vehicle stops; however,

the State appears to be deploying its field supervisors in a meaningful and efficient manner. Of the 33 events noted by the monitoring team as problematic this reporting period, ten of those had New Jersey State Police supervisory personnel at the scene of the event.

Perhaps more troubling, is the apparent trend observed by the monitors to not note and take corrective action with supervisors who fail to deal with performance issues that should have been noted during the on-site supervisory process or during the after-the-fact MVSr review. During the seventh reporting period, the monitors observed at least 17 instances in which a supervisor had failed to note performance contradictory to the consent decree or to New Jersey State Police procedures, yet no evidence is available to support any corrective action on the part of the New Jersey State Police for these oversights. These 17 instances led to a failure to act on at least 23 separate violations of procedures or consent decree requirements on the part of supervisory personnel.

Supervision is **the critical factor** in making change within the New Jersey State Police. Adequate and, the monitors would argue, excellent training for supervisory personnel is an essential first step to achieving the goals of the consent decree. The New Jersey State Police have instituted the position of road sergeant throughout the operations component of the Division, in effect creating a new set of eyes and ears tasked with monitoring the performance (both positive and negative) of road personnel. The monitors, in an effort to enlist these new positions in the process of noting and correcting behavior violative of the decree, have advised the State that problems noted and corrected by supervisory personnel will not be tallied against the agency in the monitors' final reports—although they will be noted in the narratives. In this light, some supervisory personnel **have** noted violations of the decree, and have issued performance notices for these violations, representing substantial improvements over past supervisory practices. However, in the monitors' assessment, these activities have fallen far short of the required level of noting greater than 94 percent of decree violations.

This cadre of road sergeants, in the opinion of the monitors, must be expert in the decree. More importantly, however, they must be expert in field contacts, detentions, detention interrogations, arrest, frisks, search, seizure, and use of force. In addition, they must be expert in the concepts of reasonable suspicion, articulable suspicion, and probable cause. Obviously, training is a critical element for these personnel—and any other personnel charged with review of motor vehicle stop activity.

Additionally, the monitoring team has noted that the number of performance notices issued as a result of the monitoring process has increased significantly, making it difficult to track easily the number of previous performance notices

received by individual troopers. Until a Division-wide MAPPS program is implemented, it will be difficult to demonstrate that troopers receiving performance notices for violations of the decree are not repeat offenders. The importance of MAPPs—as a source that integrates supervisory processes—become more obvious in this context.

It is clear that the New Jersey State Police have improved substantially the level of supervision on the road. Rates of review are up. Notice of adverse performance is up (as well as notice of superior performance); however, as with the State’s performance on tasks 27, 28, and 29a this reporting period, it is clear that improvements need to be made in performance in these areas.

Compliance

Phase I: In Compliance  
 Phase II: Not In Compliance

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

Task 40	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	[Solid Black Bar]											
Phase II	[Vertical Stripes Bar]		[Solid Black Bar]									

Task 40 stipulates that:

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

Methodology

As all MAPPs components currently reflect the same status at this time, i.e., in compliance for Phase I and not in compliance for Phase II, the monitoring team will report only on Task 40 for this report. The State remains in Phase I compliance with tasks 41-51. The State has not yet attained Phase II compliance with tasks 41-51.

In October 2002, the monitors observed "beta" versions of the MAPPS systems at two New Jersey State Police road stations, Bellmawr and Buena Vista. The monitors developed a matrix of functions MAPPS was designed to address and asked New Jersey State Police personnel to demonstrate the MAPPS system's capability to provide those functions. In addition, the monitors observed supervisors at each road station as they completed the traffic-stop evaluation component of MAPPS (assessments of OPS case outcomes and other non-traffic related databases were not available to the beta version at the time of the monitors' visit). Based on these observations and conversations with personnel from the Office of State Police Affairs and the New Jersey State Police, the monitors have developed the following observations concerning the current state of MAPPS system development.

The MAPPS system is currently configured with 340 programmed functions that allow users to access a wide variety of performance-related information. MAPPS is a complex system, reporting detailed information on trooper activity, complaints and compliments, personnel "interventions", training, and other personnel-performance related issues. In addition, the system has a "tasks" module that allows management and supervisory personnel to assign and track a limitless variety of tasks assigned to them and others in the agency. The beta system currently running at New Jersey State Police uses "live" data, which restricts the utility of the test system, and confines most activity to the Motor Vehicle Stop Module. Not all internal affairs components had been "ported" over to MAPPS at the time of the monitors' review of the system.

Development of MAPPS in a beta version is an important milestone in the development of the final MAPPS system. The beta system is being used by the New Jersey State Police for two purposes: first, to assess system functionality, and second, to introduce the system to a small number of supervisory personnel and to obtain their input regarding the utility of the systems and recommended changes to improve the system. The monitors strongly support this developmental methodology as it is planned, even though it will further delay implementation of the system. The monitors have repeatedly urged the State to "get it right," rather than "getting it fast." Undoubtedly, this advice has contributed to some of the delay in getting MAPPS on line and operational throughout the organization.

The monitors acknowledge that the development of MAPPS is a complex and difficult task, perhaps the most difficult task accruing to the State under the requirements of the consent decree. Work performed in the last monitoring cycle has been exemplary from the standpoint of getting the MAPPS components operational and beginning the training of supervisory personnel in MAPPS operation. More tangible progress has been made in the last six months than in any previous reporting period. The monitors have informed the parties that as

long as “substantial progress” is being made in development of MAPPS, Phase I compliance will be attained.

Compliance

Phase I: In Compliance  
 Phase II: Not In Compliance

**2.29 Compliance with Task 52: Supervisors to Implement Necessary Changes**

Task 52	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	[Solid Black]											
Phase II	[Vertical Stripes]											

Task 52 stipulates that:

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

Methodology

During the seventh reporting period, members of the monitoring team noted several instances of supervisory personnel issuing “performance notices” or other interventions for actions of division personnel inconsistent with policy or established practice. Ample evidence exists to support the fact that supervisory personnel are beginning to carefully review trooper activity and to issue performance notices or other “interventions” when inappropriate behavior occurs. During this reporting period, the monitoring team reviewed both commendations and counselings based on events not reviewed by the monitoring team, and numerous counselings based on events which were brought to the attention of supervisory personnel by the monitoring team. Until an effective division-wide MAPPS process is implemented, and supported by appropriate training and usage protocols, however, complete compliance with this task is not feasible. See sections 2.13 and 2.16, above, for additional comments relative to supervisor review.

Compliance

Phase I: In Compliance  
 Phase II: Not In Compliance

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

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

Task 53 stipulates that:

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

Methodology



The State has developed a system of OPS notification of more than two misconduct investigations in a two-year period, but additional work is pending regarding protocols for and assessment of supervisory response to this section. Development of protocols for implementation of this provision should be a primary focus of the State for the next reporting period. Failure to implement this provision threatens compliance in other areas of the decree as well (see section 2.70, Task 98, below).

Compliance

Phase I: In Compliance  
 Phase II: Not In Compliance



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

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

Task 54 stipulates that:

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



#### Methodology

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

#### Compliance

Phase I: In Compliance  
 Phase II: In Compliance

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

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

Task 57 stipulates that:

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

### Methodology

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

### Status

The State remains in compliance with this task, based on compliance assessed during the first quarter.

### Compliance

Phase I: In Compliance  
Phase II: In Compliance

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

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

Task 58 stipulates that:

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

**Police shall make such materials available in English and Spanish.**

Methodology

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

Status

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

Compliance

Phase I: In Compliance  
Phase II: In Compliance

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

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

Task 59 stipulates that:

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

Methodology

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

Status




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

Compliance

Phase I: In Compliance

Phase II: In Compliance

**2.35 Compliance with Task 60: Community Outreach**

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

Task 60 stipulates that:

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

Methodology

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



Status

The community outreach process employed by the state police continues to include provision of information related to the decree and discuss topics of interest to the communities in attendance. The schedule shows an active outreach on radio, through professional appearances and through community meetings. This process has been interrupted by the selection of the third New Jersey State Police Superintendent since initiation of the decree, thus understandably affecting the direction and tenor of these outreach processes. The State continues to be in compliance with this task, however, based on past performance.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

**2.36 Compliance with Task 61: Receipt of Citizens' Complaints**

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

Task 61 stipulates that:

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

## Methodology

Members of the monitoring team during the April 2002 site visit determined that SOP B-10 is the official policy guideline for compliance with this requirement. Members of the monitoring team inspected various "Reportable Incident Forms," (#525) which has replaced the traditional form 251's as the official intake document. The monitoring team requested a demonstration of the IA Pro software and observed that "Incident Control Numbers" (Case Numbers) are automatically assigned when the information from form 525 is entered into the system. In addition, members of the monitoring team reviewed 261 of 472 cases completed during this reporting period, selecting cases using the following criteria:

- All cases indicating potential Constitutional violations (race-based decision making, illegal search, excessive force, etc.);
- All cases indicating potential ethical violations (truthfulness, criminal violations, false reporting, etc.);
- All cases indicating potential "second level" consent decree violations (improper reporting, verbal abuse, etc.).

Cases involving complaints of violation of internal New Jersey State Police procedures not related to the decree, e.g., lost equipment, tardiness, attitude and demeanor, etc., were not reviewed by the monitoring team unless there was an indication that the complaint involved, at least tangentially, an issue of interest to the decree. The monitoring team attempts to review 50 percent of all completed cases; however, when the selection protocol identified above yields a selection with fewer than 50 percent of all completed cases, the team does not include "lost equipment," "attitude and demeanor," or other similar complaints simply to meet the 50 percent goal. Complaint investigations completed by Internal Affairs between April 1, 2002 through August 30, 2002 were subject to review for this reporting period.

In addition, the Office of Professional Standards received 196 complaints this reporting period. These were received in various ways, as outlined below.

Status

A review of the complaint forms determined that the State continues to satisfactorily commence investigative processes as a result of the recognized and established processes that bring such matters to the attention of the State. None of the 261 cases reviewed this reporting period gave any indication that the State compels complaints to be in writing nor was the monitoring team able to determine that the State imposed any obstacle or impediment to the intake of citizen or internally generated complaints.

A demonstration of the IA Pro system determined a capability to establish the source of reportable incidents whether or not a misconduct case was opened by the State. A review of complaint sources produced the following results: Compliment/Complaint Form, 13; Email, 10; External, 74; Facsimile, 18; Hotline, 83; Internal, 68; Mail, 74; Notice of Claim, 8; Telephone, 110; Self-Report, 13; Supervisory MVR Review, 2; and Walk-In, 34. Obviously, these complaint receipt methods include both "internal" complaints (those filed by supervisory personnel with the New Jersey State Police) and "external" complaints (those filed by citizens). Some complaints are recorded in more than one category, for example, a "self-report" may come to OPS by mail, facsimile, or walk-in, and is considered an "internal" complaint.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

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

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

Task 62 stipulates that:

**62. The State Police shall institute a 24-hour toll-free telephone hotline for civilians to call to make a complaint or compliment or otherwise provide feedback regarding State Police performance. The hotline shall be operated by the Professional Standards Bureau (hereinafter "PSB"). The State Police shall immediately connect or refer all civilians to this hotline who telephone a State Police station to file a complaint. The State Police shall**

publicize the hotline telephone number on informational materials, complaint forms, and "consent to search" forms. The State Police shall tape record all conversations on this hotline and shall notify all persons calling the hotline of the tape recording. The State Police shall develop a procedure to assure that callers are being treated with appropriate courtesy and respect, that complainants are not being discouraged from making complaints, and that all necessary information about each complaint is being obtained. This procedure shall include regular reviews of the tape recordings.

Methodology

Members of the monitoring team during the October 2002 site visit determined that SOP B-10 continues to govern the requirements of this paragraph, as does the revised Internal Affairs Manual. The monitoring team determined that representatives of the Office of the State Police Affairs regularly monitor the Division's compliance with this requirement. The existence of the "Hotline" appears on the New Jersey State Police website, the Compliment/Complaint forms and the "posters" that are affixed to various sites throughout the State.

Status

During this reporting period, 83 calls of nearly 680 received on the hotline culminated in cases as evidenced by a review of Forms 525, "Reportable Incident Forms." Members of the monitoring team reviewed all of the calls received during a randomly selected single day covered during the seventh reporting period. The monitoring team determined that members of the Office of Professional Standards comported with appropriate standards of courtesy and follow-through. Further, the monitoring team was able to determine that calls were properly catalogued and culminated, where appropriate, in investigative processes.

Phase I: In Compliance

Phase II: In Compliance

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

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

Task 63 stipulates that:



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

Methodology

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

Status

A review of the relevant material determined that the State continues to meet the requirements of this task.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

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

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

Task 64 stipulates that:

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

Methodology

The monitoring team, during the October 2002 site visit examined the visitor's log from the Freehold facility. It was determined that there were twenty civilian and ninety-seven New Jersey State Police personnel interviewed at this off-site location.

Status

Members of the monitoring team, in cooperation with a representative of the Office of State Police Affairs, spoke with the commander of the Freehold facility who indicates that the instances of civilians making complaints directly to the facility remains an infrequent occurrence. Furthermore, since the last site visit the Office of Professional Standards has moved from Division Headquarters to a facility separate and apart from all other State Police functions. The new facility has adequate space for assigned personnel, equipment and technology. The new locations of OPS offices not been updated on the New Jersey State Police web-site. Given that 34 complaints were received from "walk-in" complainants, notice of the change by public communications processes appears important.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

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

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

Task 65 stipulates that:

**65. The State Police shall refer to the OAG and/or PSB for investigation of state trooper performance all incidents in which a civilian is charged by a state trooper with obstruction of official business, resisting arrest, assault on a state trooper, or disorderly conduct, where the prosecutor's office or a judge dismisses the charge before or during trial and the dismissal is not part of the plea agreement.**

Methodology

Members of the monitoring team during the October 2002 site visit reviewed correspondence from the Superintendent to the Director of the Office of State Police Affairs that referenced an August 4, 2002 directive from the state attorney general to all county prosecutors relevant to their obligation to report to the State all incidents in which a civilian is charged with violations as articulated in this paragraph.

Status

It is apparent that the State remains in compliance with this paragraph though a review of this reporting period determined that the Office of Professional Standards did not receive any referrals from the Division of Criminal Justice as defined in this requirement.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

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

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

Task 66 stipulates that:

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

Methodology

During the October 2002 site visit, the monitoring team requested and received documentation that supported the State’s continued compliance with this requirement. A review of the relevant material determined that the State received eight “Notices of Claim” during this reporting period. The “Reportable Incident Forms” appropriately document the relevant information and incident control numbers.

Status

The State continues to remain in compliance with this requirement. The regular engagement of the Office of State Police Affairs underscores the State's commitment to meet the requirements of this paragraph. Eight "notice of claims" were filed with OSPA during the seventh reporting period.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

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

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

Task 67 stipulates that:

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

Methodology

The monitoring team was advised that on April 19, 2002, the Division of Criminal Justice (in the Office of the AG) either dropped charges or did not object to motions on behalf of incarcerated persons seeking new trials claiming racial profiling as a basis for their motions. This culminated in eighty-six persons not being prosecuted or released from prison. The State, in this action, did not admit to practices of racial profiling but decided instead to avoid protracted litigation that would be the result of defending against such allegations. The Acting Director of the Office of State Police Affairs advised members of the monitoring team that the Office of the Attorney General will be forwarding these cases to the Office of State Police Affairs or the Office of Professional Standards for review, at which time a determination will be made relevant to illegal or other possible misconduct on the part of New Jersey State Police personnel. The identification of such instances was defined by a "window" (defined by the Court) based on reports written by the State acknowledging that, " racial profiling was real, not imagined." The monitoring team reviewed a series of press releases and other documents relevant to the State's position in this matter. In addition, during an in-court plea, a former member of the New Jersey State Police testified that events had occurred in the investigation of allegations against him and his

partner that, if true, constitute misconduct on the part of several members of the New Jersey State Police. Members of the monitoring team inquired into the status of the inquiry into those allegations, and were informed that there is an on-going inquiry underway. While the monitoring team determined that no occurrences of this type occurred during this reporting period, the monitoring team did review information received from a judge who expressed concern relevant to the courtroom testimony of a State Police member. The monitoring found this to be indicative of an environment conducive and essential to a notification process supportive of this requirement. The communication resulted in a referral to OPS.

Status

The monitoring team determined, through inquiry, that the incidents noted above were incidences of the type articulated in this requirement. While the State's failure to object to new trials is not *per se* a finding of a constitutional violation, the monitoring team will review each of the OAG or OPS investigations completed as a part of the State's case-by-case review of possible misconduct. The statement made by a former member of the New Jersey State Police has resulted in an on-going inquiry. Once that investigation is complete, members of the monitoring team will review the results of the investigation to ensure the process was conducted in compliance with the requirements of the consent decree.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

**2.43 Compliance with Task 68: Notice of Adverse Involvement**

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

Task 68 stipulates that:

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

physical violence, or threats of physical violence by the trooper. State troopers shall report this information either directly to the PSB or to a supervisor who shall report the information to the PSB. The PSB shall notify the OAG of PSB's receipt of this information.

Methodology

Members of the monitoring team determined that during this reporting period the State conducted ethics training that specifically addressed the requirements of this paragraph.

Status

Based on past performance and the State's commitment to the provisions of this requirement, the State remains in compliance with this issue even though no incidences of this nature occurred during this reporting period.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

**2.44 Compliance with Task 69: Duty to Report Misconduct**

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

Task 69 stipulates that:

**69. The State Police shall require state troopers to report, based on personal knowledge, any conduct by other troopers, involving civilians, that reasonably appears to constitute: (a) prohibited discrimination; (b) an unreasonable use of force or a threat of force; (c) an intentional constitutional violation; (d) an intentional failure to follow any of the documentation requirements of this Decree, or (e) an intentional provision of false information in a misconduct investigation or in any report, log, or transmittal of information to the communications center. State troopers shall report such misconduct by fellow troopers either directly to the PSB or to a supervisor who shall report the allegation to the PSB. The PSB shall notify the OAG of PSB's receipt of this information.**

## Methodology

No changes in State Police policy regarding this task were noted by the monitoring team during the October 2002 site visit.

## Status




Members of the monitoring team, during the October 2002 site visit determined that of the 472 misconduct cases completed during this reporting period, no complaints, of the type articulated in this task were present. The State remains committed to compliance with this paragraph, and the monitoring team will continue to assess sustained cases for applicability to the self-report requirements of this task.

## Compliance

Phase I: In Compliance

Phase II: In Compliance

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

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

Task 70 stipulates that:

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

## Methodology

The monitoring team determined during the October 2002 site visit that the OPS organizational chart reveals that eighty-two persons are currently assigned to the function, a net gain of two since the last site visit. The monitoring team scrutinized the current organizational chart and determined that although the

function has an authorized strength of eighty-two personnel, there are currently twenty-one unfilled vacancies. This constitutes a 22.5% reduction in actual personnel when compared to May 2002; the monitoring team's last site visit.

Status

The monitoring team determined during its October 2002 site visit that despite the OPS' attempts to fill unit vacancies, its efforts were unsuccessful. Accordingly, the monitoring team, during its next site visit will examine the State's progress in addressing this matter and the impact that staffing reductions have had on the matter of case backlogs. This reduction in staffing may be in part appropriate, given the corresponding reduction in backlogs for OPS<sup>9</sup>; however, the monitors are less sanguine with this explanation, given the observed problems, for the first time, in the **quality** of some OPS investigations this quarter. While the State remains in compliance with this task, continued staffing problems, in concert with continued issues with case quality, will cause the monitoring team to revisit this issue during the eighth reporting period.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

**2.46 Compliance with Task 71: Formal Eligibility Requirements for PSB**

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

Task 71 stipulates that:

**71. The Superintendent of the State Police shall establish formal eligibility criteria for the head of the PSB and for staff who supervise or conduct internal investigations. These criteria shall apply to the incumbent PSB head and investigative staff, and all candidates for these positions, and also shall be used to monitor the performance of persons serving in these positions. The criteria shall address, inter alia, prior investigative experience and training, analytic and writing skills, interpersonal and communication skills, cultural and community sensitivity, commitment to police integrity, and previous performance as a law enforcement officer.**

<sup>9</sup> During the seventh reporting period, OPS cleared 472 cases and received 196, thus removing 276 cases from the backlog.



Methodology

During the October 2002 site visit, the monitoring team reviewed the eligibility criteria and determined that no substantive changes were promulgated since the last site visit.

Status

The monitoring team reviewed the OPS performance evaluation addendum to the standard New Jersey State Police Form 334, "Performance Evaluation." A review of these "OPS Investigator Performance Monitoring" forms determined that the unit is regularly assessing the skill sets essential to unit function. Further, the monitoring team examined a division-wide teletype solicitation to personnel interested in OPS assignments. The monitoring team determined that the document appropriately captures the requisite skill sets for personnel assigned to OPS, and thus, OPS is recruiting personnel with the skills identified in this task.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

Task 72 stipulates that:

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

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

Task 72 stipulates:

**72. The state shall ensure that the PSB head and staff that supervise or conduct internal investigations receive adequate training to enable them to carry out their duties. The training shall continue to include the following: misconduct investigation techniques; interviewing skills; observation skills; report writing; criminal law and procedure; court procedures; rules of evidence; and disciplinary and administrative procedures.**

## Methodology

During the October 2002 site visit, members of the monitoring team reviewed the OPS general training plan and individual training sessions attended by OPS personnel. Members of the Office of Professional Standards continue to attend courses that are held locally, regionally and nationally that support enhancement of skill sets essential to the performance of their duties.

## Status

The monitoring team determined during the October 2002 site visit that the State continues to recognize the importance of assuring that OPS personnel are properly trained in skill areas supportive of unit mission. During the seventh reporting period, all members of OPS received some form of training related to their tasks.

## Compliance

Phase I: In Compliance  
Phase II: In Compliance

### 2.48 Compliance with Task 73: Initiation of Misconduct Investigations

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

Task 73 stipulates that:

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

## Methodology

The monitoring team during the October 2002 site visit reviewed the list prepared by the Internal Affairs Bureau that outlines the names, and other relevant information, of State Police personnel currently under criminal investigation. The monitoring team reviewed the eight "Reportable Incident Forms" generated this reporting period as a result of circumstances consistent with subparagraph "c" of this requirement and an additional "Reportable Incident Form" relevant to subparagraph "e."

Status

The monitoring team thoroughly reviewed occurrence of events articulated by this task to ensure that such events where called for resulted in initiation of misconduct investigations. During this reporting period, 34 misconduct investigations were initiated based on walk-in complaints; eight were initiated based on "notice of claims" pending filing of civil suites, and 154 as a result of other forms of "complaints." One was initiated because of supervisory referral, and one was initiated in response to an indication from a judicial officer that a trooper's in-court behavior was problematic.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

**2.49 Compliance with Task 74: Responsibility for Conducting Internal Investigations**

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

Task 74 stipulates that:

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

- a. The PSB or the OAG shall conduct misconduct investigations in the following circumstances:
  - i. all complaints alleging a discriminatory motor vehicle stop; all complaints alleging an improper enforcement action or procedure in connection with or during the course of a motor vehicle stop; and all complaints

alleging excessive force in connection with any motor vehicle stop;

- ii. all complaints relating to any motor vehicle stop where a State Police supervisor either was at the incident scene when the alleged misconduct occurred or was involved in planning the State Police action whose implementation led to the complaint;
- iii. any misconduct investigation undertaken pursuant to any event identified in subparagraphs (b) through (e) of ¶173; and
- iv. any other category of misconduct complaints or any individual misconduct complaint that the OAG and/or State Police determines should be investigated by PSB or OAG. The State Police may continue to assign misconduct investigations not undertaken by the OAG or PSB to the chain-of-command supervisors.

b. The PSB and the OAG shall review all misconduct complaints as they are received to determine whether they meet the criteria (set forth in subparagraph (a) above) for being investigated by the PSB, the OAG or being delegated to a chain-of-command supervisor. Nothing in this decree is intended to affect the allocation of misconduct investigations between the PSB and the OAG.

## Methodology

During the October 2002 site visit, the monitoring team determined that SOP B-10 continues to govern requisite procedures fundamental to compliance with the provisions of this paragraph.

## Status

During the October 2002 site visit, the monitoring team determined that the Office of State Police Affairs continues to assess the appropriateness of investigative allocations through a review process that no longer uses the "Task Review" form cited during the last site visit. The monitoring team reviewed OPS Form 1/02 , "OPS Incident Classification," that is utilized during the intake process and documents that matters assigned for investigation are allocated to the appropriate entity. All investigations reviewed by the monitoring team were appropriately referred.

## Compliance

Phase I: In Compliance  
Phase II: In Compliance

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

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

Task 75 stipulates that:

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

### Methodology

Members of the monitoring team during the October 2002 site visit determined that all previous documents reviewed by the monitoring team remain properly incorporated into SOP B-10, III, E, (b) 8.

### Status

The monitoring team determined that no conflict of interest issues occurred during this reporting period. While not specifically relevant to the provisions of this requirement, the Office of State Police Affairs produced an Inter-Office Communication it received from the Office of Professional Standards requesting OSPA to assume the investigative lead in a matter involving a high ranking member of the State Police. The monitoring team is satisfied that this is indicative of an organizational sensitivity to avert perceptions of inappropriate intervention in matters that might be questioned or misunderstood. Two separate functions monitor for conflict of interest: a required assessment and self-declaration from investigators that they have no conflict of interest in the assigned case, and an overall review of case investigations by the Office of State Police Affairs to ensure that no conflicts exist. None of the cases reviewed by the monitoring team this reporting period included any artifacts of a conflict of interest, e.g., investigators conducting investigations of former partners, business associates, etc.

### Compliance

Phase I: In Compliance

Phase II: In Compliance

## 2.51 Compliance with Task 76: Prohibition of Group Interviews

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

Task 76 stipulates that:

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

### Methodology

Members of the monitoring team, during the October 2002 site visit determined that the State, through regular reviews by the Office of State Police Affairs, on a continual basis to determine compliance with this requirement. Members of the monitoring team reviewed 261 completed complaint investigations for evidence of group interviews or written statements from troopers in lieu of an interview.

### Status

The State demonstrates through its use of a variety of instruments and processes that it understands the importance of compliance with the provisions of this requirement. No group interviews or written statements in lieu of an interview were found in any of the 261 cases reviewed by the monitoring team.

Compliance

Phase I: In Compliance  
Phase II: In Compliance

## 2.52 Compliance with Task 77: Alternative Locations for Interviews

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

Task 77 stipulates that:

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

Methodology

No changes in New Jersey State Police policies regarding this task were made since the May 2002t site visit. The Office of State Police Affairs continues to closely scrutinize the Division's compliance with this requirement. Members of the monitoring team reviewed 261 of the internal complaint investigations completed during this reporting period for evidence of implementation of this requirement.

Status

During the October 2002 site visit, the monitoring team reviewed case files for specific compliance with this requirement and is satisfied that the State has in place those processes necessary to assure compliance with this requirement. Ample evidence exists in the 261 case files reviewed this period to indicate that complainants and witnesses at their homes, places of business, and, in some cases, via telephone when necessary.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

**2.53 Compliance with Task 78: Investigation of Collateral Misconduct**

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

Task 78 stipulates that:

**78. In conducting misconduct investigations, the state shall assess the propriety of all state trooper conduct during the incident in which the alleged misconduct occurred. If during the course of an investigation the investigator has reason to believe that misconduct occurred other than that alleged, and that potential**

**misconduct is one of the types identified in ¶169, the investigator also shall investigate the additional potential misconduct to its logical conclusion.**

Methodology

No changes in New Jersey State Police policies regarding this task were made since the May 2002t site visit. The Office of State Police Affairs continues to closely scrutinize the Division's compliance with this requirement. Members of the monitoring team reviewed 261 of the internal complaint investigations completed during this reporting period for evidence of implementation of this requirement.

Status

For the first time since monitoring began, the monitors returned seven cases to OPS this reporting period for substantial deficiencies in the investigative files. Six of the seven were returned, in part, for failure to investigate collateral misconduct in light of reasonable indications that collateral misconduct may have occurred. Of the 261 cases reviewed this quarter, 43 indicated a reasonable need to investigate collateral misconduct. An error rate of six of 43 cases constitutes a failure to assess collateral misconduct in 13.9 percent of all cases in which such an investigation would be anticipated. The monitors have informed the State that once compliance is attained, two consecutive periods of non-compliance is required to withdraw a finding of "in compliance." Continued problems in this area will result in a finding of non-compliance for Task 78.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

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

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

Task 80 stipulates that:

**80. The state shall update its manual for conducting misconduct investigations to assure that it is consistent**



with the recommendations contained in the Final Report and the requirements of this Decree.

Methodology

The monitoring team, during its October 2002 site visit solicited from the State any substantive changes, modifications or other alterations to documents or manuals previously presented to the monitoring team as verification of the State's compliance with this requirement.

Status

The newly revised IA manual, and supporting SOP B-10 still remain the governing documents. There have been no revisions since the May 2002 site visit. The manual and SOP were previously approved by the monitoring team, and implemented as approved.

Compliance

Phase I: In Compliance  
Phase II: In Compliance

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

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

Task 81 stipulates that:

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

Methodology

Members of the monitoring team, during the October 2002 site visit determine that the Office of Sate Police Affairs continues to assess the Division's compliance with this requirement.

Status

The monitoring team, based on its review of 261 cases concluded that the State reached findings consistent with the preponderance of evidence standard. One

of the seven cases returned for additional investigation this reporting period was returned for failure to use the preponderance of the evidence standard. This constitutes an error rate of 0.6 percent, well within the acceptable margin of error of five percent. The State remains in compliance with this task based on its performance this reporting period.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

**Compliance with Task 82: MVR Tape Review in Internal Investigations**

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

Task 82 stipulates that:

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

Methodology

During the October 2002 site visit, the monitoring team reviewed an Office of State Police Affairs form, "Audit and/or Video Tape Audit" that assesses the Division's review of MVR tapes for complaint investigations. Additionally, the monitoring team sampled a limited number of cases while at the OPS facility and determined that the State is reviewing MVR tapes.

Status

Members of the monitoring team reviewed 261 cases completed during this reporting period, and found 175 which should have included an MVR review. The monitors returned five cases this reporting period for additional work. None of those five cases was returned due to the investigator not reviewing the MVR for the incident in question. The State remains in compliance with this task based on its performance this period.

Compliance

Phase I: In Compliance  
Phase II: In Compliance

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

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

Task 83 stipulates that:

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

#### Methodology

The monitoring team, during the October 2002 site visit determined that SOP B-10 properly addresses this issue. Additionally, training provided during this reporting period to OPS personnel specifically addressed this issue.

#### Status

The monitoring team, during its review of 261 cases completed during this reporting period, determined that credibility conclusions continue to be in conformance with the requirements of the policies approved by the monitors and the Department of Justice.

#### Compliance

Phase I: In Compliance  
Phase II: In Compliance

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

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

Following dispositions:

- a. "Substantiated," where a preponderance of the evidence shows that a state trooper violated State Police rules, regulations, protocols, standard operating procedures, directives or training;
- b. "Unfounded," where a preponderance of the evidence shows that the alleged misconduct did not occur;
- c. "Exonerated," where a preponderance of the evidence shows that the alleged conduct did occur but did not violate State Police rules, regulations, operating procedures, directives or training; and
- d. "Insufficient evidence" (formerly "unsubstantiated"), where there is insufficient evidence to decide whether the alleged misconduct occurred.

### Methodology

The monitoring team, during its October 2002 determined that the State has established a variety of review processes to assure compliance with the provisions of this requirement.

### Status

A review of 261 cases of the 472 cases completed during this reporting period verifies that the State continues compliance with this task and that OPS does not reference any other dispositions other than those enumerated in the decree.

### Compliance

Phase I: In Compliance  
Phase II: In Compliance

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

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

Task 85 stipulates that:

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

Methodology

During its October 2002 site visit, the monitoring team reviewed a specific case in which the complainant was properly advised that the State would be pursuing an internal investigation in spite of the complainant’s withdrawal of the complaint.




Status

The monitoring team, in its review of 261 of the 472 cases completed during this reporting period found prevalent documentation of continued investigative effort after complaint withdrawal or reduced witness/complainant cooperation. The Office of State Police Affairs continues to monitor the Division’s compliance with the provisions of this requirement, as do the monitors. The monitors have found no indication of a tendency to discontinue investigations upon withdrawal or a complaint or failure to cooperate with a complaint investigation.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

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

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

Task 86 stipulates that:

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

## Methodology

During the October 2002 site visit, the monitoring team determined that the State continues to use the Internal Affairs Investigation Manual as the policy guidance for this requirement. The monitoring team reviewed a variety of Inter-Office Communications between supervisors in the OPS and subordinate investigators that noted deficiencies or omissions in investigations that did not meet the provisions of this requirement.

## Status

The monitoring team reviewed 261 of the 472 cases completed during this reporting period, and found that 256 of the 261 comported with the requirements articulated in this requirement. Further the monitoring team noted that, while the State has put in place sufficient review processes that remediate many deficiencies in investigations prior to their completion, some problems with this task did surface this period. Five problematic cases of the 261 reviewed constitutes an error rate of 1.9 percent, within the allowable margin of five percent for this task. These seven cases were returned for:

- Failure to pursue collateral misconduct allegations;
- Failure to review available MVR tapes;
- Failure to use the preponderance of the evidence standard;
- Failure to attempt to contact witnesses;
- Failure to canvass for witnesses; and
- Incomplete investigations.

## Compliance

Phase I: In Compliance

Phase II: In Compliance

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

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

Task 87 stipulates that:

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

### Methodology

The parties, with the concurrence of the monitors, have agreed to a 120-day timetable for completion of investigation of complaints made by citizens. The State advised the monitors that it has worked diligently to improve the completion cycle for investigations of complaints made by citizens.

### Status

The State continues to attempt to complete misconduct investigations within the revised 120-day period. The State advised the monitors that investigators are functioning under an expectation that their investigative efforts are to be completed within forty-five days. The monitors determined through a review of 261 of the 472 cases completed during this reporting period that 216 or 82.7 percent were completed within the 120 day time period. This constitutes an error rate of 17.3 percent, well outside the allowable five percent for this task. For complaints received this reporting period, however, the State's performance was substantially improved: of the 196 complaints received this period, the state completed the investigation of 191 (97.4 percent) within the 120-day period. Once the backlog of complaint investigations is cleared, it appears that the State will be able to maintain a 120-day investigative process.

### Compliance:

Phase I: In Compliance  
Phase II: Not In Compliance

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

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

Task 88 stipulates that:

**88. The State Police shall discipline any state trooper who is the subject of a substantiated misconduct adjudication or disposition regarding: (a) prohibited discrimination; (b) an unreasonable use of force or a threat of force; (c) an intentional constitutional violation; (d) an intentional failure to follow any of the documentation requirements of this Decree, (e) an intentional provision of false information in a misconduct investigation or in any report, log, or transmittal of information to the communications center; or (f) a failure to comply with the requirement of ¶169 to report misconduct by another trooper.**

Methodology

The monitoring team, during its October 2002 site visit, reviewed completed cases for sustained complaints and assessed the discipline imposed in these matters. The monitoring team also reviewed a “tally sheet” generated by the IA Pro software that lists case numbers, trooper identity, findings and discipline.

Status

The monitoring team reviewed copies of reprimands issued to troopers for matters completed during this reporting period. The monitoring team continues to observe a consistent pattern of imposing discipline consistent with investigative findings. No sustained cases for allegations listed in Task 88 were noted this period.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance



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

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

Task 89 stipulates that:

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

Methodology

The monitoring team, during its October 2002 site visit, reviewed SOP B-10, III, G and determined that it remains supportive of the provisions of this requirement. The monitor solicited from the State the existence of any matter that comported with the nature of this paragraph and determined that there were no instances of this type during this reporting period.

Status

There were no incidences of this nature during this reporting period. The State has put in place processes necessary to address such matters should they materialize. The State remains in compliance with the provisions of this requirement based on past performance.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

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

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

Task 90 stipulates that:

**90. In deciding the appropriate discipline or intervention for each state trooper who is the subject of a "substantiated" adjudication or disposition in a misconduct investigation and each trooper who is to be disciplined pursuant to ¶189, the state shall consider the nature and scope of the misconduct and the information in the MAP. In all instances where the state substantiates a misconduct allegation regarding matters identified in ¶188 or disciplines a trooper pursuant to ¶189, it shall also require that intervention be instituted (except where the discipline is termination). Where a misconduct allegation is not substantiated, the state shall consider the information in the investigation file and in the MAP to determine whether intervention should be instituted.**

Methodology

Members of the monitoring team during the October 2002 site visit determined that the State still addresses compliance with this requirement in SOP B-10, III, H as it pertains to Phase I compliance.

Status

The State continues to advise that while the OPS function has substantially met a considerable number of its functional MAPPs requirements, the system has yet to be fully operationalized throughout the Division, causing a finding of non-compliance with the provisions of this requirement. Further, members of the monitoring team have reviewed all disciplinary action taken by the State for the reporting period and have found the State's actions to be appropriate. Until MAPPs is on-line, however, members of the monitoring team have been unable to assess disciplinary decisions in light of past history of the troopers in question.

Compliance

Phase I: In Compliance

Phase II: Not in Compliance

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

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

Task 91 stipulates that:

**91. The PSB shall track all open misconduct investigations to ensure that investigations are completed in a timely fashion. Within one hundred twenty (120) days following entry of this Decree, the state shall develop a plan for designing and implementing a computerized tracking system (including a timetable for implementation).**

Methodology

The monitoring team, during the October 2002 site visit made several observations of the IA Pro software. The technology has enhanced the technical and operational capabilities of the OPS function through its expeditious provision of important contemporary and historical data relevant to the internal investigatory function.

Status

Members of the monitoring team determined during the October 2002 site visit that although the ledger book remains as a backup to the IA Pro software, the OPS function has found the software to be a reliable and significant tool in its management of the investigative process. The State advised the monitors that it is anticipated that the "ledger" will cease to exist as a backup by the end of calendar year 2002. Given the performance of IA Pro to date, phasing out the paper-based ledger seems appropriate. IA Pro is capable of tracking all open cases, and serves as an appropriate management tool for OPS managers.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

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

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

Task 92 stipulates that:

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

### Methodology

The monitoring team reviewed 261 of the 472 cases completed during this reporting period. Representatives of the Office of State Police Affairs, through a case content analysis process, similarly review all investigative files for compliance with provisions of this paragraph.

### Status

Each case reviewed by the monitoring team in which a complainant was identified included required copies of disposition letters to the complainant containing the required, relevant information as outlined in the provisions of this paragraph. The State remains in compliance with this task based on performance observed this period.

### Compliance

Phase I: In Compliance  
Phase II: In Compliance

## 2.67 Training Assessment

The following sections of this report deal with the process of training, as delineated in the consent decree, tasks 93-109. An in-depth review of each of these tasks is presented under each individual task number. As a reminder to the reader, all training products in the consent decree are audited using the following training cycle:

1. Assessment--

- Of the needs within the agency;
  - Of the current professional standards and practices related to the topic;
2. Development of training content and training aids;
  3. Delivery utilizing the current best practices in adult learning;
  4. Evaluation of the effectiveness of the training content and the training delivery;
  5. Revision of the training materials and delivery based upon the evaluation of each;
  6. Evaluation of the operational implementation of the practices taught; and
  7. Documentation of all the above steps in the training cycle.

Since the last site visit, a new acting superintendent for the New Jersey State Police was appointed by the governor. A new commandant was assigned to the academy in late July. A new director of the Office of State Police Affairs has been appointed and a new liaison from that office has been assigned to the academy and was present during the monitoring visit.

For the first time since the monitoring team began its visits to the academy, there has been an open and unfettered exchange of information between the monitoring staff and academy personnel. This is directly attributable to the philosophy and direction of the new director of the Office of State Police Affairs as personified in the liaison he assigned to accompany the monitoring team during this visit.

Prior to the seventh visit, academy staff report that they were instructed regarding what they were allowed or not allowed to say or to give to the monitor. The current liaison, though fairly new to the assignment, had an obviously professional and collegial relationship with members of the academy staff who stated they felt very comfortable responding to any questions in his presence. During several conversations with academy staff, areas of need were identified and the liaison was able to offer an immediate response and helpful suggestions, thereby demonstrating that a more supportive and cooperative rapport now exists now between the Office of State Police Affairs, the academy, and the monitoring team.

For the first time documents were given directly to the monitoring team without being delayed by a requirement to take them to the Office of State Police Affairs for approval, logging, and mailing to the monitoring team after the site visit.

For the first time the monitoring team received documents prior to the academy site visit. Review of the documents informed the monitoring team of the

accomplishments since the last site visit and greatly facilitated the monitor in planning how to use the time onsite most effectively and efficiently.

Some of the long delays in reaching compliance are partially attributable to the past practices of the Office of State Police Affairs in ordering and/or directing the academy in how the training tasks would be approached, by contracting with outside vendors to provide training without consulting with the academy, and by proceeding with training without obtaining approval for curricula from the Independent Monitors. This sometimes circumvented the training cycle that is the established criteria used by the monitoring team to assess compliance with the training tasks requiring that curriculum be evaluated and possibly redesigned after training had been delivered (e.g. cultural diversity, supervisory training). The monitors view the academy staff as the training experts; the members of the Office of State Police Affairs are content experts for legal issues related to training, are sometimes trainers for courses related to legal issues, and have oversight responsibility related to the consent decree. The monitoring team notes that this new cooperative and supportive way of conducting business is a critical piece that, if sustained, will greatly facilitate a more expeditious and successful completion of the consent decree tasks related to training.

During past monitoring reports for training activities, the monitoring team identified several concerns leading to findings of non-compliance with the training function. The monitors also noted that the monitoring team felt that these findings were in no way due to resistance or reluctance on the part of the academy to comply, but were, in the monitoring team's view, due to significant levels of understaffing at the academy.

This concern has been repeatedly voiced by the monitoring team over the past two years, both in meetings with the previous directors of the Office of State Police Affairs and in the written monitoring reports. After this site visit the staffing issue remains a **major concern** of the monitoring team because staffing impacts directly on all the consent decree related training tasks. (See task 93.) Four other major concerns had been identified by the monitoring team related to the training function.

The second major concern related to the oversight process for all mandatory training. This includes a lack of accountability for those who miss trainings, and for the supervisory chain of command in operations and specialized areas in the division who are responsible for their subordinates who miss the trainings. An analysis of the computer printouts for the search and seizure classes, for example, illustrates this point (see task 101).

The third major concern related to the continued lack of integration of the computerized training data into the oversight function, and the absence of

comparative data analyses for consent decree related classes provided over the last three years. Comparative analyses are critical to identify trends and gaps in oversight (see tasks 101 and 108).

The fourth major concern related to the move to regionalized training which will have a direct impact on the delivery of consent decree related training and the oversight for consent decree related programs (see task 93).

The fifth major concern related to the scheduling of the recruit classes that are going to begin early in 2003. (see task 93).

The sixth major concern related to trooper safety. During the fall, the former superintendent's new initiatives required training that needed to be completed in a very short time frame. This was in addition to mandatory requalification training and annual consent decree training. It has come to the attention of the monitoring team that in order to get all troopers to the various training venues within the deadlines, that patrol staff was operating at less than the minimum number of troopers deemed necessary for reasonable backup time in the event that a trooper required assistance. The monitoring team is highly cognizant of the issues related to trooper safety, and encourages the State to work with the monitors, if necessary, to develop training timelines that protect trooper safety and also allow compliance with the decree.

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

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

Task 93 stipulates that:

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

**the implementation by state troopers of the practices and procedures being taught).**

## Methodology

Members of the monitoring team spoke with academy staff responsible for this task, and requested and reviewed staffing and manpower allocation data for the academy. The monitoring team also requested computerized print outs of evaluative data collected on training provided for various tasks related to the consent decree. The monitors also reviewed a recent "staffing plan" completed by an outside consultant for the training academy.

## Status

Task 93 enumerates the areas of responsibility assigned to the academy through the consent decree. The scope of the work, the oversight required and the emphasis on **quality** all require that staffing, with qualified personnel both sworn and non-sworn, be sufficient to accomplish this task. To date staffing at the academy has been, in the opinion of the monitoring team, inadequate and unstable with frequent transfers of personnel in and out of the academy, sometimes right before and right after the monitoring visits.

The monitors have informed the State that they have noted several deficiencies in the "staffing plan" currently filed with the State. The State is in apparent agreement, in large part, with the monitors' comments, and the monitors expect substantial change to the work product prior to the time the State begins implementation of the staffing plan.

## Academy Staffing Audit

During this site visit, the monitoring team requested two staffing audits of the academy. The first covers the time span from January 1, 2002 through November 22, 2002. The second is from November 22, 2002 until the beginning of the next site visit in May 2003. These audits were requested to include:

1. The number of staff who have been assigned to the academy;
2. The date assigned;
3. The date reassigned out of the academy;
4. The duties the staff were assigned;
5. Their qualifications for the duty assigned.

The monitoring team has also requested that the academy determine the recommended minimum number of staff required to meet its responsibilities for providing quality training and oversight. The New Jersey State Police Operations Section has determined the minimum number of personnel who are required to



be on patrol in order to provide reasonable backup to ensure officer safety. It is feasible to develop that number for training staff to ensure that quality training and oversight are never compromised.

### The Regional Training Initiative

The focus of the monitoring team's concern is not with the decentralization initiative that would greatly improve the efficiency of delivering training, and save the organization thousands of manpower hours now spent in traveling to the academy for training, but rather with the lack of a unified, proactive approach in planning for this major change.

Following the steps in the training cycle--assessment, development, implementation, evaluation, and documentation--would provide a strong methodology for developing a strategic plan to implement regionalized training. This is a major effort that will impact the total organization and it deserves a major planning effort to ensure success, and to ensure that quality training and oversight are not compromised.

### Recruit Training

After graduation, the 35 members of the 130<sup>th</sup> recruit class completed a critique and evaluation of the new integrated curriculum. Due to the small number of recruits completing the evaluation, no changes will be made to the course materials until the next few recruit classes complete training, and evaluations from a larger sample of recruits are obtained. Several new classes will be starting early in 2003.

Having observed the overwhelmingly stressful impact on the academy staff and on the recruits (due to understaffing and the start of five consecutive recruit classes that overlapped every three weeks), and the impact on other academy training and oversight responsibilities as the academy provided training for the 121<sup>st</sup> through the 130<sup>th</sup> classes over the past two years, the monitoring team urges a more considered approach in addressing the staffing and manpower allocation issue as it greatly affects the **quality and the oversight** of all the tasks assigned to the academy.

### Oversight for Post-Academy Training

The academy is still in the assessment phase of determining what training is offered, who provides the training, how it is evaluated, and if it meets standards for quality in terms of content and delivery. See task 104 for details.

### Performance Implementation Evaluation

The evaluation of the implementation by state troopers of the practices and procedures being taught can only be fully evaluated when the MAPPS system comes on-line and operational performance data can be analyzed on a large scale to determine if interactions with citizens are being performed in compliance with agency standards. The MAPPS is currently in the beta test stage at two sites in the Division.

Compliance

Phase I: In Compliance  
 Phase II: Not In Compliance

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

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

Task 97 stipulates that:

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

Methodology

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

Status

Academy Training Staff

On September 23, 2002, the former superintendent issued an announcement that applications for trainers were being solicited.

Approximately 60 troopers responded to this request. These applicants were in the process of completing the Instructor Training Course during this period's monitoring site visit, and will be available to go through the selection process if approval for increasing staff at the academy is received.

Trooper Coach Staff

Due to reassignments and retirements, there are approximately 100 qualified coaches presently available. When the number of recruit classes is finalized, recruitment of new trooper coaches will begin if necessary.

Taking a proactive approach, the academy has notified troop commanders that new coaches may be needed, and a number of troopers have demonstrated interest in applying for the position. The State remains in compliance based on past performance, and is commended for its foresight in avoiding a shortage of competent trooper coaches.

Compliance

Phase I: In Compliance

Phase II: In Compliance

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

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

Task 98 stipulates that:

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

Methodology:

A member of the monitoring team spoke with academy staff responsible for this task; audited academy trainers' records; audited trooper coach records; and interviewed the training staff currently responsible for oversight for this program.

## Status

### Academy Trainers

The State has developed standardized criteria for academy trainers and has met all documentation criteria for the trainer's records except one. The Division now conducts a "totality of circumstances" review of pending complaints, and the Internal Affairs Bureau now conducts the review of applications for a history of complaints, or open investigations of complaints that include consent decree related concerns. This review had previously been the responsibility of the Office of State Police Affairs.

A document indicating if any complaints are found and where the monitoring team must go to see documentation regarding the decision-making process to retain or dismiss a trainer needs to be part of the trainer files to close the auditing loop. The monitoring team will conduct the annual audit of the trainer's records on the next site visit, and will expect to see such a document in place.

### Trooper Coaches

The State has developed standardized criteria for trooper coaches and has met all documentation criteria for the coach's records except one. The Division now conducts a "totality of circumstances" review, and the Internal Affairs Bureau now conducts the review of coach applications for a history of complaints, or open investigations of complaints that include consent decree related concerns. This review had previously been the responsibility of the Office of State Police Affairs. A document indicating if any complaints are found and where the auditor must go to see documentation regarding the decision-making process to retain or dismiss a coach needs to be part of the coaches' files to close the auditing loop. The monitoring team will conduct the annual audit of the coaches' records on the next site visit, and will expect to see such a document in place.

In addition, acting patrol sergeants, who are trained in coaching skills and are tasked to assume coaching responsibilities if the primary coach is not available due to illness or absence must have files available for review as well. The monitoring team will conduct the annual audit of the coach's records, including the patrol sergeant's records, on the next site visit.

Documentation of the decision-making process for retaining or releasing troopers with past or pending allegations related to consent decree tasks from coaching

or training duties has been requested twice now. Non-compliance for this task is directly related to the monitors' inability to obtain the requested documentation.

Compliance

Academy Personnel	Trooper Coach Personnel
Phase I: In Compliance	Phase I: In Compliance
Phase II: Not In Compliance	Phase II: Not In Compliance

**2.71 Compliance with Task 99: Training for Academy Instructors**

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

Task 99 stipulates that:

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

Methodology:

A member of the monitoring team spoke with academy staff responsible for implementing this task and reviewed the academy personnel files for trainers, and the trooper coach files containing performance evaluations related to their coaching duties.

Status

Academy Instructors

The sixty troopers who responded to the superintendent's memo announcing trainer positions were completing the 40-hour Instructional Trainer's Course during the site visit. The commandant decided to take a proactive approach in preparing a group of trainers because the academy is in the process of

developing a plan to move to regionalized training at the local troop level, and because several new recruit classes will begin after the first of the year. These troopers continue in their regular assignments, but are available to provide training as needed, and would be further qualified to teach specific subject matter.

Academy staff was advised that trainer files are required for these trainers if they are selected to conduct any training within the agency.

### Trooper Coach

As a follow-up to the last site visit, a computer printout of training completed by each coach within the past year has been included in his or her training files to document that, "... additional training to maintain proficiency...."

Two 8-hour classes were conducted for coaches, the new field-training officers, and sergeants who would step in as coaches if the coach is unavailable (sick, in court, etc.). Approximately 50 troopers attended the two classes. The classes served two purposes:

1. To update the group on changes to the S.O.P. related to the coaching program and the oversight and documentation processes that have been put into place for the program.
2. To receive feedback from the participants that will be used to develop a refresher program for all the coaches.

A refresher course is under development to prepare the trooper coaches for the new recruit classes that will probably be graduating sometime in the late spring or early summer of 2003. Documentation of the refresher training will also meet the criterion for "...additional training to maintain proficiency." The curriculum will be reviewed by the monitoring team when it is complete, assuming it is submitted to the monitors prior to implementation.

### Compliance:

#### Academy/Post-Academy

##### Instructors

Phase I: In Compliance

Phase II: In Compliance

##### Trooper Coaches

Phase I: In Compliance

Phase II: In Compliance

## 2.72 Compliance with 100: Training in Cultural Diversity

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

Task 100 stipulates that:

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

Methodology:

A member of the monitoring team spoke with academy staff responsible for implementing this task and audited computer printouts of the training conducted, matching a random sample of the names with actual sign-in sheets and with the scantron test cards used to complete the test for the training. A member of the monitoring team also viewed the four-hour training recently developed by academy staff on this topic.

Status:

Cultural Awareness

Feedback on the critiques completed by participants in the previous training on this topic provided by the Anti-Defamation League ranked the relevancy and applicability of this program 5.5 out of a possible 10. The academy developed and delivered an entirely new course that a member of the monitoring team audited. Feedback from participants will be compiled after the last sessions are complete; however, a review after the first 10 sessions of the new class demonstrated a much more positive response to the new curriculum.

The course began with a two-hour presentation by a guest speaker from the American Muslim Union. The speaker was an attorney and he or a colleague

made this presentation to every session of the cultural diversity training. This training was included based upon feedback gathered from previous course critiques from troopers asking for more specific information about various ethnic and religious groups.

In early November, members of the New Jersey State Police and academy staff were guests at a dinner sponsored by the American Muslim Union marking the beginning of Ramadan. At the dinner the New Jersey State Police was presented with a plaque honoring their outreach efforts to the Muslim community. This contact grew out of the combined efforts of the two groups who worked together to respond to the 9/11 terrorist event in 2001.

The second two-hour block of cultural awareness training began with a brief lecture on the criteria that troopers need to apply when making decisions about how to behave during motor vehicle stops, and included the use of MVR videos illustrating troopers interacting with various motorists who represented various ethnic groups. The films were analyzed to understand decision points at which a trooper made a choice to behave in a way that was in alignment with New Jersey State Police values, and policy and procedure which derive from state laws and constitutional law. There was group participation in this debriefing process.

#### Ethics/Integrity

The four-hour ethics class was held on the same day and the audit at the end of this section reflects testing data on the combined classes for cultural awareness and ethics.

The academy revised this class as well by incorporating a combination of videos depicting incidents involving outside law enforcement agencies from around the country and MVS videos from the New Jersey State Police. These were used to illustrate both ethical and unethical behaviors engaged in by law enforcement personnel in making motor vehicle stops.

The class began with a brief lecture with group involvement and included the presentation of criteria to use in making ethical decisions that the participants then employed in debriefing the incidents captured on the various videotapes.

The last four sessions of this class were in progress during the site visit, so the numbers listed below do not include the personnel who were in these sessions. An audit of available class schedules and testing materials for this course demonstrated the following:



1. The course was conducted from September through November 2002.
2. A total of 2,303 troopers attended the training.
3. A total of 4 failed the test.
4. A total of 420 did not attend the training. Of these, 18 were sick, 4 were suspended, and 2 were authorized but not paid.
5. A random audit of the documentation for 75 troopers indicated that the sign-in sheets were accurate, the Scantron testing card was present, and the information on the computer printout matched the original records.
6. Remedial training for this course will be scheduled after all sessions are completed.

The monitors will critically evaluate the State's ability to get the 396 personnel who did not attend this training identified and trained prior to the next site visit, and to ensure that this "retraining" was conducted within 18 months of the initial training.

Compliance:

Phase I: In Compliance  
Phase II: In compliance

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

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

Task 101 stipulates that:

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

Methodology:

A member of the monitoring team spoke with academy staff responsible for implementing this task, reviewed the CD used to provide regional training on constitutional requirements, audited and analyzed computerized attendance lists, and sign-in sheets, Scantron test cards, and interviewed one of the field training officers about the effectiveness of using the computer-based training.

Status:

This legal training (including the non-discrimination component) was provided electronically using a CD developed by an outside vendor. The content is based upon the course previously taught by an attorney from the attorney general's office and is very well presented. An excellent section on the CD provides a brief synopsis of relevant case law.

This legal training was available at every station for review, as well as on the State Police Intranet. It took approximately six hours to complete, and troopers were encouraged to take notes to study for the test. Troopers were able to view the course as often as needed and at their convenience prior to the testing, and anecdotal data from troopers and academy staff is that it was very well received.

Testing was conducted by academy staff at regional testing centers, and multiple days and times were offered from October 7-November 8, 2002. The twenty-five-question test included true/false questions, and a number of scenarios that had to be read and analyzed to determine the correct answer.

An audit of available class schedules and testing materials for this course demonstrated the following:

1. Training on search and seizure was conducted from September through November 2002.
2. A total of 2,559 troopers completed training.
3. A total of 15 failed the training.
4. Remedial sessions have not been conducted at this time as training was just completed.
5. A total of 173 on-duty troopers did not attend this training. Of these 16 were sick, 5 were suspended, and 2 were authorized but not paid status.

An audit is being conducted to determine why those troopers who were on-duty did not report to the testing centers, and to determine why oversight was not provided by supervisory personnel. An analysis of documents provided to the monitoring team indicates that a very small number of personnel have never attended this training and a few of these troopers have missed all consent decree related training provided by the division over the last three years.

The operations unit and the academy have been requested to develop an oversight flow chart to identify gaps in the oversight process that are occurring at the troop level and between the troops and the academy. It is expected that the oversight process will be fully documented and operational by the next monitor's visit in May 2003, and that a written explanation about why specific troopers have not attended training will be provided to the monitoring team as soon as possible. The monitors will critically evaluate the State's ability to get the 173 personnel who did not attend this training identified and trained prior to the next site visit, and to ensure that this "retraining" was conducted within 18 months of the initial training. While the number of troopers missing consent-decree related training is small (less than five percent), continued problems from the same personnel is tantamount to insubordination, and should be investigated accordingly.

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

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

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

Task 102 stipulates that:

**102. Before the next recruit class graduates from the State Police academy, the State Police shall adopt a protocol regarding its trooper coach program. The protocol shall address the criteria and method for selecting trooper coaches, the training provided to trooper coaches to perform their duties, the length of time that probationary troopers spend in the program, the assignment of probationary troopers to trooper coaches, the substance of the training provided by trooper coaches, and the evaluation of probationary trooper performance by trooper coaches. Prior to implementation, the protocol shall be approved by the Independent Monitor and the United States.**

Methodology:

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

Status:

Changes to the coaching protocol since the last site visit include:

- a. The phase reports completed by each trooper coach at the end of every week are now forwarded to the In-Service Unit at the academy and are reviewed by the sergeant responsible for this program.
- b. Site visits to each troop to provide oversight identified an emerging issue related to probationary troopers remaining on extended coaching status for competency issues. The academy staff and the Office of State Police Affairs are conducting an assessment to determine what processes need to be instituted at the troop level, at the academy level, at the Division level, and within the Office of State Police Affairs to address this issue.

This will be closely monitored at the next site visit. In the interim, the State remains in compliance based on past performance.

Compliance:

Phase I: In Compliance  
 Phase II: In Compliance

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

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

Task 103 stipulates that:

**103. The State Police shall as soon as practicable provide copies and explain the terms of this Decree to all state troopers and employees in order to ensure that they understand the requirements of this Decree and the necessity for strict compliance. After the state has adopted new policies and procedures in compliance with**

**this Decree, the state shall provide in-service training to every state trooper regarding the new policies and procedures and the relevant provisions of this Decree. The state shall incorporate training on these policies and procedures into recruit training at the State Police academy.**

Methodology:

This task was not monitored this reporting period.

Status:

The New Jersey State Police achieved compliance in September 2000, and has maintained that compliance through the last recruit class.

Compliance

Phase I: In Compliance  
Phase II: In Compliance

**2.76 Compliance with 104: Systems Improvement Processes for Police Training**

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

Task 104 stipulates that:

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

Methodology:

A member of the monitoring team reviewed internal memoranda and a working document that maps the “continuous information loop process,” and spoke with academy staff responsible for implementing this task.

Status:

To this point, the monitoring team has assigned this task an in compliance for Phase I. Phase I compliance was based upon the imminent approval of the S.O.P. by the superintendent. There have been three superintendents during the life of the consent decree and approval has not occurred.

Phase II compliance was granted because there was an effort to pull together various components to develop a process to address the task. In retrospect, it has become apparent that this is a much larger task than was previously assumed, and it impacts directly on the oversight and quality issues cited in task 93, even more so now that regionalizing training is gaining momentum. Further, the State has been unable to document success in this task.

It is increasingly evident that task 104 requires a focused and proactive approach, and the active support of the superintendent's office to reach a satisfactory conclusion. The approach so far has been reactive and piecemeal. Early on in the consent decree, staff time had to be devoted to the urgent high-priority issues of responding to consent decree-mandated training and to recruit training leaving minimal time to assess what this task required. Various committees and activities (the ride-along, the intranet bulletin board, attendance at COMSTAT, Field Training Officers etc.) have been cobbled together and have grown into a convoluted system that does not fulfill the requirements of this task.

Among the major stumbling blocks to developing a comprehensive process are the following:

1. Lack of approval for the documentation to support this initiative.
2. Lack of awareness about the organizational scope and involvement required to put this process into place and then to provide oversight to insure that it functions successfully over time.
3. Lack of a complete assessment of training needs currently exists in the division.
4. Lack of authority (at the academy level) to require timely responses to data requests regarding training provided outside the academy.
5. Lack of academy staffing to devote dedicated time to this task.

During this site visit monitoring team was informed that S.O.P. C-25 will address this task and that it is still currently pending approval. This has become a standard refrain for this task.

If S.O.P C-25 is the documentation that provides the basis for this task then it needs to be approved as it is considered one of the impediments in developing a viable process to manage this task. The State is advised that the approval and

implementation of SOPs required for Phase I compliance must be completed prior to achieving Phase II compliance with this task.

It is also time to pull together the disparate measures that have been employed to address this task and to clearly identify in writing the process being utilized. To accomplish this task requires that the academy staff take a proactive approach and complete a comprehensive organizational assessment to determine the total universe of training being conducted in the Division. This assessment would, at a minimum, include:

1. Topics being taught;
2. Names and qualifications (as instructors and as subject matter experts) of the instructors;
3. Teaching techniques used;
4. Documentation—curriculum, tests, audio-visuals, handouts, texts, evaluations, participant sign-in sheets, etc.;
5. Oversight processes in place at the station level and the academy level to assure compliance;
6. Identification of points of access for members of division to submit requests;
7. Identification of how this process will be incorporated into the regionalizing the training function;

To insure a timely organization-wide response to such a request will most likely require a directive from the superintendent's office, and coordination with the commanders overseeing the various major sections of the division as academy attempts to obtain this information in the past have not been successful.

The acquisition and analyses of this information, and any other that the academy deems necessary, is essential to design and develop a process that is able "... to provide information and refer particular incidents to the Training Bureau to assist the Training Bureau in evaluating the effectiveness of training and to detect the need for new or further training." This information will also provide information necessary to develop an oversight process to help achieve compliance for task 93.

Compliance:

Phase I:	Not In Compliance
Phase II:	Not in Compliance

## 2.77 Compliance with 105: Provision of Training for Supervisors

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

Task 105 stipulates that:

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

Methodology:

A member of the monitoring team spoke with academy staff responsible for this task, thoroughly reviewed the course curriculum, and reviewed a summary of a small sample of the course critiques completed by participants in a couple of the early training sessions. A member of the monitoring team, academy staff who developed this class, the Academy Commandant, the Assistant Commandant, the Supervisor of the In-Service Unit, the liaison from the Office of State Police Affairs, and two members from the Superintendent's Office met for a 3 hour working meeting to discuss the content of this course.

Status:

The 52-hour supervisory training has been expanded to 80-hours and was being delivered to all sergeants while the monitoring visit was taking place. The content and its placement in the training agenda are still being reviewed and revised based upon observation of classes, critiques, test analyses, and effectiveness of the class exercises and teaching aids being used.

The academy staff was asked to describe the steps taken to comply with the training cycle used by the monitoring team to assess compliance for training tasks.

### ASSESSMENT

1. Outside law enforcement agencies were contacted, and some current literature was reviewed.



2. Feedback from the major recipients of supervision--those being supervised, and from those responsible for the quality control of supervision provided--the sergeants' supervisors--was not included in the assessment. Though not used to develop the initial class, this assessment could be pursued as a means of evaluating the implementation of current training and the identification of future training needs.
3. The curriculum demonstrates a greater attention to identifying roles and responsibilities through group exercises and discussion.
4. The inclusion of the use of a journal (a performance log used by supervisors to document performance on a daily/weekly basis for each subordinate) to provide on-going documentation related to the identified performance goals is a major innovation and a key piece in performance management. Having to document performance frequently allows the supervisor to identify, early on, the degree of success that each trooper is having in reaching performance goals. When difficulty arises the supervisor can intervene quickly to assess what obstacles are delaying progress, and provide advice or develop strategies to assist the trooper reach his or her goals.
5. Each supervisor is expected to identify an issue of concern within the organization and to develop a plan for solving the problem by the end of the course. This exercise provides skills training in assessment, problem-solving, implementation planning, and writing.
6. A fictional trooper is introduced on the second day of the class and various scenarios impacting on performance are introduced during the two-week course. This information is used to complete the performance appraisal form they will use to evaluate their subordinates. Sergeants are responsible for the performance of the majority of New Jersey State Police personnel. Their skills in performance planning, active performance supervision in the field, reinforcement interventions (both commendations, redirection, retraining, and discipline when appropriate), and performance documentation are critical in developing and supporting the highest quality performance. The monitoring team views this exercise as a major learning piece in this program.
7. Portions of the second week of training include the introduction of new organizational initiatives like the COMSTAT Program and Community Oriented Policing. These blocks of training can be removed as the initiative is incorporated into the on-going operation of the Division making way for training on newly emerging trends (like terrorism) or new organizational initiatives. MVR reviews and scenarios were a block of training in this course based upon evaluative data gathered on supervisory compliance with this task. Supervisors are in a learning mode with respect to this task so retraining in this area is an expected finding as supervisors gain skill and reach proficiency.

The new curriculum reflects a great deal of work by the academy staff to revitalize supervisory training and bring it into alignment with current professional practices. Academy staff at the meeting with monitoring staff reiterated several times that they are continuing to refine this program. After all sergeants complete this training, it will become the required training for all newly promoted sergeants. A shorter program will be developed to address the special needs of sergeants at more advanced ranks, and to provide refresher information on supervision as needed based upon performance assessments and MAPPS data.

#### Monitoring Team Concerns:

The monitoring team has three concerns regarding the revised curriculum.

1. One of the major roles of the supervisors under the consent decree is that of change-agent. They must develop strategies to change performance. Information about the steps in the change process and how to manage change is very important and is presently not included in this course.
2. Supervisors are the liability gatekeepers because liability arises from performance that does not comply with federal, state or case law, or with division policy and procedure. Data indicate that the majority of liability issues are related to a small number of policies related to high-risk law enforcement tasks. Though some of these tasks are addressed in this course in various blocks of training (domestic violence, use of force, sexual harassment, search and seizure, citizen complaints), the importance of the liability issue with the attendant liability implications for supervisors requires a more focused and comprehensive approach to this topic.
3. The role of the sergeant's supervisor is not addressed in the training, and some information about the roles, responsibilities, and expectations for the most immediate source of help to the sergeant is important. The effectiveness of a subordinate at any rank can be enhanced or diminished by the performance of the immediate supervisor. What organizational avenues are open to a sergeant if he or she finds an immediate supervisor unresponsive?

These concerns were shared with those attending the meeting and will be revisited at the next monitoring visit. The monitoring team places the New Jersey State Police in compliance with this task. These items will be monitored closely during the next site visit to determine whether or not the State has developed the necessary training materials, adjusted the training blocks to accommodate the additions, and developed an implementation plan with timelines for follow-up

training for those who have already completed the training. (This can be accomplished through a training bulletin, a videotape, or some other form of distance learning at the local level and does not necessitate bringing everyone back to the Academy for training.)

Training for sergeants, this reporting period, has met the requirements of the decree. However, Task 105 requires training for "supervisors" which is defined by the decree as "a state trooper with oversight responsibility for other State Police troopers" (Consent Decree, Definitions at 14). As such, this applies to lieutenants, and other sworn staff above the rank of sergeant. Training for lieutenants and above requires additional work and documentation, including curricula approved by the monitors, in order to be deemed in compliance with this task.

The monitoring team also stated a concern to academy staff about the use of copyrighted material in this course and was provided with the document Title 17, Chapter 1, Section 101 which the State has determined legally covers the use this material.

Compliance:

Sergeants and Sergeants First Class

Lieutenants and Above

Phase I: In Compliance  
Phase II: In Compliance

Phase I: Not In Compliance  
Phase II: Not In Compliance

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

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

Task 106 stipulates that:

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

## Methodology:

A member of the monitoring team spoke with academy staff responsible for this task. No materials were provided to the monitoring team indicating that any promotions were made since the last site visit.

## Status:

The monitoring team has been informed that not all the names listed in the last report were promotions. The term "advancement" is used to indicate personnel rising through various ranks of sergeant and detective. Regardless of the term used, there are new roles and responsibilities that are associated with the advancement that must be addressed through training and the curricula developed to provide that training will be reviewed by the monitoring team.

Since the last site visit, an 8-hour course was conducted on supervision and leadership for the entire agency, and it is presently being utilized to fulfill the requirements for this task while more appropriate rank specific content is developed related to roles and responsibilities as well as generic issues that span all ranks.

An audit of the computerized print out of those attending and not attending the course demonstrates the following:

1. A total of 1,786 personnel of all ranks attended.
2. There were 4 troopers who failed the test.
2. A total of 67 personnel did not attend the course. Of these, 50 were on-duty, 15 were sick and two were suspended.
3. 13 troopers have been promoted during the term of the consent decree and have not received this training. Their ranks range from Trooper I through Captain. However, all have passed the six-month limit to receive training.
4. Training for the backlog of newly promoted who have not received training is scheduled to be completed by December 13, 2002.

It is now clear to the monitoring team that the academy staff have been assigned primary responsibility for developing training for all levels of sergeant and for lieutenants. The academy has developed a revised and expanded supervisors' course for sergeants (See Task 105), and is in the process of developing a curriculum for lieutenants.

The outline for the lieutenants' class indicates that it will be an 80-hour course with exercises that allow the participants to practice some of the skills being taught. When the curriculum is complete, the monitoring team requests that it

be forwarded for review along with a description of the assessment that was completed. It is expected that the assessment would be two-pronged.

- a. An internal assessment of training needs from the lieutenants, the sergeants (whom they supervise) and the captains (the lieutenant's supervisors)
- b. An external assessment to determine the professional standards for the development of mid-level law enforcement managers which should include contacting professional associations, some of the state P.O.S.T. agencies, and a number of notable police agencies.

The Field Operations Section developed a 40-hour training for captains titled "Command Operations." Those who attended were lieutenants eligible for promotion and captains, and there were several sessions of this training conducted. Academy personnel provided some assistance in the development of this course.

No materials related to this course were provided to the monitoring team for review to determine compliance for this task.

An assessment of executive development programs provided through universities and major corporations is in progress at the academy prefatory to determining the type of training that will be provided to those with the rank of major and higher.

As a reminder to New Jersey State Police personnel who are in Field Operations and who are developing training materials or making decisions about contracting with outside training vendors for executive development training related to the consent decree, all training products in the consent decree are audited by the monitors using the following training cycle:

1. Assessment--
  - Of the needs within the agency
  - Of the current professional standards and practices related to the topic;
2. Development of training content and training aids
3. Delivery utilizing the current best practices in adult learning
4. Evaluation of the effectiveness of the training content and the training delivery
5. Revision of the training materials and delivery based upon the evaluation of each
6. Evaluation of the operational implementation of the practices taught
7. Documentation of all the above steps in the process.

Also, as a reminder, Task 93 speaks specifically to the need for "...an evaluation of instructional content, the quality of instruction, and the implementation by state troopers of the practices and procedures being taught." An evaluation of the implementation of training provided for the various ranks must also occur.

Though some training for captains has been completed, and the training materials for lieutenants are in the development phase, none of these were provided to the monitoring team for review so the team was unable to determine Phase I compliance. Also, no materials have been provided to the monitoring team to date for training for majors and above.

This task will be reviewed more closely on the next site visit. The monitoring team requests that the curriculum for the lieutenant's course be forwarded for review prior to the site visit, along with any training materials developed for the majors and above. The monitoring team will meet with personnel from the operations section who are responsible for developing the training for majors and above during the next site visit.

Compliance

Phase I: Not In Compliance  
 Phase II: Not In Compliance

**1.79 Compliance with Task 107: Provision of Specialized Training**

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

Task 107 stipulates that:

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

Methodology:

The monitoring team spoke with academy staff responsible for developing and delivering the class.

Status:

The parties have agreed that Task 107 applies to law enforcement personnel who are returning to patrol from specialized assignments. The state police is required to provide the same training to these personnel as was provided during the original training processes developed for field operations personnel.

According to documents provided to the monitoring team, a 40-hour course titled "Transitional Training," was developed and delivered.

- a. Six sessions were held in July, August and September
- b. A total of 160 troopers attended
- c. All the troopers received a passing grade

No new curriculum materials were used in providing this training. All training was based on curricula previously provided to and approved by the monitoring team. No testing materials were made available for auditing, as comprehensive analyses of those had not yet been completed. The monitoring team requested that documentation outlining the activities that were conducted to complete the training cycle phases for developing and evaluating the course.

Compliance

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

**2.80 Compliance with 108: Inclusion of Training Data in MAPPs Program**

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

Task 108 stipulates that:

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

Methodology:

Members of the monitoring team spoke with academy staff responsible for implementing this task, with staff utilizing the information now generated by ACTS, and reviewed a sampling of the reports that are being generated by the system to assess progress.

Status:

The monitoring team was presented with computerized printouts of all consent decree related training conducted since the last site visit. The documents were in good order and contained all the information delineated in the consent decree with the exception of the date started and the date finished. Dates for beginning and ending the consent decree related training must appear on the final computer printouts in order to continue to be assessed as in compliance with the consent decree. While the number of troopers missing consent-decree related training is small (less than five percent), continued problems from the same personnel is tantamount to insubordination, and should be investigated accordingly.

A random audit of the printouts, the sign-in sheets, and the scantron test cards showed all components to be in excellent order. This is obviously a process that has been mastered by those using and maintaining it. Analyses of the testing data indicate that very few troopers failed any of the consent decree training.

An analysis of the search and seizure printouts demonstrates that a significant number of on-duty personnel from throughout the organization did not attend the testing and may not have completed the training. A comparative analysis of the search and seizure data from the previous class delivered almost two years ago demonstrates that a small number of troopers have never attended the search and seizure class and an very small number have never attended any of the consent decree related trainings.

It is imperative that the In-Service Unit receive current and accurate analyses of training data to fulfill its responsibilities which include: delivering programs which are provided on a repeating basis, providing oversight for these programs, providing remedial training sessions for those who missed or failed the training, reviewing the post-training critiques, refining the course content to address emerging needs and issues, and by adjusting the teaching techniques to better facilitate the learning process for the participants.

A determination of who shall conduct the analyses of data must be made. The capabilities of the present ACTS system to run comparative analyses must be explored and developed because a hand analysis of the data, based upon the monitoring team's current experience in doing so, is very time consuming.



Comparative analyses are critical for identifying emerging trends and process gaps in oversight.

The monitoring team did not spend time with this unit on this site visit, but will make this a priority on the next site visit. The focus will be on the various types of analyses that can be conducted with the computerized system, the process for distributing that information to members of the academy; the utilization of pertinent data for planning, training development, and oversight; and the integration of the data management unit into the overall training cycle. Printing out the data is the first step, analyzing it is the second step, and utilizing it is the third step.

The monitoring team will not be able to assess total compliance with this task until the MAPPS program is functional. The responsibility for completion of the MAPPS system does not reside with the academy.

Compliance

Phase I: In Compliance  
 Phase II: Not In Compliance

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

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

Task 109 stipulates that:

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

Methodology:

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

Status:

All curricula developed by the academy are maintained in a central repository at the Academy. The In-Service Section at the academy is in the assessment phase of identifying post-academy training that is being provided at the troop level or in specialized units within the division, and any type of external training attended by New Jersey State Police personnel. The responsibility for quality and oversight of such training is required by the consent decree. The assignment of Field Training Officers to Troops A, B, and C will assist the In-Service Unit in meeting this responsibility.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

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

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

Task 110 stipulates that:

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

Methodology:

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

## Status

Based on the monitoring team's review of work product, and information obtained during the process of implementing the seventh site visit, it is clear to the members of the monitoring team that the State is in compliance with this task. Not all duties assigned to the Office of State Police Affairs have been completed as of the seventh site visit. For example, members of the Office of State Police Affairs cannot audit the use of the MAPPS program until the program is functioning. The office does, however, provide coordination with the monitors and the Department of Justice, and the office is headed by an Assistant AG. The office routinely audits the process of managing misconduct investigations, and routinely audits performance on MVSR processes. These audits consist of on-site reviews, basically replicating those engaged in by the monitoring team, with samples of MVSR and MVSR recordings reviewed by OSPA personnel. Problems are noted and remedial measures are recommended. Technical assistance and training is provided routinely by the office regarding these matters. The mechanism and duty assignments, however, exist to complete the duties of the office as soon as practicable, given the implementation schedule of the State's compliance efforts.

OSPA's audit process began in August, the last month for which electronic data were available to the monitoring team, thus, many of the problems noted by the monitoring team this period had not been "pre-audited" by OSPA. The monitors anticipate that a strong comparison between monitoring team assessments and OSPA assessments will be available next reporting period.

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

## Compliance

Phase I:	In Compliance
Phase II:	Unable to Monitor

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

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

Task 111 stipulates that:

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

Methodology:

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

Status

The office has developed and disseminated a procedure for compliance with this task, and has implemented its first audit of this process. Members of the monitoring team have reviewed the State's report in response to this task. A total of more than 13,000 motorists stopped by New Jersey State Police troopers were identified, and letters were mailed to a sample of these individuals requesting that they contact the New Jersey State Police regarding their stops. The State continues to receive survey responses from these motorists. The audit process has resulted in three referrals during the last reporting period to OPS based on information obtained through the internal audit. This process continues to be a troublesome requirement for the State, with response rates to mailed questionnaires remaining below thirty percent, not unusual for processes of this sort.

Compliance

Phase I: In Compliance  
Phase II: In Compliance

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

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

Task 112 stipulates that:

**112. The office's audits of the receipt, investigation, and adjudication of misconduct allegations shall include audits of the tapes of the complaint/comment toll-free telephone hotline established by ¶162; the use of testers to evaluate whether complaint intake procedures are being followed; audits of audio tape and videotape interviews produced during the course of misconduct investigations; and interviews of a sample of persons who file misconduct complaints, after their complaints are finally adjudicated.**

Methodology:

Members of the monitoring team have reviewed audit reports for Office of State Police Affairs personnel who have conducted internal audits of the compliment/complaint hotline and audits of the telephone hotline. Documents reflecting the use of "testers" were also reviewed.

Status

Documentation reviewed by members of the monitoring team reflect a proactive and effective internal audit by OSPA of the misconduct investigation process. No issues were noted by the OSPA audits requiring policy, training or operational changes in the internal investigations process. This audit was consistent with the findings of the monitoring team's findings of a review of 261 internal investigations. OSPA's audit process includes post adjudication interviews of complainants, asking questions regarding the complainant's perception of the internal affairs investigation process. For the first time, the monitors have returned seven completed OPS cases, reviewed by OSPA, for additional work. These seven cases were returned for:

- Failure to pursue collateral misconduct allegations;
- Failure to review available MVR tapes;
- Failure to use the preponderance of the evidence standard;

- Failure to attempt to contact witnesses;
  - Failure to canvass for witnesses; and
- Incomplete investigations.

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

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

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

Task 113 stipulates that:

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

Methodology:

Members of the monitoring team observed the personnel from the Office of State Police Affairs during the course of the site visit during the week of December 4th, 2001.

Status

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

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

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

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

Task 114 stipulates that:

**114. The State Police shall prepare semiannual public reports that include aggregate statistics on State Police traffic enforcement activities and procedures broken down by State Police station and the race/ethnicity of the civilians involved. These aggregate statistics shall include the number of motor vehicle stops (by reason for motor vehicle stop), enforcement actions (including summonses, warnings, and arrests) and procedures (including requests for consent to search, consent searches, non-consensual searches, and uses of force) taken in connection with or during the course of such stops. The information regarding misconduct investigations shall include, on a statewide basis, the number of external, internal, and total complaints received and sustained by category of violation. The information contained in the reports shall be consistent with the status of State Police record keeping systems, including the status of the MAP computer systems. Other than expressly provided herein, this paragraph is not intended, and should not be interpreted, to confer any additional rights to information collected pursuant to this Decree.**

Methodology:

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

Status

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

Compliance

Phase I: In Compliance

Phase II: In Compliance

## 2.87 Compliance with Task 115: Appointment of Independent Monitor

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

Task 115 stipulates that:

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

Methodology:

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

Status

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

Compliance

Phase I: In Compliance  
Phase II: In Compliance



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

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

Task 118 stipulates that:

**118. The State shall provide the Monitor with full and unrestricted access to all State staff, facilities, and non-privileged documents (including databases) necessary to carry out the duties assigned to the Monitor by this Decree. In the event of an objection, the Court shall make the final determination regarding access. In any instance in which the State objects to access, it must establish that the access sought is not relevant to monitoring the implementation of the Consent Decree, or that the information requested is privileged and the interest underlying the privilege cannot be adequately addressed through the entry of a protective order. In any instance in which the State asserts that a document is privileged, it must provide the United States and the Monitor a log describing the document and the privilege asserted. Notwithstanding any claim of privilege, the documents to which the Monitor shall be provided access include: (1) all State Police documents (or portions thereof) concerning compliance with the provisions of this Decree, other than a request for legal advice; and (2) all documents (or portions thereof) prepared by the Office of the Attorney General which contain factual records, factual compilations, or factual analysis concerning compliance with the provisions of this Decree. Other than as expressly provided herein, with respect to the Independent Monitor, this paragraph is not intended, and should not be interpreted to reflect a waiver of any privilege, including those recognized at common law or created by State statute, rule or regulation, which the State may assert against any person or entity other than the Independent Monitor.**

Methodology:

Members of the monitoring team were accorded full and unrestricted access while on-site with personnel from the New Jersey State Police and the Office of State Police Affairs. Some data requested during the fifth site visit regarding training and evaluation of training processes was either not provided in a timely

manner or was provided in a manner that made access and comprehension difficult, causing the monitoring team to find the state not in compliance with some of the consent decree's training requirements. Those issues have surfaced again this reporting period with problems related to obtaining documents regarding retention of trooper coach personnel.

Status

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

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

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

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

Task 120 stipulates that:

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

Methodology:

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

Status

The office is in Phase I compliance with this task. A total of 261 of 472 completed cases were reviewed this reporting period. Five cases were selected by the monitoring team for additional work. The State has agreed to “reopen” those cases that have not been communicated to the troopers or which have “collateral misconduct” allegations noted by the monitors that require investigation and that were not investigated in the original case. The monitors also expect the State to use these cases returned as learning tools, to avoid similar problems in the future. The monitors have provided the State with detailed analyses of these cases, and a discussion of the observed deficiencies. Phase II compliance is dependent upon return of the five cases to the monitors once the additional investigative processes have been completed.

Compliance

Phase I: In Compliance  
 Phase II: Unable to Monitor

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

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

Task 122 stipulates that:

**122. Between ninety (90) and one hundred twenty (120) days following entry of this Consent Decree and every six months thereafter until this Consent Decree is terminated, the State shall file with the Court and the Monitor, with a copy to the United States, a status report delineating all steps taken during the reporting period to comply with each provision of this Consent Decree.**

Methodology:

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

Status

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

Compliance

Phase I: In Compliance  
 Phase II: In Compliance

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

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

Task 123 stipulates that:

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

maintained during the employment of the troopers whose conduct is recorded on the tape.

Methodology:

Members of the monitoring team requested for review numerous documents, records, recordings and other information during the course of the team's site visit during October and November, 2002.

Status

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

Compliance

Phase I: In Compliance

Phase II: In Compliance

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

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

Task 124 stipulates that:

**124. During all times while the Court maintains jurisdiction over this action, the United States shall have access to any State staff, facilities and non-privileged documents (including databases) the United States deems necessary to evaluate compliance with this Consent Decree and, within a reasonable time following a request made to the State attorney, shall, unless an objection is raised by the State, be granted such access and receive copies of documents and databases requested by the United States. In the event of an objection, the Court shall make a final determination regarding access. In any instance in which the State objects to access, it must establish that the access sought is not relevant to monitoring the implementation of the Consent Decree, or that the information requested is privileged and the interest underlying the privilege**

cannot be adequately addressed through the entry of a protective order. In any instance in which the State asserts that a document is privileged, it must provide the United States and the Monitor a log describing the document and the privilege asserted. Notwithstanding any claim of privilege, the documents to which the United States shall be provided access include: (1) all State Police documents (or portions thereof) concerning compliance with the provisions of this Decree, other than a request for legal advice; and (2) all documents (or portions thereof) prepared by the Office of the Attorney General which contain factual records, factual compilations, or factual analysis concerning compliance with the provisions of this Decree. Other than as expressly provided herein with respect to the United States, this paragraph is not intended, and should not be interpreted to reflect a waiver of any privilege, including those recognized at common law or created by State statute, rule or regulation, which the State may assert against any person or entity other than the United States.

#### Methodology:

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

#### Status

The State is in compliance with this task.

#### Compliance

Phase I: In Compliance  
Phase II: In Compliance