

# OLEPS

OFFICE OF LAW ENFORCEMENT PROFESSIONAL STANDARDS

## Tenth Oversight Report September 2015

*January 1, 2014 – June 30, 2014*

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## Executive Summary

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

In this 10<sup>th</sup> Oversight Report, which covers the time period of January 1, 2014 to June 30, 2014, OLEPS reviewed and analyzed data from 366 motor vehicle stops, including records associated with the stops. As part of its sample, OLEPS reviewed all critical stops and a random sample of stops where the trooper indicated that he/she detected the odor of marijuana. OLEPS further reviewed records and documentation from Field Operations, MAPPS, and the Office of Professional Standards (OPS). While there were issues noted in this report, overall, OLEPS determined that State Police acted in conformity with its established performance standards. The major findings of this report include:

- There was no definitive evidence that State Police engaged in any race/ethnicity-based decision making processes in this reporting period. Differences in enforcement activities are more likely the result of chance rather than purposeful behavior.
  - Analysis in the current reporting period indicates that there are no statistically significant differences in the racial/ethnic distributions in the number of stops, including those involving consent to search requests, canine deployments, uses of force, or arrests. While Black drivers were involved in the largest proportion of all stops and these enforcement activities, this difference is not statistically significant and is likely the result of sample selection.
- Instances where State Police deviates from its policy and procedures during a motor vehicle stop are referred to as “errors.” State Police has the ability to review the stops and note the errors. OLEPS reviewed stops that underwent State Police review and those that did not undergo State Police review. While the State Police did not review 105 of OLEPS’ selected stops, OLEPS noted that of the stops State Police did review 24% contained an error. Given this, the total number of errors that the State Police did not catch in the current reporting period remains high.
  - In the current reporting period, OLEPS noted instances where troopers did not meet the appropriate legal standards for the conducted post-stop activities. Specifically, in four stops where there was a request for a consent to search, the legal standard of PC was not met. State Police noted three of these errors. There was one instance of a canine deployment where the facts and circumstances did not meet the standard of RAS. This error was also caught. There were also 18 frisks that did not meet the standard of RAS. State Police noted the majority of the errors, 15. OLEPS also noted seven stops with errors in non-consensual vehicle searches. OLEPS noted two searches of a driver and four of a passenger that were not conducted incident to arrest. Additionally, OLEPS’ review identified two uses of force as unnecessary given the facts and circumstances of the stop. State Police noted one of these errors. OLEPS referred the other back to State Police for review. Despite those instances

where an error did occur, in the majority of post-stop activities OLEPS reviewed, State Police performed in accordance with its policies, procedures, and legal standards.

- When an error occurs and is noted during a motor vehicle stop, State Police is required to issue an intervention, which acts to notify the trooper and his/her supervisor of the error so that such conduct can be corrected. Historically, interventions have not been used consistently. In the current period, however, there was a continued improvement in State Police's use of interventions. About 47% of all errors caught by the State Police resulted in interventions, most frequently for errors caught pertaining to searches of vehicles, searches of persons, and frisks.
- In addition to reviewing stops, supervisors are required to be present during motor vehicle stops in an effort to ensure that troopers conduct stops in accordance with State Police policy. To promote an increase of supervisory presence on the roadway, in July 2011, State Police modified its motor vehicle stop review schedule. Despite this, the proportion of stops with supervisors on scene decreased from 40% in the previous reporting period to 37%. OLEPS, however, anticipates that future reporting periods will reveal an increase in supervisor presence as sufficient time will have passed to allow the implementation of the revised review schedule.
- The audio and video recording of motor vehicle stops remains an issue in the current reporting period. Portions of stops were missing from the database that houses all DIVRs. In some instances, the first clip of the stop was catalogued with that trooper's previous stop, suggesting that he/she did not "clear" from the stop. In other instances, the clip could not be located. Additionally, OLEPS lacks access to recordings on upgraded equipment and software. The State Police should continue to ensure that all clips are uploaded and catalogued appropriately for each motor vehicle stop.
- The average length of all motor vehicle stops in this reporting period was consistent with the previous reporting period, but longer than earlier reporting periods. This increased length was noted among critical stops and the sample of stops where the odor of marijuana was detected. While the latter may be lengthy due to consent requests or arrests, the former are required to be "brief." There was no evidence, however, that the length of stops resulted in a violation of an individuals' rights.

Overall, in this tenth reporting period, the State Police adhered to its policies and procedures.

# OLEPS' TENTH OVERSIGHT REPORT OF THE NEW JERSEY STATE POLICE JANUARY 1, 2014 TO JUNE 30, 2014

## Introduction

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

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

Since State Police's rules, regulations, standing operating procedures or operating instructions will naturally change to account for developments in constitutional law, the advent of new technologies, and the development of new best practices in policing, the Performance Standards listed in this report will evolve. Accordingly, the Oversight Report is a living document that will evaluate the State Police in accordance with the policies and procedures as they exist during the relevant reporting period.

In this Tenth Oversight Report, OLEPS substantively reviews the procedures and implementation related to State Police policies concerning motor vehicle stops and post-stop enforcement actions. Further, it reviews supervision of patrol activities, training provided to State Police members assigned to patrol duties and the conduct of investigations of alleged misconduct and other internal affairs matters. The Tenth Oversight Report covers a six-month reporting period from January 1, 2014 to June 30, 2014.

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

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<sup>1</sup> OLEPS' Monitoring Reports are now known as OLEPS' Oversight Reports. This change reflects OLEPS' role as auditors rather than independent monitors as defined by the Decree. This report represents the seventh full reporting period after the dissolution of the Decree.

The methodology used to assess performance standards is outlined at the beginning of each section. The summary provides an overall assessment of State Police policies and any recommendations. Appendix One is a list of all previous monitoring/oversight reports published by OLEPS and the independent monitors, their dates of publication, and the reporting periods covered. Appendix Two summarizes the types of errors made by each station during the current reporting period. Appendix Three presents additional analyses relevant to Part III. Appendix Four lists definitions for commonly used abbreviations in this report. Finally, Appendix Five contains a map of State Police troops and stations.

# PART I

## METHODOLOGY & PROCESS

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

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

### Standards for Assessment

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

In reviewing State Police compliance with its policies and procedures in motor vehicle stop activities, OLEPS includes a discussion of how many "errors" occurred during the stop. An "error" is a trooper action or inaction during a motor vehicle stop that fails to comport with established procedures. OLEPS notes all errors during a stop, but also notes those caught by the trooper's supervisors in their review of the recording and records of the motor vehicle stop. The report also comments on whether the stop underwent supervisory review, as not all stops do. The expectation is that if the stop underwent supervisory review, the supervisor should catch all errors. Those not caught during a supervisory review are deemed uncaught errors.

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

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

## PART II

# DATA & SAMPLE DESCRIPTION

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

### Field Operations

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

The motor vehicle stop data for this period, as with those for the previous report, were drawn exclusively from the universe of incidents that have post-stop activity. The data requested are based on requirements originally formed by the independent monitors.<sup>2</sup> Updates have been made to the request to reflect any changes in State Police policies and procedures.

### Data Requests

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

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

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

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<sup>2</sup> For more information about the independent monitors, their standards, and reports, please visit: <http://www.nj.gov/oag/decreehome.htm>

## Types of Reviews

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### *Report*

A report review involves examination of all available hard-copy and electronic documentation of an event. For example, a review could consist of reviewing the MVSR, associated records in the patrol log, a supporting consent to search form, and associated summonses or arrest records. Each post-stop event consisting of law enforcement procedures of interest to the Decree<sup>3</sup> was subjected to a structured analysis using a form initially developed by the independent monitors and revised by OLEPS. Problems with the motor vehicle stop were noted and tallied using this form. These data were shared with the State Police. Clarifications were requested and received in instances in which there was doubt about the status of an event or supporting documentation.

### *Recording*

A recording review consisted of examining the associated audio and video of a given motor vehicle stop. OLEPS compared the actions noted on the recording with the elements reported in the official documents related to the event. These data were collected and were shared with the State Police. Clarifications were requested and received in instances in which there was doubt about the status of an event or supporting documentation. Members of OLEPS reviewed available audio and video recordings and associated documentation (stop reports, patrol charts, citations, arrest reports, DUI reports, etc.) for *all*<sup>4</sup> of the stops selected for review.

## Sample

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A sample of motor vehicle stops reviewed for this reporting period was selected from all motor vehicle stops made by the State Police from January 1, 2014 to June 30, 2014. Stops made by all troops and stations were eligible for selection. The sample is best described in two parts:

- I. All stops deemed critical by the Decree
  - o All Reasonable Articulate Suspicion (RAS)<sup>5</sup> based consent searches
  - o All canine deployments
  - o All uses of force
  
- II. Select stops with consent to search requests
  - o With the passage of the New Jersey Compassionate Use of Medical Marijuana Act of 2013 (CUMMA) (see N.J.S.A. 24:6-1-1, et seq.), OLEPS' focus in this reporting period were stops where the odor of marijuana was detected. During the reporting period, the odor of marijuana was an indication of probable cause (PC).<sup>6</sup> This odor is often detected early in a motor vehicle stop. It is not present later in a stop. As such, OLEPS'

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<sup>3</sup> *i.e.*, request for permission to search; conduct of a search; ordering occupants out of a vehicle; frisks of vehicle occupants; canine deployment; seizure of contraband; arrest of the occupants of the vehicle; or use of force.

<sup>4</sup> To the extent these recordings were available.

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

<sup>6</sup> PC is defined as: a firm belief based on identifiable, specific and particularized objective facts that, under the totality of the circumstances known to the member at the time, would cause a person of reasonable caution to believe that a person is violating, is about to violate, or has violated the law, or that a motor vehicle contains contraband or evidence of a crime.

concern focused on those stops where the time to develop probable cause, the detection of the odor of marijuana, was 25 minutes or greater.

A total of 366 motor vehicle stops were reviewed for this reporting period. Table One lists the activities involved in these motor vehicle stops. For this reporting period, OLEPS attempted to conduct recording & report reviews on all motor vehicle stops. Report only reviews occurred in the instances where a recording was not available for review. There were a total of 24 motor vehicle stops that received a report only review, while 342 received a review that included both reports and recordings.

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

	<b>Report Only Reviews</b>	<b>Recording &amp; Report Reviews<sup>7</sup></b>
Total Stops	24	342
Consent Search Requests (PC & RAS)	21	316
Canine Deployments	1	14
Use of Force	2	23
Probable Cause Searches of Vehicles	2	40

Table Two lists the number of incidents reviewed by station and the type of review received. In January 2011, the State Police combined Troops D and E to form Troop D Parkway and Troop D Turnpike. Technically then, Bass River, Bloomfield, and Holmdel<sup>8</sup> stations are part of Troop D. Because of this merger, Troop D generally has the highest number of motor vehicle stops in the sample. In the current reporting period, Troop D conducted 101 stops while Troop B only conducted 93 that were reviewed by OLEPS. Stops conducted by Troop C received the greatest number of report only reviews. Fifty percent of all report only reviews were for stops conducted by Troop C, specifically Red Lion station.

<sup>7</sup> Tape and report reviews for each type of activity total more than 366 because most stops involved more than a single category of law enforcement activity.

<sup>8</sup> Despite this merger, the State Police retained the "E" station codes for Bass River, Bloomfield, and Holmdel stations, as seen in Table Two.

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

Station	Recording & Report Reviews	Report Only Reviews	Total Reviews
A040- Bridgeton	6	1	7
A050- Woodbine	13	0	13
A090- Buena Vista	10	2	12
A100- Port Norris	7	0	7
A140- Woodstown	8	0	8
A160- Atlantic City	12	1	13
A310- Bellmawr	8	0	8
B020- Hope	21	0	21
B050- Sussex	2	0	2
B060- Totowa	15	2	17
B080- Netcong	17	0	17
B110- Perryville	8	1	9
B130- Somerville	20	1	21
B150- Washington	6	0	6
C020- Bordentown	17	2	19
C040- Kingwood	5	0	5
C060- Hamilton	35	3	38
C080- Red Lion	13	7	20
C120- Tuckerton	10	0	10
D010- Cranbury	22	0	22
D020- Moorestown	25	1	26
D030- Newark	6	0	6
E030- Bass River	12	1	13
E040- Bloomfield	14	0	14
E050- Holmdel	19	1	20
Other	11	1	12
<b>Total</b>	<b>342</b>	<b>24</b>	<b>366</b>

In addition to all critical stops, a sample of stops with a probable cause (PC) consent request based on the odor of marijuana was selected for review in the current reporting period. These stops may include other post-stop interactions, but those interactions were not a requirement of sample eligibility. This represents a return to a similar sample as previous Oversight Reports where stops were selected based on whether a PC consent request occurred.

## Trends

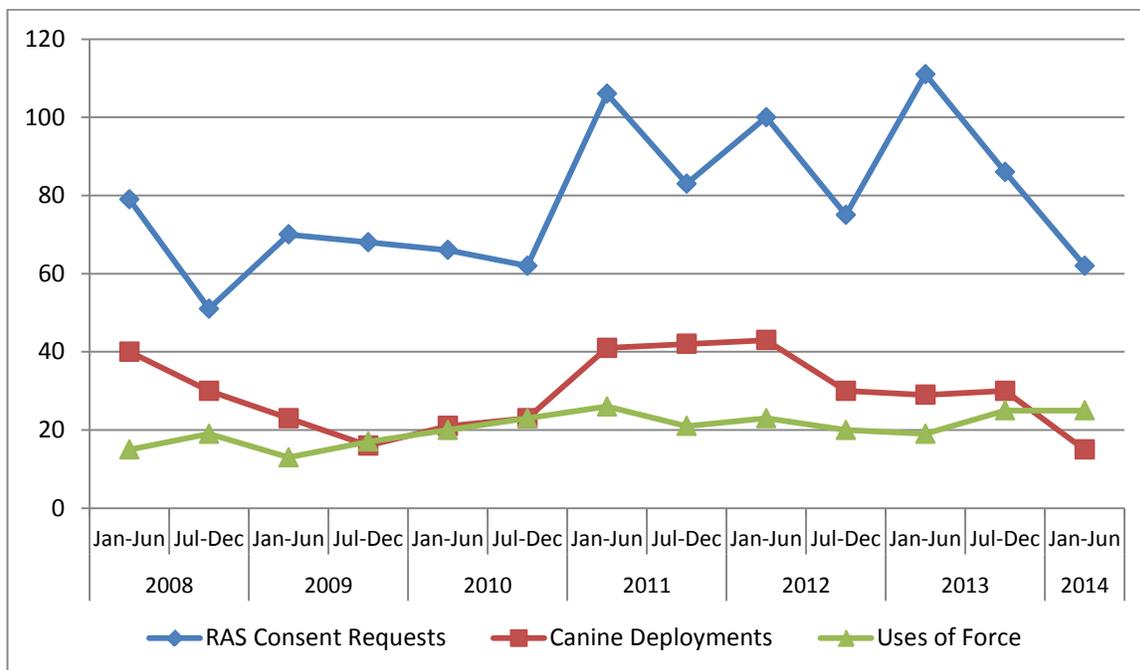
For several reporting periods, OLEPS has tracked trends in the motor vehicle stops reviewed. Since OLEPS reviews all motor vehicle stops with RAS consent to search requests, canine deployments, or

uses of force, these numbers represent the actual volume of motor vehicle stops with these events.<sup>9</sup> Figure One depicts the trends in these events from January 2008-June 2014. RAS consent requests and canine deployments decreased while uses of force stayed the same in the current reporting period. Since 2008, the number of RAS consent requests is higher in the first half of a year, just as the number of motor vehicle stops, generally, is higher in the first half of the year.

In the second half of 2012, a decline in the number of canine deployments was noted after several reporting periods of higher numbers of stops with these activities. The number of canine deployments in the current reporting period is 15, the lowest number since 2008.

The number of stops where force was used has been fairly consistent since 2008, roughly 20 stops in a reporting period. The highest number of stops with a use of force, 26 stops, occurred in the first half of 2011. In the current reporting period, there were 25 stops with a use of force, the same as the previous reporting period.

**Figure One: Annual Trends of RAS Consent Requests, Uses of Force, and Canine Deployments**  
January 2008- June 2014



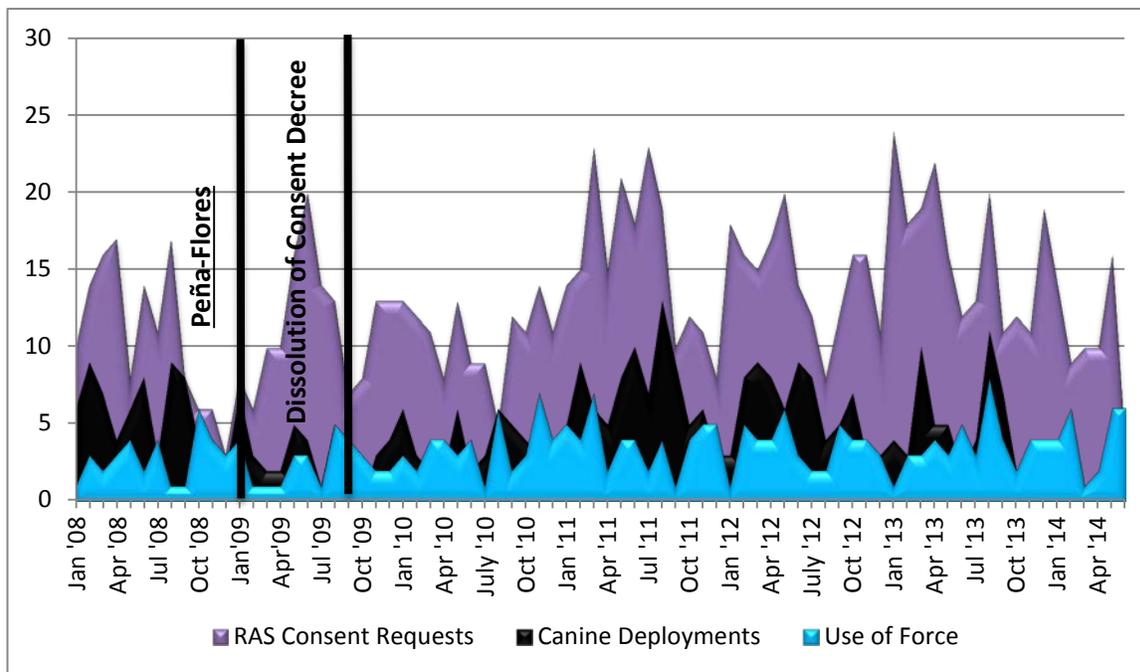
OLEPS has noted monthly and bi-annual trends for the State Police. Specifically, the number of incidents occurring in the second half of the year is lower than the number occurring in the first half of the year. As such, examination of monthly trends is important. Figure Two presents the number of RAS consent requests, uses of force, and canine deployments for January 2008 through June 2014. These monthly trends allow OLEPS to determine changes in the volume of incidents in the time period

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

following key events (e.g., *State v. Peña-Flores*, 198 N.J. 6 (2009)).<sup>10</sup> As seen in the graph, these enforcement activities are relatively infrequent in a given month and there is much variation from month to month. Figure One presented the annual totals for these activities which concealed these monthly fluctuations. The annual totals suggest that RAS consent requests increased in the first half of 2013 and have declined since then, while canine deployments and uses of force remained consistent. However, in reality, the activities vary in each month of the year, and across years; the trends are not as linear as suggested by Figure One. The number of RAS consent to search requests is inconsistent from month to month. While these numbers do fluctuate each month, beginning in January 2012, there is a discernable increase in these events in each month in 2012 and 2013 and a decrease in 2014.

**Figure Two: Motor Vehicle Stops with RAS Consent Requests, Canine Deployments, and Uses of Force**

January 2008 – June 2014



For canine deployments and uses of force, no consistent trend appears other than inconsistency. The number of canine deployments and uses of force fluctuate each month. However, canine deployments do show small spikes in March and August 2013. There were nearly twice as many canine deployments in these months as all other months since August 2011. Noticeably, there was a spike in the number of use of force incidents in August 2013, matching the spike in canine deployments and RAS consent requests. Interestingly, in three months in 2014, February, May, and June, there were six uses of force, the second highest in all months in Figure Two. These months do not consistently depict spikes in other activities, except for May 2014, in which the highest number of RAS consent and canine deployments were also reported for the first half of 2014. Given the low number of critical

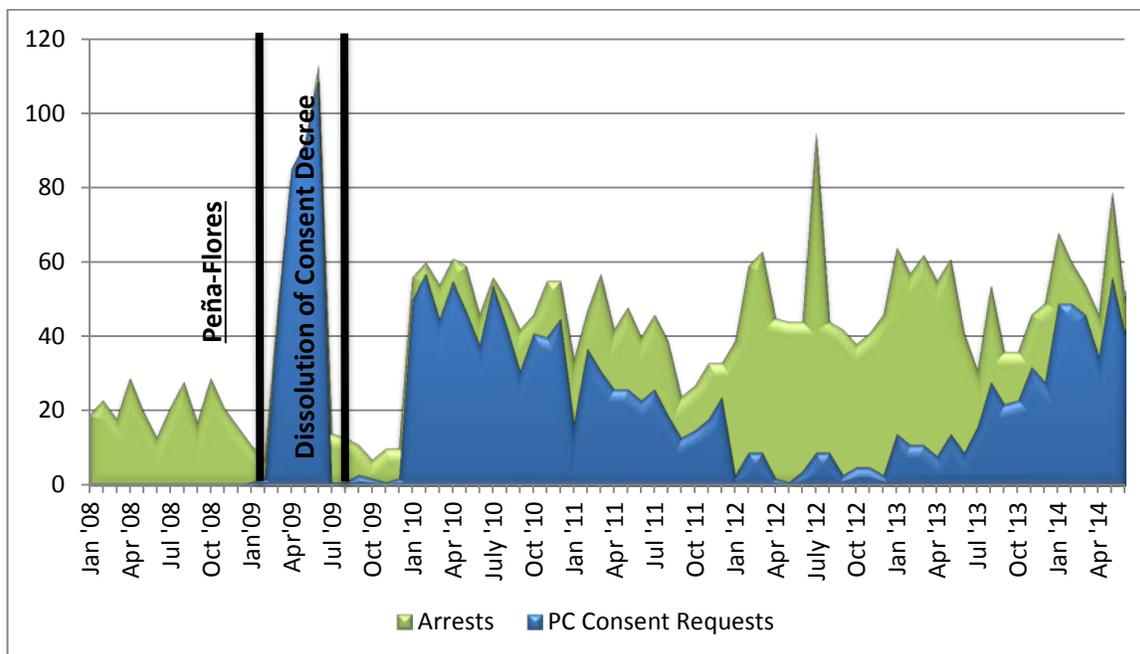
<sup>10</sup> *State v. Peña-Flores*, 198 N.J. 6 (2009), hereafter referred to as *Peña-Flores*, served to further define the exigent circumstances under which a search of a vehicle could be conducted without securing a search warrant under the automobile exception when there was probable cause to believe that a crime had been (or will be) committed.

incidents in the current reporting period, it would be expected that there were fewer motor vehicle stops conducted. However, there was actually a 22% increase in motor vehicle stops reported for the current period.

Two other enforcement activities appear frequently in the stops selected for OLEPS review: PC consent to search requests and arrests. The total number of PC consent to search requests has increased dramatically following Peña-Flores. Figure Three depicts trends in the reviewed motor vehicle stops with PC consent requests and/or arrests. The numbers do not represent the total volume of PC consent requests and arrests, but rather, only those stops selected for review in which these events occurred. In actuality, there were over 1,000 PC consent searches in motor vehicle stops in the first half of 2014. The 275 PC consent requests represented in Figure Three for January- June 2014 only represent a small fraction of the total number of PC consent searches. An annual graph, similar to Figure One, is not presented for PC consent searches and arrests because the variation seen in these events is the result of the stops selected rather than variation in the actual use of such enforcement activities.

**Figure Three: Reviewed Motor Vehicle Stops with PC Consent Requests and/or Arrests**

January 2008 – June 2014



In February 2009, the New Jersey Supreme Court issued the Peña-Flores decision. This decision restricted the ability of law enforcement to conduct searches covered under the automobile exception. This decision resulted in the State Police developing the practice of PC consent requests. Because the decision led to a dramatic change in the type of enforcement activities engaged in by the State Police, OLEPS altered its sample selection to include PC consent requests, beginning in OLEPS' Second Monitoring Report. Due to time constraints, such a sample was not selected for OLEPS' Third Monitoring Report. Thus, the number of PC consent requests reflected in Figure Three for this period is much lower. OLEPS resumed review of PC consent requests in the fourth and fifth reporting period, as indicated by the increase in the number of PC consent requests. OLEPS' sixth through eighth

reporting periods used a sample selected based on whether an arrest occurred rather than a PC consent request. As shown, the number of stops with arrests in these reporting periods is high while the number of PC consent requests is much lower. The number of PC consent requests in the current reporting period is consistent with the previous reporting period. This is likely due to sample selection. In the ninth reporting period OLEPS shifted its focus back to PC consent requests after two reporting periods of focusing on stops with arrests. The current reporting period also focused on stops with PC consent requests.

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## **OPS & Investigations**

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

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## **Training**

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Functions performed by the Training Bureau are assessed on an annual basis as training occurs throughout an entire year. It is the responsibility of the Bureau to ensure that all troopers continue to receive quality training, including those troopers becoming supervisors. It is also the Training Bureau's responsibility to identify training goals, identify measures to assess goal performance, collect data, and determine where data fall on those measures. OLEPS reviews this process and will present an assessment of training for 2014 in OLEPS' Eleventh Oversight Report.

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

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

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## **Oversight and Public Information**

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

# **PART III**

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

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

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

## Field Operations

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

### Assessment Process

OLEPS assesses Field Operations by reviewing a sample of motor vehicle stops. This review includes an examination of all reports and documentation of the stop. Videos of stops are reviewed for all stops where recordings are available. OLEPS' staff examines the facts and circumstances of the stop to determine whether State Police acted appropriately and consistently with State Police requirements for motor vehicle stops. Instances where troopers behave in a manner inconsistent with these requirements are noted and checked to ensure that State Police supervisory review also noted these errors, for those stops that received such a review. All information is recorded in OLEPS' Motor Vehicle Stop Assessment database. This assessment is revised by OLEPS according to the development of the law, State Police policies and procedures, and any observed patterns of performance each reporting period.

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

### Standard

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

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

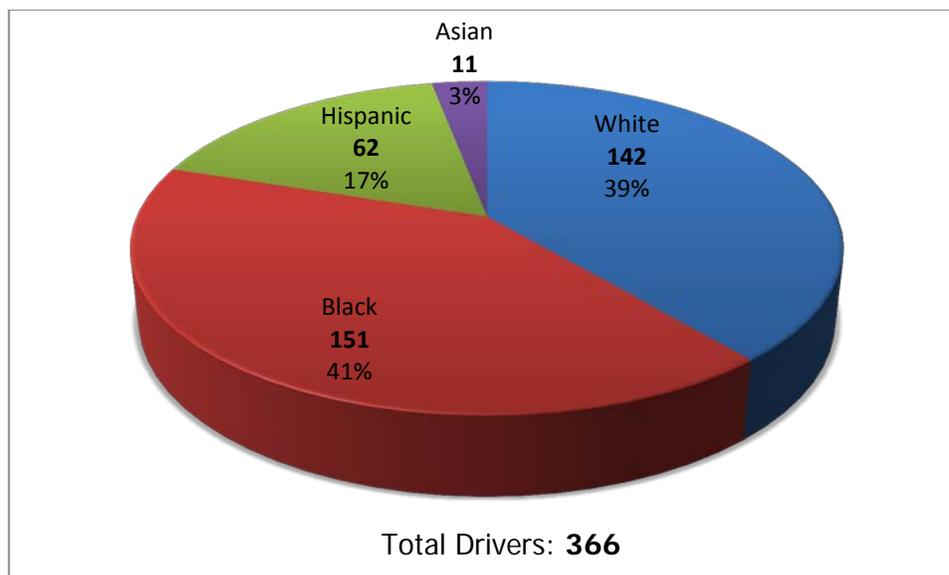
This standard will also examine the potential effect of trooper discretion on racial/ethnic differences in stops and enforcement activities.

## Racial/Ethnic Differences

### *All Motor Vehicle Stops*

All 366 of the stops sampled for this reporting period involved some form of a post-stop interaction (e.g., a consent to search request, canine deployment, use of force, or arrest), but not all stops contained all post-stop activities. Figure Four presents the racial/ethnic breakdown of all stops in the current sample. These numbers do not reflect the racial and ethnic distribution of all drivers stopped by the State Police.<sup>11</sup> Rather, they reflect the racial and ethnic distribution of drivers who were involved in the stops selected for review.

**Figure Four: Race/Ethnicity of Drivers**  
10<sup>th</sup> OLEPS Reporting Period



In the current reporting period, there were more stops with Black drivers than any other racial/ethnic group. There were 151 (41%) drivers in this sample who were Black, 142 (39%) who were White, 62 (17%) who were Hispanic, and 11 (3%) who were Asian.<sup>12</sup> The majority of trooper-citizen interactions in this reporting period appeared to involve White or Black drivers. As in the ninth reporting period, but unlike earlier periods, the stops reviewed in the current reporting period involved a larger proportion of Black than White drivers. This difference is likely due to sample selection.

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

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

Consistent with the ninth reporting period, OLEPS again chose to review a secondary sample of PC consent searches due to changes in state law related to the use of medical marijuana. This review allowed OLEPS to determine, what impact, if any, CUMMA had on PC consent searches. The larger proportion of stops involving Black drivers in this reporting period is the result of a larger proportion of Black drivers involved in all stops with PC based on the odor of marijuana than would be expected based on their proportion of all stops. In the first half of 2014, there were 1,236 stops with a PC consent search. Of these stops, 38% involved Black drivers and 42% involved White drivers. Of all stops with PC consent requests, 1,006 cited reasons for PC relating to the odor of marijuana; White drivers were involved in only 37% of these stops while Black drivers were involved in nearly 43%. Unlike the previous reporting period, PC was developed in 25 minutes or more in the majority of these stops. Of those stops, 43% involved Black drivers while only 36% involved White drivers. White drivers were involved in 55% and Black drivers in 31% of stops where PC took fewer than 25 minutes to develop. Thus, because Black drivers are disproportionately involved in stops with PC based on the odor of marijuana, they make up a larger proportion of stops reviewed in this reporting period than is typical. This disproportionality is one that has been noted by State Police by their own risk assessment analysis. This report will assess the appropriateness of actions taken in these stops.

OLEPS does not typically comment on whether evidence was seized in motor vehicle stops. However, this reporting period includes a disproportionate number of stops involving Black drivers due to the selection of PC consent requests based on the odor of marijuana. Consequently, in this reporting period, OLEPS examined whether evidence was found in each stop to ensure that this disproportionality does not reflect improper trooper conduct. OLEPS determined whether evidence was found during a consent search, execution of a warrant, or PC vehicle search. OLEPS also noted whether there was an admission of the use of marijuana during the motor vehicle stop. Black drivers were involved in 125 of the 271 (46.12%) stops reviewed where the odor of marijuana was detected. Despite this disproportionality, evidence or admission of use was noted in 82 (65.6%) of stops where the odor was detected. Unlike the previous reporting period, a number of stops of Black drivers with the odor of marijuana did not result in evidence or an admission of use, 43 (34.4%) of the 125 stops. White drivers were involved in 86 of the 271 (31.73%) stops where the odor of marijuana was detected. In 62 of these stops (72.1%), there was evidence or an admission. Hispanic drivers were involved in 50 of the 271 stops (18.5%) where the odor of marijuana was detected. Evidence or admissions were noted in 35 of the 50 stops (70%) with Hispanic drivers. Despite a disproportionate involvement in PC consent searches, State Police collected evidence or an admission to confirm the odor of marijuana in the majority of these stops. In the previous reporting period, the find rates for Black and Hispanic drivers are actually higher than those for White drivers. However, in the current reporting period, White drivers have the highest find rate, followed by Hispanic drivers and then Black drivers. Additionally, there were only 83 stops where there was no evidence or admission of use in the current reporting period. Slightly more than half of these stops, 43 (51.8%) involved Black drivers. White drivers were involved in 28.9% and Hispanic drivers were involved in 18.1% of stops where no evidence or admission of use was noted when the smell of marijuana was detected.

In previous reporting periods, the overall racial/ethnic distribution of the stops reviewed would be the basis of comparison for the racial/ethnic distribution of activities reviewed in that period. Because the overall distribution is skewed, this comparison will not be made. Instead, the distribution of activities will merely be discussed in terms of expectations based on overall racial/ethnic distribution of all stops.

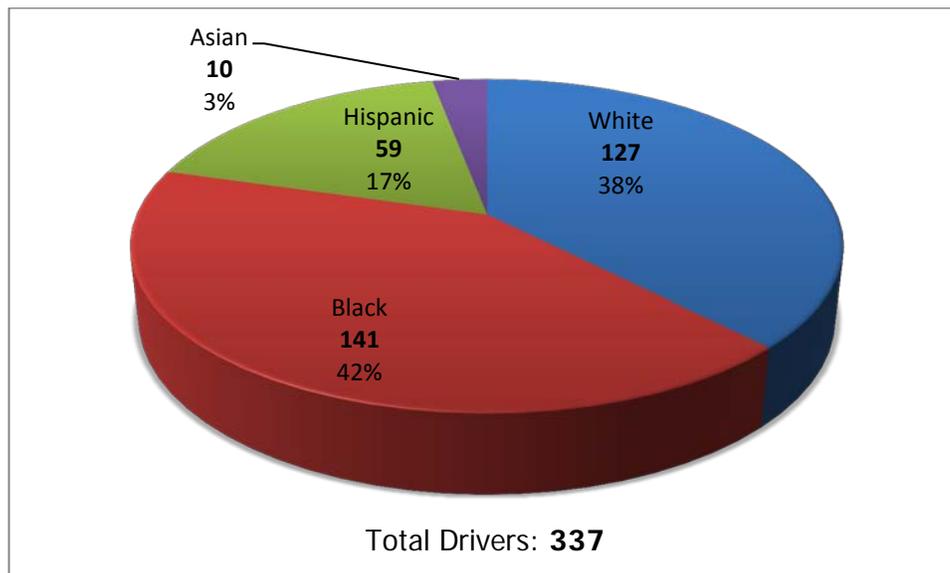
## Consent Requests

Figure Five depicts the number of stops, by race of driver, where consent to search was requested. In 337 motor vehicle stops, 92% of the sample, consent to search was requested. This Figure represents all consent requests: PC-based; RAS-based; those that were granted; and those that were denied. Like the previous reporting period, Black drivers made up the highest number and percentage of stops with consent requests with 141 or 42% of all requests made. White drivers made up the second highest portion, 127 stops with requests or 38%. Hispanic drivers were asked for consent to search in 59 stops or 17% of stops with requests. Finally, Asian drivers were asked for consent to search in 10 stops or 3%.

Because the overwhelming majority of stops reviewed contain a consent request, the racial/ethnic distribution of stops with consent requests is nearly identical to the distribution of all stops reviewed.

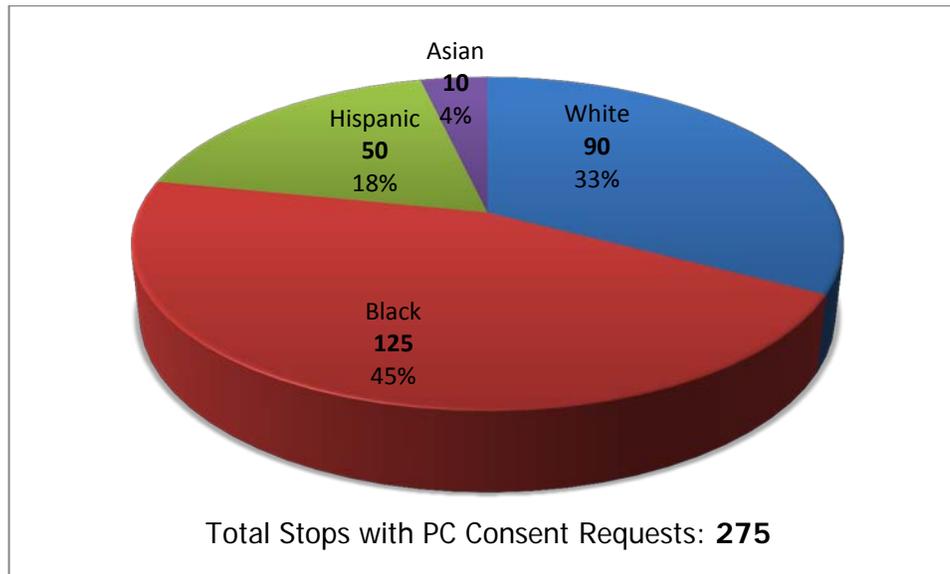
Chi-square analysis (Appendix Three, Table One) was conducted to determine whether there were significant differences in the racial/ethnic distribution of consent to search requests. The analysis yielded a chi-square ( $\chi^2$ ) value of 2.216 with a  $p$ -value of .137. The difference in the number of consent to search requests asked of White, Black, or Hispanic drivers is not statistically significant.

**Figure Five: Consent Requests by Race/Ethnicity of Driver**  
10<sup>th</sup> OLEPS Reporting Period

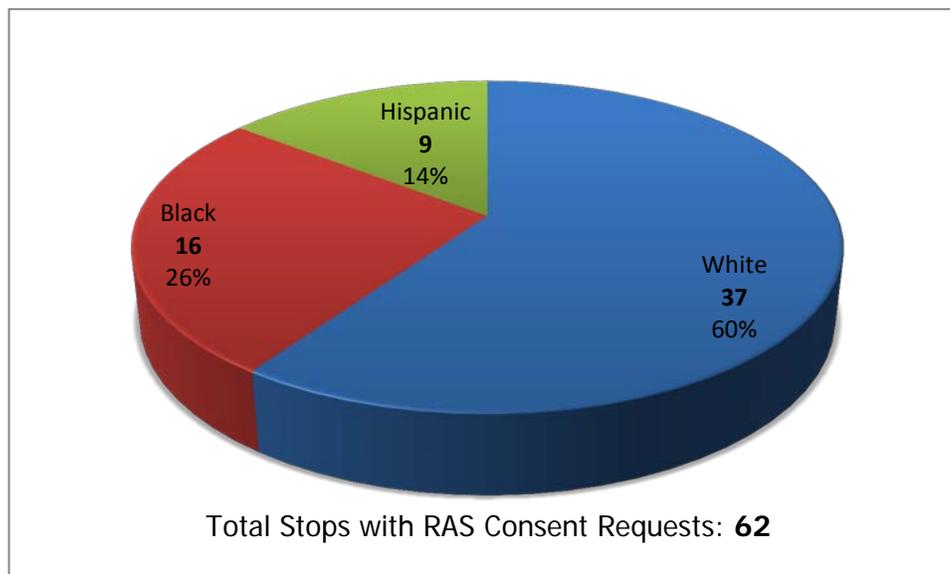


As mentioned previously, the stops reviewed in this reporting period contain a disproportionate number of Black drivers than is typically reviewed in OLEPS Oversight Reports. This disproportionality is the result of reviewing a large number of stops with consent requests based on PC and the odor of marijuana. To illustrate this difference, Figure Six depicts the racial/ethnic distribution of stops with PC consent to search requests and Figure Seven depicts the racial/ethnic distribution of stops with RAS consent to search requests.

**Figure Six: PC Consent Requests by Race/Ethnicity of Driver**  
10<sup>th</sup> OLEPS Reporting Period



**Figure Seven: RAS Consent Requests by Race/Ethnicity of Driver**  
10<sup>th</sup> OLEPS Reporting Period

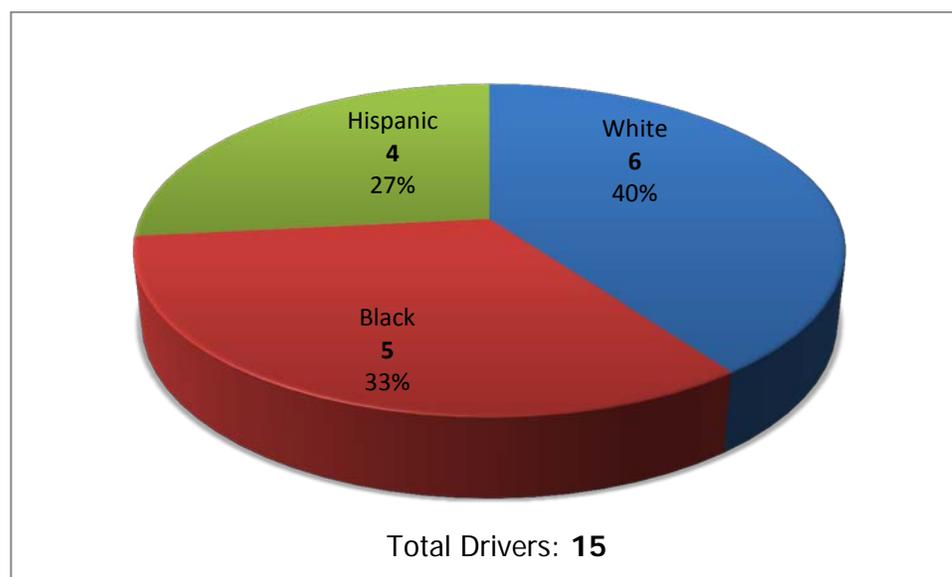


As shown in Figure Six, Black drivers were involved in 45% of all stops with PC consent requests in the current reporting period. Conversely, Black drivers were involved in only 26% of RAS consent requests (Figure Seven), which is similar to the racial/ethnic distributions noted in previous reporting periods. Additionally, Hispanic drivers also make up a large proportion of those involved in stops with PC consent to search requests, 18%, compared to their proportion of RAS consent requests, 14%. Because PC consent requests make up over half of all stops reviewed, the distribution of all stops is skewed.

## *Canine Deployments*

In the current reporting period there were 15 stops with a canine deployment, half the number in the previous reporting period. Figure Eight depicts the number and percentage of canine deployments by race and ethnicity of the driver. White drivers made up the largest portion of motor vehicle stops with canine deployments. In total, six deployments (40%) occurred in motor vehicle stops with White drivers. Five canine deployments (33%) occurred in stops with Black drivers. Hispanic drivers were involved in four stops where a canine was deployed.

**Figure Eight: Canine Deployments by Race/Ethnicity of Driver**  
10<sup>th</sup> OLEPS Reporting Period



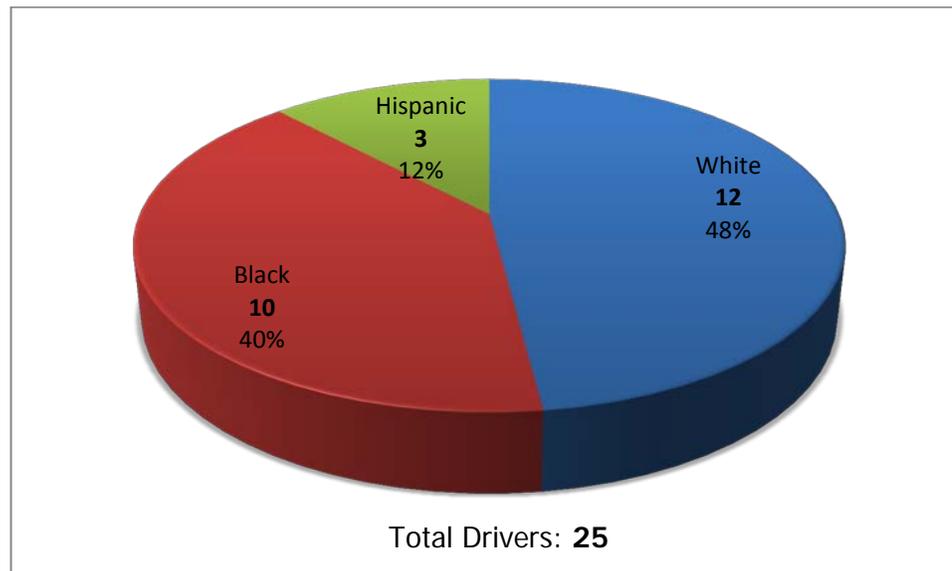
This overall pattern is consistent with previous reporting periods, but not the most recent. In the current reporting period, Black drivers make up a much smaller proportion of canine deployments than the previous reporting period. In the current reporting period, Black drivers were involved in 33% of stops with canine deployments, while in the previous they were involved in 60% of all stops with canine deployments. However, Hispanic drivers are involved in 27% of all deployments in this current reporting period. Though this represents a sizeable proportion increase, the difference is attributable to only one stop. In the current reporting period, there was a 50% decrease in the number of stops with canine deployments. The racial/ethnic distribution indicates that this reduction primarily involved stops with Black drivers. This disparity is not likely related to the sample selection noted previously; OLEPS reviews **all** stops with canine deployments each reporting period.

Chi-square analysis resulted in a  $\chi^2$  value of .01 and was conducted comparing White and non-White drivers. The analysis revealed that the racial/ethnic distribution of canine deployments is not statistically significant. It cannot be said that any racial/ethnic group is involved in a significantly higher number of stops with canine deployments than any other racial/ethnic group; the pattern observed is possibly the result of chance. These results are likely due to the small number of stops involving a canine deployment and the difficulty of achieving significance in small samples.

## *Uses of Force*

Figure Nine presents the racial/ethnic distribution of uses of force in the first half of 2014. In total, there were 25 uses of force, the same number as in the previous reporting period. Of the uses of force in the first half of 2014, 12 (48%) were in stops with White drivers, 10 (40%) involved Black drivers, and three (12%) involved Hispanic drivers. There were no uses of force in stops with Asian drivers. Unlike the previous reporting period, White drivers were involved in the largest proportion of stops with force in the first half of 2014. As noted with canine deployments, OLEPS reviews **all** stops with uses of force, so this disproportionality is not the result of sample selection. Additionally, there were only five more uses of force in stops with White drivers in the current period, yet their proportion of stops with force increased dramatically. This highlights the impact one or a few stops can have on the racial/ethnic distribution of a small number of stops.

**Figure Nine: Uses of Force by Race/Ethnicity of Driver**  
10<sup>th</sup> OLEPS Reporting Period



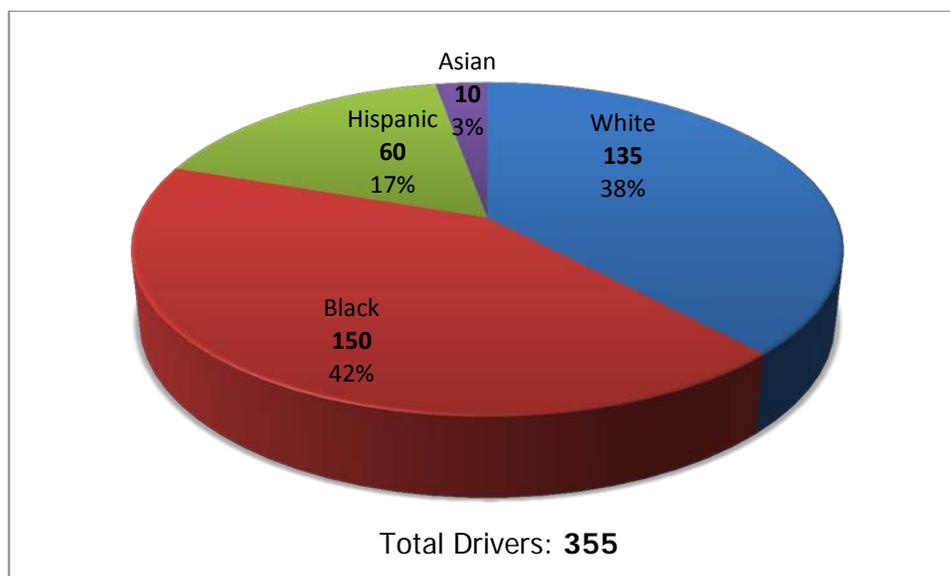
Chi-square analysis indicates a  $\chi^2$  value of .957 and that this distribution is not statistically significant, indicating that the differences are attributable to chance. The analysis compared White and non-White drivers as the use of each racial/ethnic category separately rendered the results invalid. Thus, it cannot be said that the number of force incidents in which White drivers were involved are significantly more than the number of incidents for other drivers. The lack of significance is a product of sample size; there are only 25 stops with uses of force and it is difficult to attain significance with small samples.

For several reporting periods, OLEPS noted increases in the number of stops with uses of force. The number of stops involving force in this reporting period is consistent with the previous reporting period. OLEPS is cognizant that the number of uses of force will fluctuate as the number of motor vehicle stops fluctuates. Overall though, the number of stops with uses of force is small and, as such, the racial/ethnic distribution shifts from reporting period to reporting period. As in the previous reports, OLEPS recommends continued examination of the racial/ethnic distribution of uses of force, as this distribution does change each reporting period.

## Arrests

Figure Ten depicts the racial/ethnic distribution of motor vehicle stops in which an arrest was made. The sample selected for the current reporting period was largely based on whether there was a consent search based on the odor of marijuana. According to State Police policy and applicable law, PC requires an arrest. The odor of marijuana gives rise to probable cause that marijuana may be present. Thus, when the odor of marijuana is detected, State Police proceed with PC, and arrest an individual upon the detection of the odor. Because of this, the majority of stops, 355 stops or about 97%, involved an arrest. The number and proportion of stops with arrests is similar to the previous reporting period, where an arrest was made in 94% of stops.<sup>13</sup> As the overall racial/ethnic distribution of stops changed in the current reporting period due to sample selection, so did the racial/ethnic distribution of stops with arrests. Since an arrest was made in the majority of stops, the racial/ethnic distribution of stops with arrests is nearly identical to the overall distribution. Black drivers were involved in the largest proportion of stops with arrests, 150 stops (42%). White drivers were involved in 135 stops (38%) with an arrest. Hispanic drivers were involved in 60 stops (17%) with arrests. Asian drivers were only involved in 10 stops (3%) with an arrest.

**Figure Ten: Arrests by Race/Ethnicity of Driver**  
10<sup>th</sup> OLEPS Reporting Period



Compared to the overall racial/ethnic distribution, the distribution of arrests presents no obvious issues of potential bias. The percentages for each racial/ethnic group are roughly the same for all stops and those with arrests.

Chi-square analysis was conducted to determine whether any significant differences exist in the racial/ethnic distribution of arrests. The analysis presents arrest versus no arrest for White and non-White drivers only and yielded a  $p$ -value of .086, which is not significant. There is no significant difference between the number of stops with arrests of White versus non-White drivers.

<sup>13</sup> This proportion includes those stops where an individual was unarrested and released from the scene.

## The Role of Discretion

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

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

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

Table Three presents the five most common reasons for motor vehicle stops in the current and past six reporting periods. The most common reasons rarely change dramatically. The most common reasons are some combination of rates of speed, failure to maintain lane, equipment violations, and two other reasons. These other reasons typically include: safety violations, seat belts, or failure to signal/improper lane change. The total percentage for each violation category is also included in the table. Generally, the top five reasons for motor vehicle stops account for over half of all the stops in the reporting period.

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

**Table Three: Top Reasons for Trooper Initiated Motor Vehicle Stops**  
3<sup>rd</sup>- 10<sup>th</sup> Reporting Periods

	3 <sup>rd</sup> Reporting Period	4 <sup>th</sup> Reporting Period	5 <sup>th</sup> Reporting Period	6 <sup>th</sup> Reporting Period	7 <sup>th</sup> Reporting Period	8 <sup>th</sup> Reporting Period	9 <sup>th</sup> Reporting Period	10 <sup>th</sup> Reporting Period
Equipment Violations	7.3%	11.4%	12.3%	9.8%	12%	8%	11.2%	13.9%
Failure to Maintain Lane	15.7%	20%	22%	19%	21.5%	18%	9.3%	10.7%
Improper Lane Change	9.4%	6.1%	9.3%	--	--	7%	7.5%	7.9%
Rate of Speed	16.8%	25.2%	22.4%	19%	16%	16%	21.3%	23.8%
Safety Violations	16.8%	8.1%	12%	10.2%	10.1%	--	--	6.8%
Seat Belt	--	--	--	7.9%	4%	8%	7.5%	--
<b>Total</b>	<b>66.0%</b>	<b>70.8%</b>	<b>78.0%</b>	<b>65.9%</b>	<b>63.6%</b>	<b>57.0%</b>	<b>56.8%</b>	<b>63.1%</b>

Generally, Motorist Aids/Motorist Accidents are a common occurrence, more so than some reasons listed in Table Three. In the current reporting period, Motorist Aids/Accidents were listed as the reason for the stop in 35 or 9.5% of all stops in the current reporting period. These instances do not represent a trooper's decision to stop a vehicle and as such, are not included in the table. Instead, aids and accidents represent a trooper's public service requirement to assist motorists.

### *All Motor Vehicle Stops*

The most common stop reasons for the current reporting period are presented based on race/ethnicity in Table Four.<sup>14</sup> As in the ninth reporting period, but unlike earlier periods, Black drivers make up the largest number of each stop reason, followed by White drivers, and then finally Hispanic drivers. The exceptions to this are unsafe lane change where White drivers were involved in 13 stops, Black drivers 10 stops, Hispanic drivers five stops, and Asian drivers one stop. The most frequently cited stop reason for White, Black, and Hispanic drivers is rate of speed while failure to maintain lane is the most frequently cite reason for Asian drivers.

<sup>14</sup> The top five reasons for stops were cited in 231 of 366 motor vehicle stops. Table Four only presents the stops where the most common reasons were cited, not all stops. For example, the total listed for White drivers is 82, which represents the number of stops with White drivers where one of these reasons was cited, not the total number of stops with White drivers (which is 142).

**Table Four: Reasons for Stops by Driver Race/Ethnicity**  
10<sup>th</sup> OLEPS Reporting Period

	<b>White</b>	<b>Black</b>	<b>Hispanic</b>	<b>Asian</b>
	(% of Total Stops)			
<b>Failure to Maintain Lane</b>	10	18	7	4
	12.20%	16.98%	20.00%	50.00%
<b>Rate of Speed</b>	32	39	13	3
	39.02%	36.79%	37.14%	37.50%
<b>Equipment Violations</b>	17	27	7	0
	20.73%	25.47%	20.00%	--
<b>Unsafe Lane Change</b>	13	10	5	1
	15.85%	9.43%	14.29%	12.50%
<b>Safety Violations</b>	10	12	3	0
	12.20%	11.32%	8.57%	--
<b>Total</b>	<b>82</b>	<b>106</b>	<b>35</b>	<b>8</b>

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

Chi-square analysis was conducted to determine whether there were any statistically significant racial/ethnic differences in the most common reasons for motor vehicle stops. Due to invalid cells, the analysis was conducted based on White versus non-White drivers. The analysis did not reveal a significant difference ( $p=.534$ ) in stop reasons by race/ethnicity.

### Consent Search Requests

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

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

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

Race/Ethnicity	Reasonable Articulable Suspicion	Probable Cause	Mean
	(1)	(2)	
<b>White</b>	37	90	1.71
<b>Black</b>	16	125	1.89
<b>Hispanic</b>	9	50	1.85
<b>Asian</b>	0	10	2.00
<b>Total</b>	<b>62</b>	<b>275</b>	<b>1.82</b>

As in the previous reporting period, the majority of consent requests reviewed in the current sample were based on PC, as seen in Table Five. There were 62 stops that involved an RAS consent request while 275 stops contained a PC consent request. Because there are so many PC consent requests, it would be expected that the majority of consent requests for each race/ethnicity are PC based.

Chi-square analysis was used to determine whether there were any significant differences in the racial/ethnic distribution of the legal standards used in consent requests. The analysis revealed significant differences among White, Black, and Hispanic drivers and the legal standard used to request consent ( $p < .01$ ,  $\chi^2 = 14.4$ ). Thus, there are significantly more consent requests based on PC than RAS for White, Black, and Hispanic drivers.

The mean values in Table Five can be used to determine the direction of consent requests, either PC or RAS. For White drivers, the mean value is 1.71, closer to the value of two, which is assigned to PC, than it is to the value for RAS. This means that White drivers are more often receiving consent requests based on PC than RAS in the current reporting period. For Black drivers, the mean value is 1.89, also closer to two, which indicates PC. Black drivers then are more frequently receiving PC searches rather than RAS in this sample. The mean for Hispanic drivers is 1.85, again, closer to PC than RAS. Hispanic drivers are involved in a higher proportion of stops with PC rather than RAS consent requests. Finally, the mean for Asian drivers is 2, indicating PC consent requests. In the previous reporting period, White drivers had a slightly higher proportion of RAS consent searches than all other drivers. However, in the current reporting period, all racial/ethnic groups are involved in a higher number of stops with PC consent requests than RAS consent requests. Overall, as indicated by the individual group means and the overall mean, the direction of the distribution is toward PC rather than RAS consent requests; the majority of consent requests in the sample are based on PC. However, compared to the means for the previous reporting period, it appears that there are slightly more PC consent requests utilized for the current reporting period, for all racial/ethnic groups.

### *Variation Among RAS Consent Requests*

While RAS may involve more discretion than PC consent requests, there is variation in discretion within categories of RAS. The reasons for an RAS consent request can be described as intangible, tangible, or probative. Intangible reasons are observations such as nervousness, failure to make eye contact, uncertainty in answers, and conflicting statements. Tangible reasons include the existence of air

fresheners, modifications to vehicle interiors, “boost” cell phones, etc. Probative reasons include artifacts of gang membership (such as tattoos, admitted membership), odor of burnt or raw marijuana in the vehicle, admissions against self-interest, and criminal histories. In most incidents, there was more than one type of reason for requesting consent. However, probative reasons are recorded, if given, regardless of other reasons stated. If the table lists an intangible reason, those are instances in which only intangible reasons were given. If a stop had tangible reasons and probative reasons articulated, these are recorded as probative. Thus, the higher numbers for probative reasons do not reflect that *only* probative reasons were given but rather that all incidents with intangible or tangible reasons articulated also had probative reasons given and are displayed in the probative column only.

Consistent with previous reporting periods, the most common reasons for RAS consent requests are probative reasons. In 56 stops with RAS requests, there was at least one probative reason cited. There were two requests based solely on tangible reasons, and two requests based solely on intangible reasons. This pattern is consistent with previous reporting periods; the majority of RAS consent requests are based on probative reasons. The mean values are generally closer to a value of three, indicating probative reasons. As noted in the previous reporting period, Hispanic drivers have the highest mean value, 2.89.

**Table Six: Reason for RAS Consent Requests by Race/Ethnicity of Driver<sup>15</sup>**  
10<sup>th</sup> OLEPS Reporting Period

Race/Ethnicity	Intangible	Tangible	Probative	Mean
	(1)	(2)	(3)	
<b>White</b>	2	1	33	2.86
<b>Black</b>	1	0	15	2.88
<b>Hispanic</b>	0	1	8	2.89
<b>Asian</b>	0	0	0	--
<b>Total</b>	<b>2</b>	<b>2</b>	<b>56</b>	<b>2.90</b>

Chi-square analysis could not be conducted to determine if the racial/ethnic differences in reasons for RAS requests are statistically significant due to extremely low expected counts. Thus, while there are more probative reasons cited, it cannot be determined whether the distribution is the result of chance.

### *Canine Deployments*

Racial/ethnic variation among the legal standard used to deploy canines was also examined. Table Seven reveals that the majority of the 15 official canine deployments are based on RAS rather than PC. This is expected since State Police policy allows troopers to use the results of a canine deployment to bolster facts and circumstances, strengthening RAS and PC reasons needed to request consent from a driver, arrest a driver, or to obtain a search warrant. Consistent with the previous reporting period, RAS deployments are the most common type for each race/ethnicity. However, Black drivers have the

<sup>15</sup> There was one consent to search request based on RAS where the only reason listed was “Other.” Because “other” cannot be clearly defined as intangible, tangible, or probative, this stop was removed from Table Six. This stop involved a White driver.

highest overall number of RAS based deployments while White drivers have the most overall canine deployments.

Chi-square analysis could not be conducted to determine if the racial/ethnic differences in reasons for canine deployments were statistically significant due to low expected counts. The majority of canine deployments are based on RAS rather than PC, but the statistical significance of this distribution cannot be evaluated.

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

Race/Ethnicity	Reasonable Articulable Suspicion	Probable Cause	Mean
	(1)	(2)	
<b>White</b>	4	2	1.33
<b>Black</b>	5	0	1.00
<b>Hispanic</b>	2	1	1.33
<b>Asian</b>	0	0	--
<b>Total</b>	<b>11</b>	<b>3</b>	<b>1.21</b>

The mean can be used to determine the direction (RAS vs. PC) of deployments for each racial/ethnic group. Means of one would indicate RAS and means of two would indicate PC. The means for all racial/ethnic groups are closer to RAS than PC- 1.33 for White drivers, 1.00 for Black drivers, and 1.33 for Hispanic drivers. Overall, all drivers involved in a canine deployment were more likely to be involved in deployments based on RAS than PC.

### *Arrests*

There are instances where troopers have little discretion to arrest. For example, troopers are required to arrest when motorists have outstanding warrants. Other incidents may be rooted in probable cause, which involves more discretion than a warrant, but still limits the use of trooper discretion. The racial/ethnic distribution of arrests across these limited discretion reasons is presented in this section. In the current reporting period, arrests occurred in 355 motor vehicle stops. Table Eight presents the racial/ethnic distribution of arrests and reasons for arrests.

The majority of arrests were based on probable cause (without a warrant): 274 stops had an arrest listed as probable cause, nine were warrant based, and 72 were based on a combination of these two reasons. In instances where probable cause dissipates, an individual may be "unarrested." In this reporting period, there were 73 motor vehicle stops where a person was unarrested. Overall, these data suggest that in the first half of 2014, sampled drivers were more likely to be arrested on probable cause, not on warrants, and if arrested on probable cause, to have charges filed.

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

Race/Ethnicity	Stops with Arrests	Warrant Arrests	Probable Cause Arrests	Warrant & Probable Cause
		(% of arrests)	(% of arrests)	(% of arrests)
<b>White</b>	135	5	111	19
		(3.70)	(82.22)	(14.07)
<b>Black</b>	150	4	107	39
		(2.67)	(71.33)	(26.00)
<b>Hispanic</b>	60	0	48	12
		--	(80.00)	(20.00)
<b>Asian</b>	10	0	8	2
		--	(80.00)	(20.00)
<b>Total</b>	<b>355</b>	<b>9</b>	<b>274</b>	<b>72</b>

Of the arrests made in stops with White drivers, five (3.7%) were warrant based, 111 (82.22%) were probable cause based, and 19 (14.07%) were based on both warrant and PC. As noted in the previous reporting period, the majority of arrests in stops with White drivers were based on probable cause. This may be the result of the sampling characteristics for the current reporting period, where stops were selected based on whether they included a PC consent search based on the odor of marijuana.

Of the arrests made in stops with Black drivers, the same holds; more arrests were based on probable cause than warrants alone or warrants and probable cause. During this reporting period, there were four (2.67%) stops with a Black driver where an arrest was made based on a warrant and 107 stops (71.33%) where an arrest was based only on PC. There were 39 (26%) arrests in stops with Black drivers made based on a combination of warrants and probable cause.

The same general pattern is observed for Hispanic drivers as the previous reporting period. Overall, 48 (80%) arrests in stops with Hispanic drivers were based on probable cause alone and 12 (20%) were based on a combination of warrants and probable cause. This is consistent with the previous reporting period where the majority of arrests in stops with Hispanic drivers were PC based.

Asian drivers were involved in eight (80%) arrests based on probable cause and two (20%) based on a warrant and probable cause. This is consistent with the previous reporting period where all arrests involving Asian drivers were based on probable cause.

In incidents where a vehicle search was conducted, no evidence found, probable cause dissipated, and no charges were lodged, the vehicle occupants are able to leave the scene. Instances in which no charges were filed are those where an individual was released either at the scene of the stop or at the station. There were 73 stops where an individual, typically a passenger, was unarrested during a motor vehicle stop.

### *Probable Cause Arrests*

The change in State Police procedures following Peña-Flores<sup>16</sup> requires immediate arrest with probable cause. The trooper is then required to obtain a search warrant or consent to search the vehicle. There were two incidents during this period where search warrants were applied for at the scene of the stop.

Further examining incidents of probable cause arrests can indicate whether the potential for disparity exists. There were 72 arrests made on the basis of probable cause and at least one outstanding warrant, similar to the number in the previous reporting period. These instances mean that although probable cause was a reason for the arrest, the overarching reason was an outstanding warrant, which drastically limits a trooper's discretion. Of incidents with PC and a warrant, 19 drivers were White, 39 were Black, 12 were Hispanic, and two were Asian. This pattern is consistent with the most recent reporting period.

The number of warrant only arrests made during the current reporting period is much smaller than the proportion noted in previous reporting periods. The proportion of stops with warrant only arrests were 2.5% of all stops with arrests in the current period, compared to 9.5% in the previous period and 32.35% in the 8<sup>th</sup> reporting period. This is likely the result of sample selection rather indicative of a change in State Police arrest practices.

Chi-square analysis could not be conducted to determine if the racial/ethnic differences in reasons for arrests were statistically different due to low expected counts. The majority of arrests are based on PC rather than warrants, but the statistical significance of this distribution cannot be evaluated.

### *Additional Analyses: Time of Day*

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

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

<b>Race/Ethnicity</b>	<b>Day</b>	<b>Night</b>	<b>Total</b>
<b>White</b>	76	66	142
<b>Black</b>	71	80	151
<b>Hispanic</b>	25	37	62
<b>Asian</b>	3	8	11
<b>Total</b>	<b>175</b>	<b>191</b>	<b>366</b>

Table Nine indicates that, like the previous reporting period, there were more motor vehicle stops made at night<sup>17</sup> (191) than during the day (175). There were more stops during the day for White

<sup>16</sup> For more information regarding the effects of Peña-Flores on law enforcement see: <http://www.nj.gov/oag/oleps/special-reports.html>

<sup>17</sup> Day and night are defined according to sunrise and sunset. A stop occurring after the official time of sunset for the Eastern Time Zone (New York City) on that date will be listed as occurring at night.

drivers and more at night for all other racial/ethnic groups. The largest difference between the numbers of day and night stops were for Black drivers; there were 12 more nighttime stops than daytime stops for this racial/ethnic group.

Chi-square analysis was used to determine whether the observed differences in Table Nine are significant. The results did not reveal a significant difference among racial/ethnic groups in the distribution of day and night stops, suggesting that this distribution could likely result from random sampling of the events reviewed ( $p=.161$ ).

## **Summary of Standard 1**

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In the current reporting period, analyses did not reveal any significant differences in the racial/ethnic distribution of events examined. Unlike patterns noted historically, Black drivers are involved in the largest proportion of all stops, stops with consent requests, and stops with arrest. White drivers were involved in the largest proportion of canine deployments and uses of force. This is not necessarily the result of changes in State Police patrol practices. Rather, this likely stems from the sample selected for review in the current reporting period. Black drivers are involved in a larger proportion of stops with PC based on the odor of marijuana than would be expected based on their proportion of all stops. As in all Oversight Reports, OLEPS examined the appropriateness of all actions taken during motor vehicle stops in the standards throughout this report.

Despite the disproportionately high number of stops involving Black drivers, OLEPS did not note any significant differences in the racial/ethnic distribution of all stops. Thus, the racial/ethnic differences in the use of post-stop activities cannot be said to be purposeful; it may result from chance. OLEPS continues to examine the appropriateness of all post-stop activities in the standards that follow.

OLEPS typically compares the racial/ethnic distribution of each enforcement activity with the overall racial/ethnic distribution for all stops. Generally, this benchmark represents the best currently available. However, if the racial/ethnic distribution of all stops is skewed, it would be an inappropriate benchmark, and could mask bias in enforcement activities. In the current reporting period, this distribution was indeed skewed and as such, these comparisons were not made. OLEPS continues to recommend the development of an appropriate internal or external benchmark to compare these enforcement activities.

## Performance Standard 2: Consent Search Requests

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### Standards

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

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

### Assessment

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In the current reporting period, OLEPS reviewed a total of 337 motor vehicle stops where a consent to search request was made. A request for consent (PC or RAS) may be granted or denied by the motorist. In the current reporting period, the majority of all consent requests were granted by motorists; 301 consent requests were granted and 36 were denied.

In this reporting period, OLEPS reviewed all stops with RAS consent requests and a sample of stops with PC based consent requests based on the odor of marijuana. The majority of stops with consent requests, 275, were based on PC and 62 were based on RAS.

Table Ten depicts the number of RAS consent requests in each reporting period dating back to OLEPS' first reporting period. The number of RAS consent requests peaked in the 8<sup>th</sup> reporting period; the number of RAS consent requests in the current period is almost half of the number reported then. Since the 8<sup>th</sup> reporting period, the number of RAS consent requests has steadily declined to 62 requests in the current reporting period. This number is consistent with the numbers noted prior to the fifth reporting period. OLEPS will continue to monitor the number of RAS consent requests to determine potential causes of these fluctuations.

The numbers in the total consent requests column only became relevant in 2009, as a result of the Peña-Flores decision. This ruling led to the creation of PC consent requests, dramatically increasing the numbers of all consent requests. As in the ninth reporting period, a sample of stops with a PC consent request was selected. There were 275 stops with PC consent requests reviewed in the current reporting period.

**Table Ten: Consent Requests for Previous Reporting Periods**  
January 2008- June 2014

Reporting Period	RAS Consent Requests	Total Consent Requests
OLEPS 1 <sup>st</sup> a	79	79
OLEPS 1 <sup>st</sup> b	51	51
OLEPS 2 <sup>nd</sup>	72	405
OLEPS 3 <sup>rd</sup>	68	78
OLEPS 4 <sup>th</sup> a	66	358
OLEPS 4 <sup>th</sup> b	62	316
OLEPS 5 <sup>th</sup> a	106	266
OLEPS 5 <sup>th</sup> b	83	198
OLEPS 6 <sup>th</sup>	100	128
OLEPS 7 <sup>th</sup>	75	109
OLEPS 8 <sup>th</sup>	111	178
OLEPS 9 <sup>th</sup>	86	235
OLEPS 10 <sup>th</sup>	62	337

### *RAS & PC*

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

Generally, the facts and circumstances surrounding the motor vehicle stop meet the respective standards for which they are requesting consent. In the current reporting period, all stops with RAS consent requests met the standard of RAS. There were four stops with a PC consent request that had facts and circumstances that did not meet the standard of PC. Three of these errors were caught by State Police supervisory review and two resulted in an intervention. For the past few reporting periods, the State Police has consistently had fewer stops where a legal standard was not met, evidence of their continued supervision and review of motor vehicle stops. The number of incidents where the legal standards were not met remains consistent with the previous reporting period. OLEPS reminds the State Police to continue their vigilance and improvement in both the appropriate use of legal standards and effective documentation of errors and interventions.

### *Consent Forms*

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

Of the 337 stops with consent to search requests, a consent form was filled out appropriately in 259 instances. As in the ninth reporting period, but unlike earlier periods, there was only one missing consent form. There were 77 stops where consent forms were not completed appropriately. These errors most often relate to blank fields on the form. For example, many forms did not have a mark indicating whether consent was granted or denied. Of these 77 errors, 49 were caught by State Police review and 25 resulted in an intervention. The remaining 28 errors were noted by OLEPS and not the State Police, even though 14 of these stops did receive State Police review. Thirty-six percent of these errors were not noted by State Police, consistent with the 38% noted in the previous reporting period. OLEPS continues to recommend that the State Police continue to review these forms in detail.

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

Given State Police's history of missing consent forms, OLEPS also measured whether there was video recording of the form being completed. This allowed OLEPS to confirm whether the forms were filled out at the scene and whether they were filled appropriately. In the current reporting period, 12 consent requests were not recorded, and so OLEPS could not determine whether these forms were completed at the scene. Six of these errors were caught and two resulted in an intervention.

OLEPS commends the State Police on the improvements made regarding consent to search forms and its diligence in ensuring that forms are appropriately filed and stored in State Police databases. OLEPS continues to recommend that the State Police stress the importance of appropriately filed consent forms.

## *Rights*

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Troopers are instructed to read the consent to search form in its entirety to the individual whose vehicle is being searched so that s/he clearly understands his/her rights. Such rights are the right to refuse the search and the right to be present during the search. In 20 motor vehicle stops, a trooper did not appropriately notify the driver of either the right to refuse or the right to be present during the consent search. Of these instances, 12 were noted by State Police review of the stop and 10 resulted in an intervention. There were eight errors pertaining to the right to refuse that were not noted by the State Police in its supervisory review of the stops.

It appears that the State Police continue to have a number of stops with errors pertaining to the right to refuse. However, the State Police noted the majority of these errors in their reviews. The historical improvement in this error rate is likely the result of edits to the consent search form, which reinforced a trooper's obligations to read these rights. The State Police has also expressed that some troopers did not read the right to be present during the search because the motorist was not leaving the scene of the stop, or that they did not wish to give motorists the option of leaving. However, since the

redesign of the consent search form and the reinforcement of the importance of these rights, the number of errors not caught pertaining to rights has decreased overall.

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

### *Accountability & Safety*

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There are several requirements of troopers implementing a consent search. These requirements are designed to protect both the troopers and the individuals involved in the search. For example, troopers are required to obtain permission from a supervisor (not involved in the stop) to request consent of the motorist. This ensures that troopers are requesting consent searches based on facts and circumstances that meet the appropriate standards of RAS or PC. Troopers must request permission to search from a supervisor not involved in the stop to ensure objectivity in determining whether the search is appropriate. In the majority of stops with consent requests, 258, the supervisor was advised of the facts via the radio. In 74 stops, a supervisor was notified of the facts and circumstances at the scene of the stop. Additionally, a supervisor was notified via cell phone in one stop. There were four motor vehicle stops where OLEPS was unable to determine whether a supervisor was notified of the facts and circumstances surrounding the request due to missing DIVR clips or audio malfunctions. There were no instances in this reporting period where a trooper did not notify a supervisor of facts and circumstances prior to requesting consent from the motorist.

After a supervisor approves the request to ask for consent to search, and the motorist grants consent, troopers may begin the search after they notify State Police communication that the search is beginning. This was done in 271 motor vehicle stops. There were 29 stops where it was unknown whether a trooper notified communication that the search was beginning. In one stop, the trooper failed to notify communication that the search was beginning; this error was not caught by State Police.

Troopers are also required to read the consent form (including the rights to be present and to refuse) while recording. This provides supplemental evidence that troopers notified motorists of their rights. This question is only answered for those stops in which OLEPS reviewed recordings of the motor vehicle stop in addition to reports. In 299 stops, consent was requested while recording, while in 12 stops the consent request was not recorded. In 11 of the stops where the consent request was not recorded, OLEPS noted recording issues, malfunctions, or missing DIVRs. In the remaining instance, the trooper did not read the request form. Six of these errors were caught by State Police and two resulted in an intervention. Additionally, there were 26 instances where it was unknown whether the consent to search form was read while recording.

According to State Police policy, troopers are also required to record the actual search. As noted previously, OLEPS can only confirm trooper adherence to this requirement for stops where recordings are available for review. In 239 stops, the consent search was properly recorded. Consent searches were not recorded in seven motor vehicle stops, four of which were noted by supervisory review, and none of which resulted in an intervention. In 21 stops, only the audio portion of the consent search was recorded while the video portion was the only recording in 16 stops. Additionally, in 18 stops it was unknown whether the consent search was recorded.

As noted above, the consent to search form specifically identifies the parts of a motor vehicle a trooper is allowed to search per supervisory approval and motorist consent. Troopers may not deviate from this scope. OLEPS noted that in most stops troopers appropriately heeded the scope requirements of the search. There were eight motor vehicle stops with a consent search where troopers went beyond the scope requirements. Six of these errors were caught by State Police supervisory review and interventions were issued for three of these errors. There were 20 stops where OLEPS could not determine whether the scope of the search was exceeded, likely due to missing recordings.

A motorist retains the right to withdraw their consent to the search at any time during the search. Troopers must immediately terminate a search upon withdrawal of consent. Generally, withdrawal of consent is rare; there were no withdrawals in the third reporting period, there were five in the fourth reporting period, two in the fifth reporting period, one in the sixth reporting period, one in the seventh reporting period, one in the eighth reporting period, and none in the previous reporting period. In this reporting period, consent was withdrawn in one motor vehicle stop. The consent search was appropriately terminated upon withdrawal of consent.

## **Summary of Standard 2**

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Overall, the State Police adhered to policies and procedures governing consent search requests. OLEPS noted several instances in the current reporting period where the facts and circumstances surrounding a consent to search request did not meet the minimum standard of PC. While there was only one consent form missing or unavailable in the current period, errors on the forms persist. OLEPS continues to recommend that the State Police stress the importance of filling out these forms completely and correctly, and appropriately cataloging these forms. OLEPS has also noted more interventions for caught consent search errors and commends the State Police on this improvement. Because the current reporting period included a higher number of consent requests than previous reporting periods, the number of errors pertaining to consent requests may appear artificially inflated. Additionally, a number of these stops did not receive a supervisor review, which may inflate the number of uncaught errors pertaining to consent to search requests, especially compared to the previous reporting period.

## Performance Standard 3: Deployment of Drug Detection Canines

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### Standards

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

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

### Assessment

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All canine deployments must be authorized by a supervisor not involved in the stop. OLEPS has noted several instances, in the past, where a canine was deployed without proper supervisory approval. Usually, these unofficial deployments have occurred because the canine handler was serving as a “back-up” to the primary trooper. There were 14 motor vehicle stops where a canine was on the scene of a stop in the current period. In one of these instances, it was not known whether the canine was at the scene because the video recording could not be located. Documentation associated with this stop does note that the canine was requested, but without the video, the presence of the canine cannot be confirmed. This stop will be counted as an official deployment in the current reporting period. There was one stop where a canine was used at the scene of the stop but not officially requested. This stop is also included as a deployment, but it is not “official.” Additionally, there was a stop where the canine was at the scene of the stop but was not officially requested or utilized.

Of the 14 deployments at the scene, there was one where it was unknown whether the canine was utilized at the scene due to missing recordings. In addition to these official deployments, the State Police requested a canine in 17 other stops. However, these dogs were dispatched to the station rather than the scene. Unlike the pattern noted in previous reporting periods, the State Police appeared to dispatch a slightly smaller number of canines to the scene of a stop than the station in the current reporting period.

Of the official deployments, 10 were based on RAS and three were based on PC. There were no instances where the facts and circumstances surrounding the deployment did not meet the legal standard used.

Canine deployments must be recorded according to State Police policy. In the current reporting period, 10 (of the total 14) deployments were recorded appropriately and there was one deployment where OLEPS was unable to determine whether it was recorded. Three of the official deployments, that is, instances where the dog was requested and responded to the scene, were not recorded because the dog was used to track a fleeing subject or search for contraband rather than search a vehicle.

### **Summary of Standard 3**

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As noted in previous reports, the number of canine deployments at the scene of the stop increased dramatically from 2010-2011. However, the number of deployments in the current reporting period is much smaller than the numbers noted for the earlier reporting periods. All of the official canine deployments in this reporting period were appropriate and met the legal standards of either RAS or PC. Despite changes in the frequency of canine deployments, State Police follow the canine deployment procedures.

## Performance Standard 4: Use of Force

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### Standards

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

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

### Assessment

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There were 25 stops with a use of force in the current reporting period, the same as the previous reporting period. Table Eleven presents the types of force used in the current reporting period. As is generally the case, physical force is the most frequently used type of force. There were 17 instances where physical force was used, one involved mechanical, and seven involved a combination of mechanical and physical force.

**Table Eleven: Uses of Force by Type of Force**<sup>18</sup>  
10<sup>th</sup> OLEPS Reporting Period

Type of Force	Number of Stops
<b>Physical</b>	17
<b>Mechanical</b>	1
<b>Mechanical &amp; Physical</b>	7
<b>Total</b>	<b>25</b>

OLEPS reviews all uses of force in connection with motor vehicle stops and assesses whether these uses of force were appropriate and necessary. In 12 stops, the force was deemed necessary and appropriate, based on the requirements above. In this reporting period, there were 11 stops where OLEPS was unable to determine whether force was appropriate. In six stops, the incidents occurred outside the view of the DIVR camera. This may be due to fleeing subjects, who departed from the initial scene of the stop. There were recording issues for five stops. There were two stops where a use

<sup>18</sup> Physical force: Bodily contact with a subject, not otherwise submitting or cooperating, to effect an arrest or other law enforcement objective.

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

of force deviated from applicable standards. One of these errors was caught and resulted in an intervention. The other use of force occurred in a stop that did not receive a supervisory review.

The 25 motor vehicle stops involved uses of force against the driver, passenger 1, or passenger 2. In total, there were 18 motor vehicle stops where the driver was a recipient of force, seven stops where passenger 1 was a recipient of force, and one stop where passenger 2 was a recipient of force. There were no instances where the driver and passengers were both recipients of force.

Use of force reports are required to be filed in all instances of force, for each citizen involved. In all 18 use of force incidents involving the driver, use of force reports were filed. However, two of those reports were not completed properly and these were not noted by State Police. When passenger 1 was the recipient of force, use of force reports were filed in all but one stop. This error was not noted by State Police. Of the six submitted use of force reports involving passenger 1, two were not properly completed and were not noted by State Police. In the use of force incident involving passenger 2, a report was filed and the form was completed properly.

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

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OLEPS concluded that the uses of force in the current reporting period were conducted in accordance with State Police requirements with the exception of the two incidents. The incident of unnecessary force that was not noted by supervisory review was referred to State Police's Office of Professional Standards (OPS) for review.

The issues pertaining to missing or incomplete use of force reports reiterate OLEPS' recommendations for appropriate documentation and cataloging of State Police enforcement activities. Additionally, OLEPS is mandated to review all critical stops, which include uses of force. In 25% of stops with a use of force, OLEPS was unable to review the stops due to recording and/or electronic storage issues. OLEPS reiterates concerns regarding complete recording and appropriate storage management of motor vehicle stop recordings.

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

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### Standards

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

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

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

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

### Assessment

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#### *Recording*

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In the current reporting period, a total of 366 motor vehicle stops were reviewed. According to State Police policy, all motor vehicle stops should be recorded, beginning when a trooper signals a car to stop (i.e., turns on lights and sirens). The State Police use a system that integrates audio and video recordings, however, the microphone and video camera are separate mechanisms that can and do function independently. In the past few reporting periods, OLEPS has noted many instances where the audio and video did not record simultaneously. For example, in some cases there may be a video recording, but no audio or vice versa. Because of this, OLEPS now assesses video and audio activations separately.

Of the 366 motor vehicle stops reviewed by OLEPS, 286 stops (78.14%) had appropriately activated DIVRs. There were 28 stops where OLEPS was unable to determine whether the video was activated due to missing or unavailable DIVRs. For several reporting periods, OLEPS has noted instances where the first clip of a motor vehicle stop was unavailable on the State Police DIVR system. For some of these stops, the remaining clips were available for review on recordings from other troop cars involved in the stop. OLEPS noted that the missing first clips are either deleted or attached to the trooper's

previous motor vehicle stop CAD incident number. OLEPS recommends that the State Police examine the issue of missing first clips of motor vehicle stops and whether the issue results from not properly clearing from a stop (i.e., not turning off the DIVR or closing the stop on the in-car computer).

In 45 stops, video activation was not applicable, likely because the stop began as a rest area check or accident and not as a trooper initiated stop or because the DIVR was not available for review at all. In total, there were seven stops (1.9%) where the video was not activated appropriately when the trooper signaled the stop, fewer than in the previous reporting period. Two of these were noted by supervisory review and one resulted in an intervention.

Audio recording activation occurred at the beginning of 260 motor vehicle stops (71%) this reporting period. There were 26 stops where OLEPS was unable to determine whether the audio was activated at the beginning of the motor vehicle stop. Similar to video activation, there were 45 stops where it was not applicable for audio activation to occur at the beginning of the stop.

OLEPS found that in 35 motor vehicle stops, the audio did not activate at the beginning of the stop. In these stops, more than half, 24 stops were noted by State Police supervisory review and six resulted in interventions. There were 18 stops identified as having errors by supervisors that resulted in no intervention. State Police reviewed three of the remaining 11 stops where the audio did not activate at the beginning of the stop; there were seven stops where audio activation was delayed that were not reviewed by State Police.

As with the activation of audio and video, OLEPS also assesses whether audio and video recordings continue to the completion of a stop, separately. There were 316 stops (86.3%) where the video recording continued to the completion of the stop. There were 23 stops where OLEPS was unable to determine whether video recording continued to the completion of the stop. Additionally, there were eight stops where OLEPS could not determine if it was applicable for the recording to continue to the completion of the stop because the DIVR could not be located. In total, there were 19 stops where the video recording did not continue to the completion of the stop. In 10 of these instances, supervisory review noted these errors and one resulted in an intervention.

In 275 motor vehicle stops, the audio recording continued to the completion of the stop. There were 19 stops where OLEPS was unable to determine whether the audio recording continued to completion. As with video recordings, there were 12 stops where it was not deemed applicable for the audio to continue to the completion of the stop. In all, there were 60 stops (16.4%) where the audio recording did not continue to the completion of the stop. Of these audio errors, the State Police caught 41 in their reviews and 10 resulted in interventions. In total, there were 31 instances where errors were caught by supervisors, but no further action was taken.

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

OLEPS generally notes that there are more issues pertaining to recording the entirety of a stop than activation of recording at the beginning of a stop. The current period continues the general trend of issues recording the entirety of a stop. In the previous reporting period, there were 16 stops where OLEPS could not determine whether video was activated, 17 stops where OLEPS could not determine whether audio was activated, nine stops where OLEPS could not determine whether video continued to the end of the stop, and nine stops where OLEPS could not determine whether audio continued. However, in the current reporting period, there were 29 stops where OLEPS could not determine whether video was activated, 26 stops where OLEPS could not determine whether audio was activated, 23 stops where OLEPS could not determine whether video continued to the end of the stop, and 19 stops where OLEPS could not determine whether audio continued.

For several reporting periods, OLEPS has assessed the quality of audio and video recordings. While a DIVR may be recording, the audio may be unintelligible or the camera may not be aimed at the stopped vehicle. In these instances, OLEPS noted whether there were any audio or video interferences that made it difficult to determine trooper actions. Similar to the previous reporting period, the current reporting period had 72 stops (19.7%) where some sort of audio interference made it challenging to determine trooper actions. These interferences often result from the noise of traffic passing or other external factors. In addition, there were 55 stops (15%) where there was a malfunction in the audio, more than the previous reporting period. Malfunctions may result from microphones dying or fading in and out throughout the stop.

Issues with the video recording were noted in 49 stops (13.4%), making it difficult to determine trooper actions. The video interferences may result from the camera being positioned away from the stopped vehicle or because of environmental conditions (dark, rainy, etc.). While not ideal for review purposes, the direction of a camera may be less of a concern for a trooper during a motor vehicle stop because a trooper's priorities are trooper and motorist safety. In addition to video difficulty, there were 16 stops (4.4%) where OLEPS noted a video malfunction.

In the previous reporting period, roughly 36.56% of all stops reviewed had either issues with audio recordings or a malfunction and about 20.14% had a video malfunction or issues with the recording. In the current reporting period, the rate of both audio and video issues has decreased after increasing in the previous reporting period. About 34.7% of stops had issues with audio recordings or a malfunction while 17.8% of stops had a video malfunction or recording issues. Thus, while the rate of recording difficulties fluctuates from each reporting period, a large portion of stops are still plagued by these technological issues.

For several reporting periods, OLEPS has noted mechanical issues which impacted the recording of motor vehicle stops. OLEPS anticipated that these issues would be resolved once the migration to DIVR was complete. Generally, there has been improvement for both activation of video/audio during a stop as well as the continuation of both until the completion of the stop. During reviews, OLEPS noted that there is still a large portion of stops with some sort of audio malfunction or difficulty. Issues with video tend to result from a misdirected camera or unavailable clips of a stop. Additionally, as noted previously, OLEPS noted a larger number of stops where the recording was unavailable or not found when accessed. OLEPS continues to recommend that the State Police ensure that troopers properly record motor vehicle stops, keep recording equipment in working order, and ensure proper storage of all recordings.

### *Communication Call-Ins*

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

Upon stopping a vehicle and prior to approaching the vehicle, troopers are required to call-in: the location of the stop; a vehicle description; the number of occupants; the race/ethnicity of the occupants; and the reason for the stop. In the majority of stops, troopers called in the appropriate information to communication. In the current reporting period, there were four stops with several missing communication call-ins. The troopers in these stops failed to notify communication of their location prior to approach, give a vehicle description, identify the number of occupants, report the race/ethnicity of occupants, and the reason for the stop. In two of these stops the errors were all noted by State Police review but did not result in any interventions. In the remaining two stops, the errors were not noted by State Police review. Additionally, there was one other stop where the trooper failed to notify communication of the number of occupants and one stop where the trooper failed to notify communication of the race/ethnicity of the occupants. These errors were not caught by State Police.

In previous reporting periods, a smaller proportion of stops were not called in than in the current period. Despite these communication errors, the State Police still performed the majority of the call-ins for motor vehicle stops and continue to improve the number of stops that had all call-ins prior to approach.

Upon completion of the stop, troopers are required to notify communication that the stop has been completed and what actions were taken during the stop (e.g., summons, warning, towing the vehicle). There were three motor vehicle stops where troopers failed to notify communication of the completion of a stop, two of which were noted by supervisory review, and did not result in any interventions. Additionally, in these same three stops, the actions taken during the stop were not called in. Two of these errors were noted in supervisory reviews but no interventions were taken.

There were approximately 80 stops where it was unknown whether communication call-ins were conducted due to missing recordings of the stop and audio difficulties/malfunctions. OLEPS continues to recommend that the State Police improve their recording quality, effectiveness, and storage management.

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

## *Reporting*

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

In the 366 stops reviewed, there were 92 stops (25.1%) with stop reports containing errors, an increase in the proportion of stops with these errors from the previous three reporting periods. Of these errors, 48 (52.17%) were caught by supervisory review and 24 (26.08%) resulted in an intervention. There were 44 (47.82%) stops where an error was made on a motor vehicle stop report that was not caught by supervisory review, considerably more than the previous reporting period.

Investigation reports are required to be completed by troopers only for stops involving investigative activities. In the current reporting period, there were 298 stops that required investigation reports. Of these stops, 264 or 88.6% were completed without error. In the previous reporting period, 90.6% of all investigation reports were completed properly. Investigation reports were not completed properly in 27 stops, an increase from the last reporting period. Of these errors, nine were caught by supervisory review and seven resulted in interventions.

As in previous reporting periods, investigation reports appear to be completed appropriately. Motor vehicle stop reports tend to contain more errors than the investigation reports. These errors are usually based on missing or inaccurate information recorded in the report. For example, listing a different reason for the stop, or not indicating that an action occurred. These errors are generally minor and do not necessarily reflect any specific patterns requiring a tailored focus. Despite a slight increase in the number of reporting errors in the current period, OLEPS' review reveals an overall improvement in reporting.

## **Summary of Standard 5**

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In the current reporting period, issues continue regarding the quality of audio recordings for motor vehicle stops. In stops with audio issues, microphones continue to cut in and out, record only static, or record nothing at all. OLEPS recommends the State Police investigate this issue to determine whether these issues are equipment failures, dead batteries, or trooper oversights.

Additionally, OLEPS noted a number of issues pertaining to the availability of video recordings. The State Police should examine methods to improve recordings and determine why the first clips of motor vehicle stops are not saved appropriately in the recordings database or why entire recordings are unavailable.

Although there has been overall improvement, OLEPS continues to note issues and errors that have not been caught by supervisory review. State Police is missing errors in many of the video and audio recordings of motor vehicle stops because these stops are not being reviewed. Of all the stops with recording errors not caught, 68% occurred in stops that did not receive a State Police review. Also, a large number of errors in the completion of motor vehicle stop reports and investigation reports have not been caught by State Police supervisors. Forty-one percent of all reporting errors not caught occurred in stops with a State Police review. While these errors may be viewed as merely "procedural" in nature, it is essential for any law enforcement agency to ensure accuracy in reporting. The State

Police should continue to place emphasis on appropriate reporting by troopers and detailed supervisory reviews of these reports.

## Performance Standard 6: Exits & Frisks

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### Standards

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

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

In addition, pursuant to New Jersey law,<sup>19</sup> a driver may be asked to exit a vehicle for any reason.

### Assessment

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#### *Exits*

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A trooper may request that a driver or passenger exit a vehicle for a number of reasons. Drivers may be asked out for any reason. Passengers may be asked to exit based on a heightened suspicion of criminal activity or they may be asked to exit as duty to transport (DTT).

In the current reporting period, there were 346 (of the 366 total stops) stops where a driver or occupant(s) was asked to exit the vehicle. Of the stops with exits, 344 involved a driver exit. Sixty-five of these exits were for sobriety reasons, similar to the number of sobriety exits in the previous reporting period but likely due to sample selection.

There were 263 stops where the passenger, labeled "passenger 1," was asked to exit a vehicle. Of these stops, 261 were based on heightened suspicion and two were asked to exit as DTT. There were 134 stops where "passenger 2" was asked to exit the vehicle, 131 of which were based in heightened suspicion and three were based on DTT. In all reviewed stops, State Police conduct vehicle exits appropriately and according to policy.

#### *Frisks*

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Frisks are utilized by troopers to protect themselves and the individuals involved in the stop from physical harm. A frisk is an open-handed, non-manipulating, cursory, pat down for weapons of a person's outer clothing. To frisk a person, a trooper must have RAS that the person may be armed and dangerous. Troopers may also frisk individuals prior to putting them into a troop car for trooper

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<sup>19</sup> *State v. Smith*, 134 N.J. 599, 611 (1994); see *State v. Peña-Flores*, 198 N.J. 6, 31 n.7 (2009)- describes the right of an officer to remove a driver from a lawfully stopped vehicle as "established precedent."

safety (e.g., if a trooper was transporting a passenger of a vehicle whose driver was under the influence).

In the current reporting period, there were frisks involving the driver and/or passengers in 42 motor vehicle stops. Thirty-five of these stops with frisks were based on RAS and seven were DTT. There were 18 frisks that did not meet the requirement of RAS, 15 errors were noted by State Police review and 11 resulted in interventions.

OLEPS also reviews the mechanics of a frisk to ensure that it is not extending beyond appropriate boundaries, converting the frisk into an illegal search. Of the 42 stops in which a frisk occurred, 15 were appropriate and followed the requirements. There were five frisks that extended beyond a cursory pat down. All five errors were noted by State Police supervisory review and resulted in interventions. OLEPS was unable to determine whether frisks were conducted appropriately in 22 instances. During the current and previous reporting period, OLEPS noted many instances where frisks were not conducted in view of the camera. While this does not necessarily violate State Police policies, it does make it increasingly difficult to assess the mechanics of the frisk.

In total, 27 drivers received a frisk. Twenty-three of these frisks were based on RAS and four were based on DTT. There were 10 instances where a frisk of the driver did not meet the RAS standard. Eight of these errors were noted by supervisory review and seven led to an intervention. Additionally, there were no frisks of a driver that extended beyond a pat down. OLEPS was unable to note the mechanics of a driver frisk in fourteen stops because the frisk occurred outside the view of the camera.

In 24 motor vehicle stops, at least one passenger was frisked. Twenty-one stops involved a frisk of passenger 1. Of these frisks, four were DTT and 17 were based on RAS. Of the RAS frisks, 11 did not meet the standard of RAS. Nine of these errors were caught by supervisory review and six resulted in interventions. There were five frisks of passenger 1 that extended beyond a pat down. All of these errors were noted by State Police supervisory review and four resulted in interventions. In this reporting period, there were 12 frisks of passenger 1 where it was unknown whether the mechanics of the frisk were appropriate because the frisk was not captured on camera or because the recording was unavailable.

There were six motor vehicle stops where passenger 2 was frisked. Of these, one was based on DTT and five were based on RAS. Three of the RAS frisks of passenger 2 did not meet the standard of RAS. All of these errors were caught and resulted in interventions. In all frisks of passenger 2, it was unknown whether the mechanics of the frisk were appropriate because the frisk was not captured on camera or because the recording was unavailable.

## **Summary of Standard 6**

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

As noted previously, OLEPS was unable to observe a number of frisks because they occurred out of view of the camera. While this does not necessarily contradict State Police policies and procedures, it makes it difficult to determine the appropriateness of a frisk.

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

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### Standards

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

### Assessment

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

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There were 42 non-consensual vehicle searches/seizures in the current reporting period, slightly more than in the previous reporting period. Of these searches/seizures, 22 were identifiable as plain view searches/seizures, four were credential or ownership searches, five were vehicle frisks, six were identified as "other," one was classified as exigency, and four searches occurred as the result of a warrant. Most of these "other" searches are technicalities; they are classified as searches because troopers broke the plane of the vehicle.

OLEPS noted that errors were made in the searches conducted in seven stops. All of these errors were noted by State Police, and six resulted in interventions.

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

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In the current reporting period, there were 351 stops involving a search of a person. Per State Police policy, these searches should be incident to arrest. There were 339 searches of drivers incident to arrest and two searches that were not incident to arrest. Both of these errors were noted by State Police supervisory review and an intervention was issued for one stop. There were 259 stops with searches of passenger 1 incident to arrest and four that were not incident to arrest. The four search errors were noted by the State Police and all led to interventions. Finally, in all 129 stops there were searches of passenger 2 incident to arrest.

### Summary of Standard 7

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OLEPS' review of non-consensual searches/seizures generally found them to be in accordance with State Police policies and procedures. The number of non-consensual searches in this reporting period is consistent with the previous period and only a few had errors. Like the previous reporting period, there were fewer stops that had an error pertaining to a non-consensual search of a vehicle or person. Additionally, all of these errors were noted by State Police review. The State Police continues to show improvement in the number of interventions issued for such errors. OLEPS commends the State Police

on the improved error rate for stops with non-consensual searches and recommends continued diligence in the review of non-consensual searches/seizures.

## Performance Standard 8: Length of Stops

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### Standards

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

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

### Assessment

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The average length of motor vehicle stops reviewed during this reporting period is 62.61 minutes and the standard deviation of this distribution is 29.06 minutes. Thus, all stops greater than 91.66 minutes or less than 33.55 minutes are more than one standard deviation from the mean. There are 36 stops greater than one standard deviation above the mean, 33 of which had consent requests and eight of which had a canine deployment in addition to a consent request. These stops also contained additional enforcements such as non-consensual searches, vehicle exits, frisks, and arrests.

In contrast, there are 28 stops that are one standard deviation below the mean stop length. Twelve of these stops involved a consent to search request, but only six were granted. However, sixteen stops involved uses of force.

The average length of motor vehicle stops in this reporting period is slightly shorter than the previous reporting period, 62.61 minutes here and 63.76 minutes in the previous reporting period. The standard deviation in the current period, 29.06 minutes, is slightly more than that of the previous period, 27.25. This indicates that the stops slightly shorter in the current reporting period, but there is more dispersion in the stops; the length of stops are less similar to each other in the current period than the previous. The parameters used to select the sample for the previous and current reporting periods are the same. As such, the change in the average stop length in the current reporting period is likely the result of random fluctuations.

### *Duration of Stops*

Table Twelve displays the average length of the motor vehicle stops sampled in this reporting period. The first row in the table presents the average length of all stops in the sample, 62.61 minutes. This number is a slight decrease from the average from the previous period, which was 63.76 minutes.

**Table Twelve: Average Length (minutes) of Motor Vehicle Stops**  
10<sup>th</sup> OLEPS Reporting Period

	Average Stop Length
<b>All Stops</b>	62.61
<b>All Stops with Consent Requests</b>	63.84
<b>RAS Consent Requests</b>	74.98
<b>PC Consent Requests</b>	61.38
<b>Consent Granted</b>	64.22
<b>Consent Denied</b>	60.67
<b>Canine Deployment</b>	134.71
<b>Consent Requests &amp; Canine Deployments</b>	113.55
<b>Consent Granted &amp; Canine Deployed</b>	114.25
<b>Consent Denied &amp; Canine Deployed</b>	113.14

Because the majority of stops contain a consent request, the average length of stops with consent requests is not much longer than the average of all stops. The average length of all stops with consent requests is 63.84 minutes, close to the 62.61 minute average for all stops. As with the average length of all stops, the average length of stops with consent requests is slightly shorter than the average in the previous reporting period, 66.72 minutes. There is also a noticeable difference between the length of RAS consent request stops and PC consent request stops. This is likely due to the time it may take to accumulate RAS whereas PC is either present or not. The average stop length for stops with a PC consent request was 61.38 minutes, while the average for RAS consents was 74.98 minutes. The average length of stops with PC consent requests in the current reporting period is slightly shorter than the previous reporting period, which averaged 62.97 minutes.

An independent samples *t*-test was used to determine whether the difference in the length of stops with PC consent requests and length of stops with RAS consent requests is statistically significant. The *t*-test revealed that there is a statistically reliable difference between the mean length of stops with PC consent requests ( $M=61.33$ ,  $s=20.48$ ) and those with RAS consent requests ( $M=74.98$ ,  $s=33.568$ ),  $t(71.55)=3.076$ ,  $p=.003$ ,  $\alpha=.01$  (two-tailed). This means that there is a statistically significant difference between the length of stops with RAS and PC consent requests; stops with RAS consent requests are, on average, significantly longer than those with PC consent requests because RAS may develop over the course of a stop whereas PC is either present or not.

There is also a difference in the length of stops where consent was granted compared to those where consent was denied. Stops with consent searches that were granted have an average stop length of 64.22 minutes while those with consent searches that were denied have an average stop length of 60.67 minutes. An independent samples *t*-test was used to determine whether this difference between

the length of stops with granted or denied consent requests was indeed statistically significant. The results indicate that there is not a significant difference between the length of stops where a consent request was granted ( $M=64.22$ ,  $s=22.534$ ) and where a consent request was denied ( $M=60.67$ ,  $s=33.951$ ),  $t(38.77)=.612$ ,  $p=.544$ ,  $\alpha=.05$  (two-tailed). The test results mean that we cannot state that the length of stops with granted consent to search requests is significantly different or shorter than the length of stops with denied consent to search requests.

The average length of a motor vehicle stop with a canine deployment is 134.71 minutes, longer than the average length for all other stops. An independent samples  $t$ -test revealed a significant difference in stop length for those with a canine deployment ( $M=134.71$ ,  $s=68.165$ ) and without a canine deployment ( $M=59.74$ ,  $s=22.144$ ),  $t(13,109)=-4.107$ ,  $p=.001$ ,  $\alpha=.05$  (two-tailed). Due to the high  $p$ -value, a one-tailed test would also be significant indicating that stops with canine deployments are significantly longer than those without canine deployments,  $\alpha=.01$ .

As motor vehicle stops involve more enforcement activities, the length of the stop increases. Thus, it is expected that a stop with a consent request and a canine deployment would be longer than a stop with only a consent request. Motor vehicle stops with consent requests and canine deployments have an average stop length of 113.55 minutes, less than the average length for stops with canine deployments alone. Breaking this down by granted and denied consent requests indicates that stops with a granted consent search and a canine deployment had an average length of 114.25 minutes while those stops with a denied request and a canine deployment had an average length of 113.14 minutes. Results of an independent samples  $t$ -test did not find a statistically significant difference between stops with a canine deployment and a granted consent request ( $M=114.25$ ,  $s=77.414$ ) and those with a canine deployment and denied consent request ( $M=113.14$ ,  $s=30.981$ ),  $t(9)=.034$ ,  $p=.973$ ,  $\alpha=.05$  (two-tailed). The difference in the average length of stops with a canine deployment and a granted consent request and a canine deployment and a denied consent request is not statistically significant, likely due to the small number of stops with a canine deployment and with a canine deployment and consent request.

### *Racial/Ethnic Differences in Stop Length*

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Racial and ethnic differences in the length of motor vehicle stops are also explored. The first column in Table Thirteen presents the average length of all motor vehicle stops reviewed in this reporting period based on race and ethnicity. White drivers have an average stop length of 58.08 minutes, while Black drivers have an average of 64.58 minutes, Hispanic drivers have an average of 68.26 minutes, and Asian drivers have an average of 62 minutes.

#### *All Stops*

There is a statistically significant difference between the average length of stop for White ( $M=58.08$ ,  $s=26.24$ ) and Black ( $M=64.58$ ,  $s=27.32$ ),  $t(291)=-2.070$ ,  $p=.039$ ,  $\alpha=.05$  drivers. The average length of all stops is significantly shorter for White drivers than for Black drivers. A one-tailed significance test would conclude that the average length for White drivers is significantly shorter than that for Black drivers.

**Table Thirteen: Average Length (minutes) of Motor Vehicle Stops  
by Race/Ethnicity**

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

**Part A**

	All Stops	Consents	RAS Consents	PC Consents
<b>White</b>	58.08	60.39	64.03	58.89
<b>Black</b>	64.58	66.16	94.94	62.47
<b>Hispanic</b>	68.26	66.10	84.56	62.78
<b>Asian</b>	62.00	61.80	--	61.80

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

**Part B**

	All Stops	Consents	RAS Consents	PC Consents
<b>White</b>	64.47	67.94	76.09	58.57
<b>Black</b>	62.04	63.54	68.81	61.34
<b>Hispanic</b>	64.93	71.63	76.43	70.43
<b>Asian</b>	73.00	73.00	64.50	75.43

*Consent Requests*

In the current reporting period, the average length of motor vehicle stops with a consent to search request<sup>20</sup> decreased for White, Hispanic, and Asian drivers while increasing for Black drivers. The average length of motor vehicle stops with consent to search requests decreased for White drivers from 67.94 minutes to 60.39 minutes, increased for Black drivers from 63.54 minutes to 66.16 minutes, decreased for Hispanic drivers from 71.63 minutes to 66.10 minutes, and decreased for Asian drivers from 73 minutes to 61.80 minutes. Because there are typically a small number of drivers who are Asian in each reporting period, the average may be susceptible to influence from a few anomalous stops.

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

*RAS Consent Requests*

The average length of all stops with RAS consent requests is higher than the average for stops with any consent requests. The same results are found when examined by race and ethnicity as shown in Table Thirteen. In the current reporting period, Black drivers have the longest average length of stops with RAS consent requests, 94.94 minutes. Hispanic drivers have the second longest average, 84.56 minutes, followed by White drivers with 64.03 minutes. Compared to the previous reporting period, the average for Black and Hispanic drivers is longer while the average for White drivers is shorter in the current reporting period.

An independent samples *t*-test revealed significant differences between the lengths of stops with RAS consent requests for White ( $M=64.03$ ,  $s=25.070$ ) and Black ( $M=94.94$ ,  $s=40.468$ ),  $t(51)=03.396$ ,  $p<.01$ ,  $\alpha=.01$  drivers. The average length of stops with RAS consent requests involving White drivers

<sup>20</sup> This assessment includes both denied and granted consent to search requests.

is significantly different than that of Black drivers. A one-tailed significance test would conclude that the average length for White drivers is significantly shorter than that for Black drivers in stops with RAS consent requests.

The average length of stops with RAS consent requests for Black drivers is 10 minutes longer than that of Hispanic drivers and 30 minutes longer than White drivers. There were only 16 stops with an RAS consent request where the driver was Black. In four of these stops, a canine was also requested and deployed at the scene of the stop. As noted in previous reporting periods, the time to request and approve a canine deployment may be quick, but it may take a longer period of time for the canine to arrive on scene. The average length of these four stops was 145 minutes. Without these stops, the average for RAS consent requests involving Black drivers would only be 78.25 minutes.

There were only nine stops with RAS consent requests involving Hispanic drivers. This average may be easily influenced by lengthy stops. As noted with Black drivers, canine deployments appear to skew this average. In the nine RAS consent request stops, two stops also involved a canine deployment. On average, these stops were 142.5 minutes in length. Removing these two stops would dramatically reduce the average length of stops with RAS consent requests involving Hispanic drivers to 68 minutes.

#### *PC Consent Requests*

Stops with PC consent requests are slightly longer in the current reporting period compared to the previous reporting period for White and Black drivers and shorter for Hispanic and Asian drivers. The average length of stops with PC consent requests for White drivers is 58.89 minutes here and was 58.57 minutes in the previous period. Black drivers increased from 61.34 to 62.47 minutes while Hispanic drivers experienced a decrease from 70.43 minutes in the previous period to 62.78 minutes in the current period. Asian drivers experienced a decrease from 75.43 minutes to 61.80 minutes in the current reporting period.

A word of caution is needed regarding the length of stops with PC consent to search requests. In the current reporting period, motor vehicle stops were selected on the basis of whether they contained a PC consent search based on the odor of marijuana where it took 25 minutes or more to develop PC. This sample was selected, partially, on the basis of length. Thus, the average length for all stops, but especially PC consent searches, may be skewed due to the sample selected.

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

## **Summary of Standard 8**

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OLEPS' review of the length of motor vehicle stops did not reveal any consistent pattern to changes in the length of all stops and categories of stops for the majority of racial/ethnic groups. Overall, stops are, on average, roughly the same length as in the previous reporting period. However, differences among each racial/ethnic group vary in degree of difference; some racial/ethnic groups experienced large changes and others experienced little or no change in average stop length. OLEPS recommends that State Police supervisors include analysis of motor vehicle stop length in reviews.

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# Supervisory Review

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

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### Standards

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According to State Police policies and procedures, motor vehicle stops must be reviewed by State Police supervisory personnel. Specifically, review is required for all critical incidents. These reviews are detailed, requiring the supervisor to assess adherence to policies and procedures and to assess adherence to applicable legal standards (RAS or PC).

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

### Assessment

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

All determinations of whether an error is caught are based on the review completed of the motor vehicle stop by State Police reviewers. OLEPS pulled all documentation of stops, including reviews of stops in September 2014. It is possible that a stop was reviewed after OLEPS pulled the reviews, in such instances, these errors have been noted. In total, there were 15 stops that were reviewed after OLEPS pulled motor vehicle stop records for this reporting period.

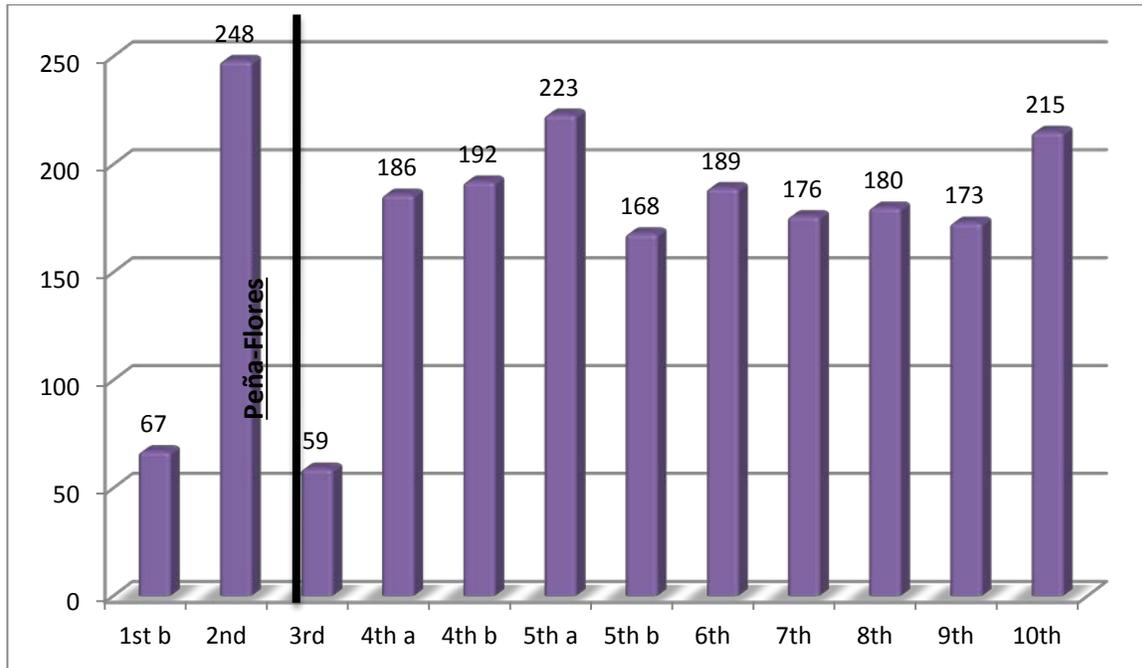
### *All Errors*

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In the current reporting period, 215 stops contained errors, slightly more than the number of stops with errors found in the previous reporting period. This number of errors is the highest since the 5<sup>th</sup>a reporting period, which covered the first half of 2011. Figure Eleven depicts trends in the total number of stops with errors since the 1<sup>st</sup> reporting period. The figure indicates a large increase in the number of stops with errors since the first half of 2010 (4<sup>th</sup>a reporting period). Since the first half of 2011 (5<sup>th</sup>a

reporting period) the number of errors has declined, remaining relatively steady since then. In total, there were 151 motor vehicle stops (41.25%) conducted by the State Police that did not contain any errors in the current reporting period.

**Figure Eleven: Total Stops with Errors, by Reporting Period<sup>21</sup>**  
1<sup>st</sup> through 10<sup>th</sup> OLEPS Reporting Periods



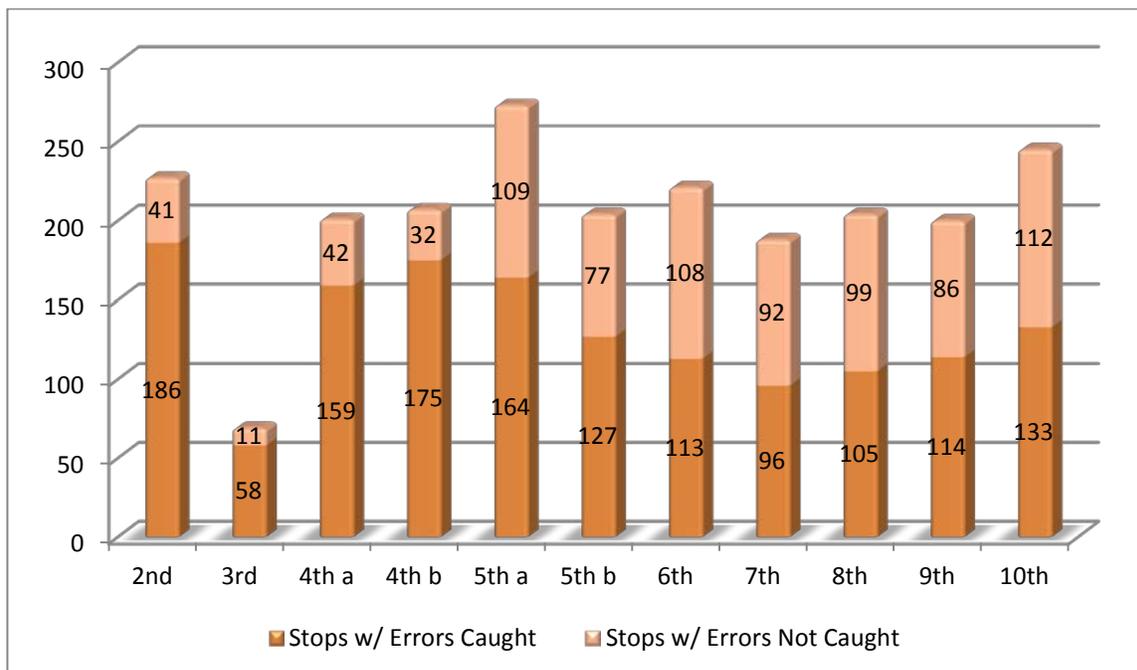
Of the 215 stops with errors, 133 stops contained errors caught by the State Police and 112 stops contained errors not caught by supervisory review. That is, 30.60% of all motor vehicle stops contained an error not caught by supervisory review. This is less than the percentage of stops with errors not caught in the previous reporting period, 32.08%. As noted in previous reports, beginning in July 2011, the State Police began a pilot program relating to motor vehicle stop reviews. This program retained the required reviews of critical stops, non-critical stops would undergo a selection process rather than a review of all stops. Additionally, the current reporting period contains a sample of stops that would not typically be subject to the review process- motor vehicle stops with PC consent requests. There were 50 stops with uncaught errors that had not undergone review by the State Police. Thus, only 62 stops contained errors not caught by the State Police despite supervisory reviews.

OLEPS has noted for several reporting periods, that the State Police catch the majority of errors made in stops. Figure Twelve presents the number of stops where errors were caught and the number of stops where errors were not caught. In a single stop, some errors may be caught while other errors are not caught; each stop can appear as either a stop with errors caught, a stop with errors not caught, or both. As shown in Figure Twelve, the number of stops where errors are caught is generally higher than the number of stops where errors are not caught. In the previous two reporting periods,

<sup>21</sup> The high number of errors noted in the 2<sup>nd</sup> reporting period are generally procedural in nature and stem from changes pursuant to Peña-Flores.

these numbers were nearly identical, while in the current reporting period State Police caught a higher number than they failed to catch. The State Police caught errors in 133 stops and failed to catch errors in 112 stops in the current reporting period. Comparing reporting periods, there appears to be an alternating pattern in the number of errors not caught; there are more errors not caught in reporting periods that cover the first half of a year than the second half. However, because OLEPS has reviewed a sample of stops not routinely subject to review by State Police, this pattern may be the result of sample selection. Because of this, OLEPS does continue to examine the number of errors not caught in stops with and in those without State Police reviews (Figure Fourteen).

**Figure Twelve: Stops with Errors Caught v. Stops with Errors not Caught**  
2<sup>nd</sup> through 10<sup>th</sup> OLEPS Reporting Periods

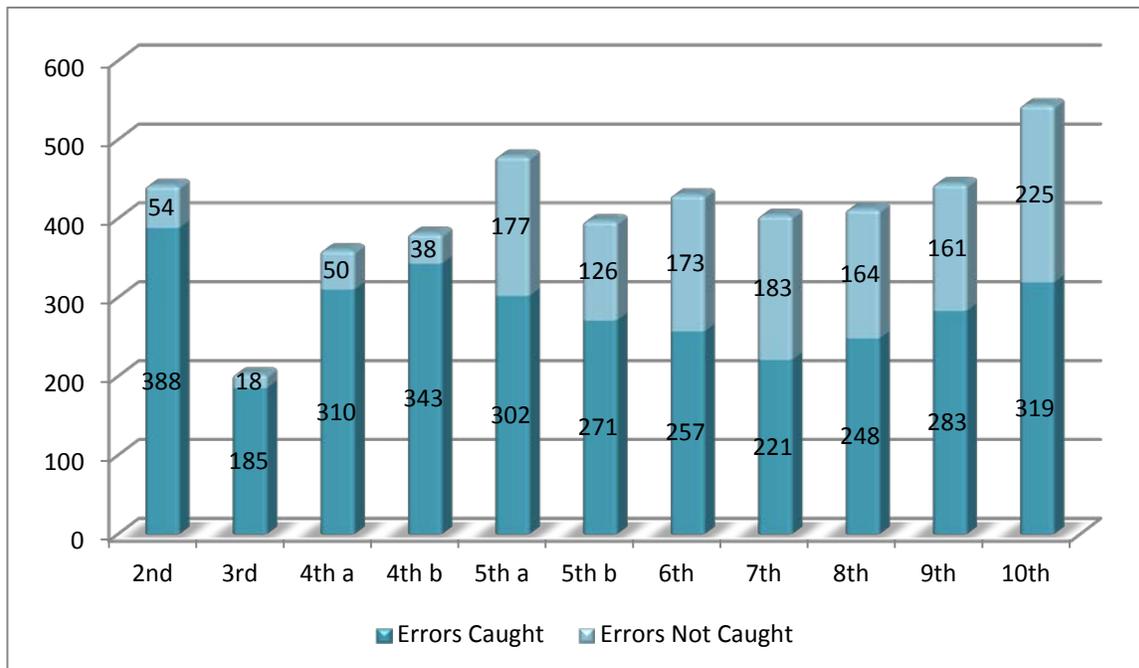


In the current reporting period, while there were only 215 motor vehicle stops with errors, there were 544 errors in those 215 stops. The total number of errors has historically been much higher than the total number of stops with an error. Because each stop may include both errors caught and errors not caught, Figure Thirteen presents the total number of errors that were caught and the total number of errors that were not caught. As can be seen in Figure Thirteen, the State Police generally catch more errors than OLEPS. The number of errors not caught has increased in the current reporting period. In the current reporting period, State Police noted 319 errors in 133 stops while OLEPS noted an additional 225 errors in 112 stops.

Figures Eleven through Thirteen highlight a trend of increasing numbers of errors made during motor vehicle stops. Previous reporting periods (*i.e.*, third and first) noted much smaller numbers of errors. These issues are likely due to the selection of stops reviewed by OLEPS and changes to the State Police review schedule. As noted in previous reporting periods, the State Police has altered its motor vehicle stop review schedule; OLEPS now reviews more stops that State Police have not reviewed. OLEPS recommends that the State Police increase their level of detail during motor vehicle stop reviews to ensure that all errors in reviewed stops are noted. OLEPS hopes that future reporting

periods will have much higher numbers of errors caught by State Police than by OLEPS, an emerging trend that has been noted in the current and previous three reporting periods.

**Figure Thirteen: Errors Caught v. Errors Not Caught**  
2<sup>nd</sup> through 10<sup>th</sup> OLEPS Reporting Periods



As noted earlier, in 2011, the State Police adopted a modified review schedule, reviewing all critical stops and a selection of non-critical stops. Because of this review schedule, there is an increased likelihood that OLEPS will review a stop that the State Police has not had the opportunity to review. As such, OLEPS compared the errors in all stops to only those that underwent supervisory review in Figure Fourteen.

OLEPS reviewed a total of 366 motor vehicle stops. Of those, State Police also conducted a supervisory review in 261 (71.34%) stops. Of all the stops reviewed by OLEPS (including both those reviewed by State Police and not reviewed by State Police), 58.74% (215 of 366 stops) contained an error. This includes stops that did not receive a review by State Police. Of those stops that were reviewed by State Police, 63.21% (165 of 261) contained an error. OLEPS noted that State Police failed to note errors in 62 stops (23.75%) with a State Police review. The fact that OLEPS was able to note 62 stops with an error not caught, out of the stops that State Police did review, is of concern. While this number had been improving in previous reporting periods, the 62 stops in the current reporting period are slightly higher than the 44 in the previous reporting period. Though OLEPS reviewed a higher number of stops in the current than previous reporting period, OLEPS again reminds the State Police that quality and detail are necessary for effective motor vehicle stop reviews.

Additionally, among the stops with State Police reviews, there were only 411 errors noted, while there were 544 noted in the stops OLEPS reviewed. In total, OLEPS noted a total of 225 errors not caught, only 92 of which were in stops reviewed by the State Police.

The fact that State Police failed to note 92 errors in 62 motor vehicle stops that they did review, is a concern. The State Police only reviewed 261 stops in the current sample. The 62 stops with uncaught errors represent about 24% of the total number of stops that State Police reviewed. This proportion is an improvement from earlier years, slightly lower than the proportion noted in the previous reporting period. OLEPS recommends that State Police conduct its reviews with as much detail as possible.

**Figure Fourteen: Errors Caught v. Errors not Caught**  
10<sup>th</sup> OLEPS Reporting Period

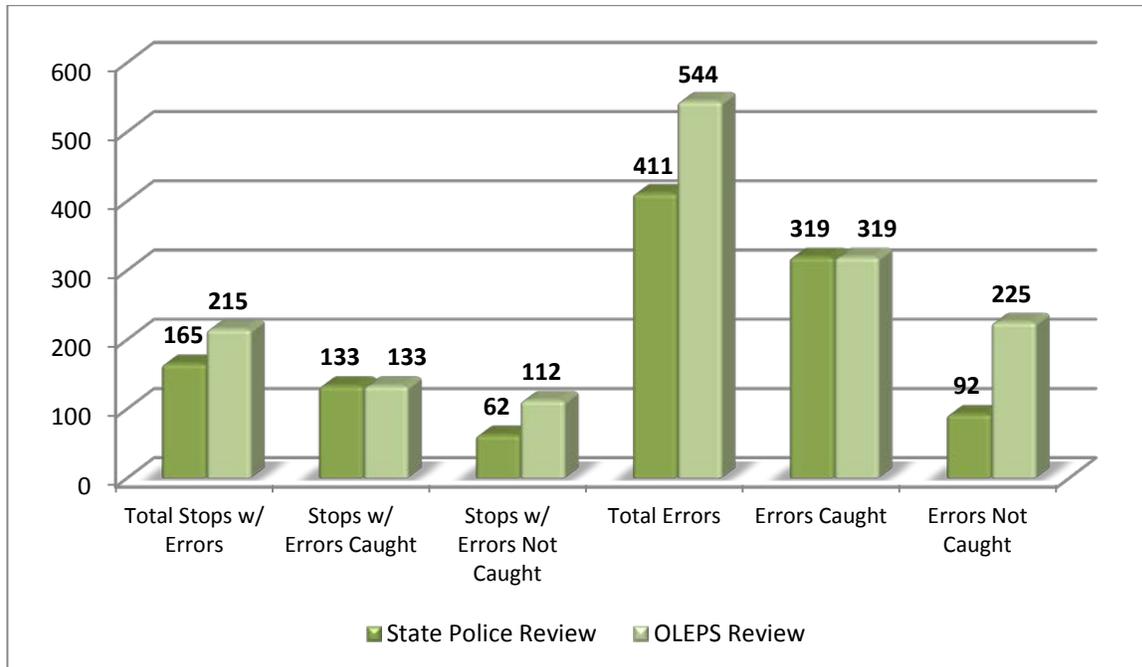


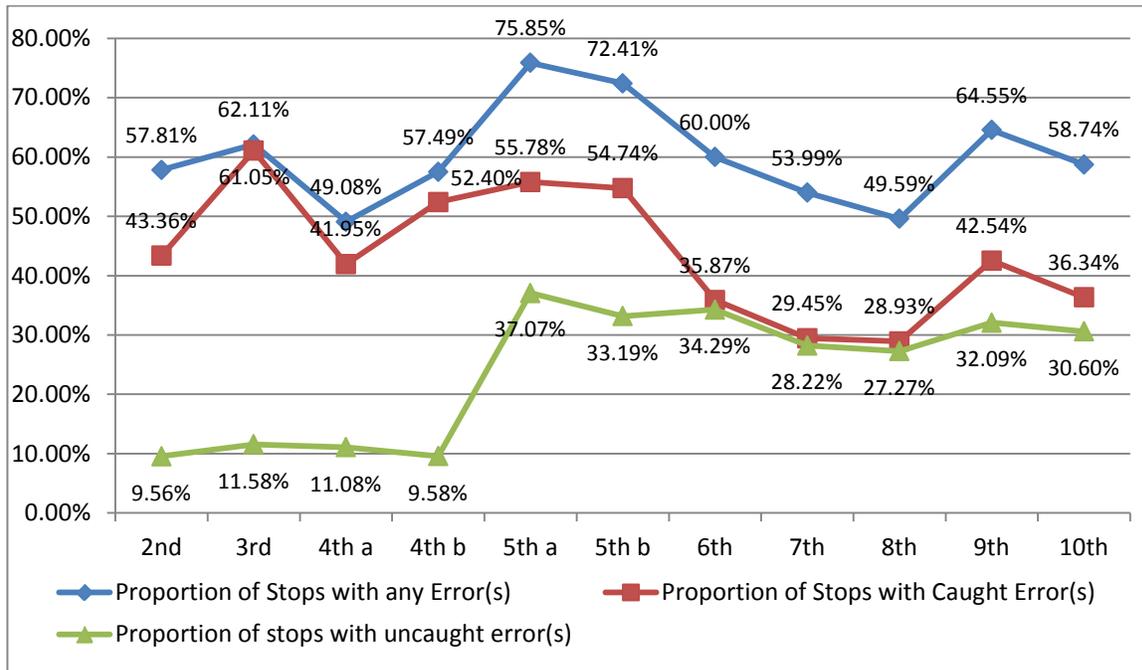
Figure Fifteen depicts the proportion of stops with any error, any error(s) caught, and any error(s) caught for the 2<sup>nd</sup> through current reporting periods. As shown, the highest proportion is that of stops with any error for all reporting periods. The proportion of stops with an error caught is smaller than the proportion of all stops with any error, but is consistently higher than the proportion of stops with any error(s) not caught.<sup>22</sup> In the current reporting period, 58% of all stops were found to contain at least one error (caught or uncaught). This proportion is smaller than that noted in the previous reporting period, higher than the 7<sup>th</sup> and 8<sup>th</sup> reporting periods, and slightly lower than the average proportion (60%) between the 2<sup>nd</sup> and current reporting periods. Roughly 36% of all stops contained an error caught in the current reporting period. This proportion is smaller than that noted in the previous reporting period, but consistent with the proportions noted since the 6<sup>th</sup> reporting period. The lower proportions of stops with errors caught noted since the 6<sup>th</sup> reporting period is likely the result of changes to the State Police review schedule, which were instituted during the same time period. The proportion of stops with uncaught errors is consistently smaller than the proportions of stops with errors and stops with caught errors. The proportion in the current reporting period, roughly 31% is slightly smaller than that noted in the previous period, but is consistent with the proportion noted

<sup>22</sup> As noted earlier, a stop may contain multiple errors. Therefore, a single stop may be represented among stops with errors caught and among stops with errors not caught. As such, the proportions of stops with errors caught and proportion of stops with errors not caught do not necessarily add up to the total number of stops with any error(s).

beginning in the 5<sup>th</sup> reporting period, when OLEPS resumed reviews of stops that were not necessarily reviewed by State Police as well.

**Figure Fifteen: Proportion of Stops with any Error, Errors Caught, & Errors not Caught**

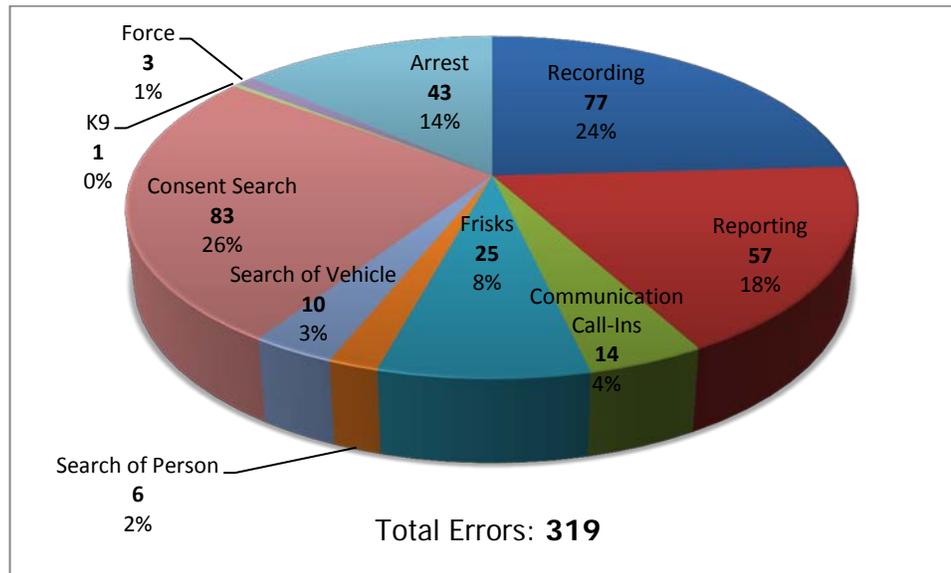
10<sup>th</sup> OLEPS Reporting Period



### *Types of Errors*

Errors can further be classified based upon the type of error. Certain errors refer to actions that are procedural in nature, that is, they are governed only by State Police procedures. Other errors refer to actions that are constitutional in nature, in that they touch upon an individual's constitutional rights. OLEPS has classified errors into several categories based on the nature of the error. Recording errors are those referring to whether recording was activated at the beginning of the motor vehicle stop and whether the audio and video continued to the completion of the stop. Reporting errors are errors made in completion of the motor vehicle stop report or the investigation report. When a trooper does not call-in the appropriate information to the communication center, these are communication call-in errors. Vehicle exit errors are those made when an individual is asked to exit a vehicle. Frisk errors are those made during the course of a frisk. Search of a person and search of a vehicle errors are made when searching a person or vehicle, respectively, without their consent. Consent search errors are those made in connection with the rules governing consent to search requests, including all reporting and recording requirements. Canine deployment errors are made when a canine is deployed. Use of force errors are made during a use of force. Arrest errors are those made during the course of an arrest. For all of the aforementioned categories, the errors may stem from a possible violation of an individual's rights or violations of State Police policy. Figure Sixteen presents this categorization for all errors caught in the current reporting period.

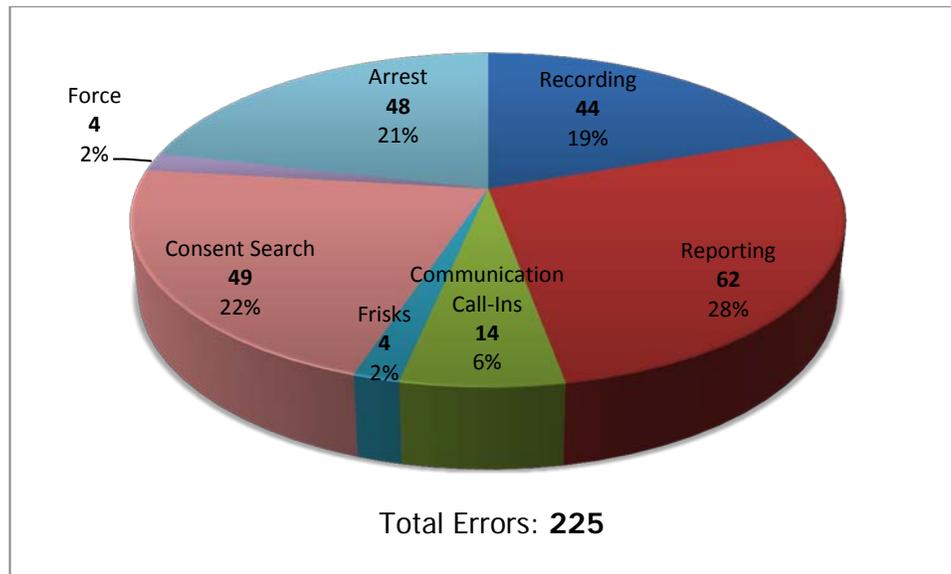
**Figure Sixteen: Type of Errors Caught**  
10<sup>th</sup> OLEPS Reporting Period



The most common errors caught by the State Police for this reporting period are all errors related to consent search requests. State Police supervisory review noted 83 errors pertaining to the consent to search requests. The second most common type of error caught were those pertaining to the recording of motor vehicle stops. State Police supervisory review noted 77 errors relating to recording motor vehicle stops. In total, these two categories of errors account for half, 50%, of the errors caught. Of the 283 errors caught by the State Police, 160 were errors caught pertaining to recording and consent searches. Like the previous reporting period, 18% of all errors caught pertained to reporting motor vehicle stops. For the third reporting period in a row, the proportion of errors caught pertaining to arrests increased. Fourteen percent of errors caught pertained to arrests in the current period compared to 11% in the previous period. The proportion of errors caught regarding communication call-ins decreased slightly in the current reporting period, from 6% in the previous to 4% in the current. Errors made pertaining to frisks increased from 4% in the previous reporting period to 8% in the current reporting period. The proportion of other categories of errors remained fairly consistent in the current reporting period; all other error categories each make up 5% or less of errors caught. Changes in the proportion of each error type do not necessarily mean that the State Police failed to catch these errors, it may mean that the State Police just made fewer errors of that type.

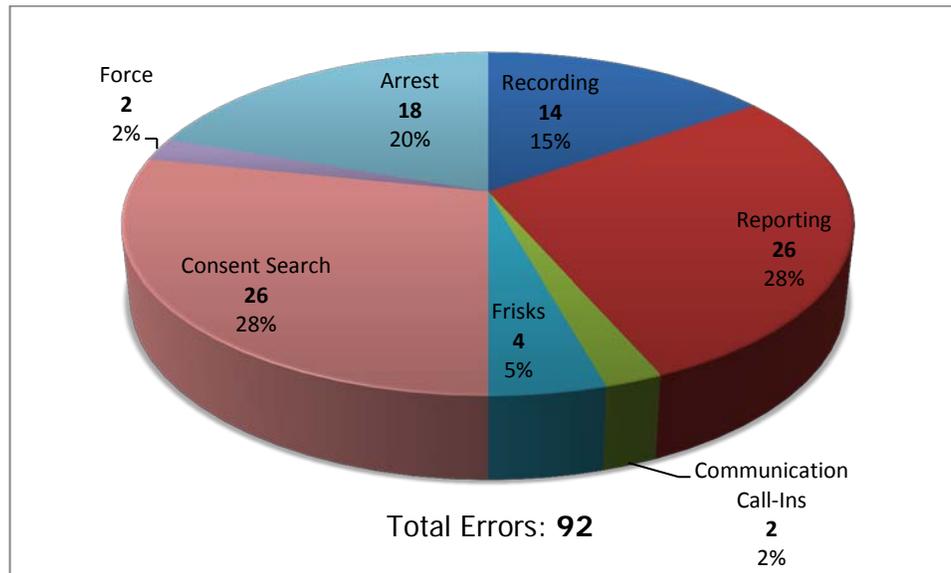
In previous reporting periods, the number of errors not caught in a particular category were generally low if the number of errors caught in that category were high. However, this is not necessarily the case in the current reporting period, as shown in Figure Seventeen. The majority of errors not caught, 90%, pertained to recording, reporting, arrests, or consent to search requests. Twenty-two percent of all errors not caught pertained to consent to search requests, 21% pertained to arrests, 19% pertained to recording, and 28% pertained to reporting. There were also 14 uncaught errors pertaining to communication call-ins, four pertaining to frisks, and four pertaining to uses of force.

**Figure Seventeen: Type of Errors Not Caught**  
10<sup>th</sup> OLEPS Reporting Period



As noted throughout this performance standard, there were a large number of stops examined during this reporting period that did not receive a State Police supervisory review. As such, it is appropriate to discuss the errors that State Police did not catch only in those stops that underwent review. Figure Eighteen presents these uncaught errors. In the stops that State Police did review, there were 92 errors not caught, more than the number from the previous reporting period. The most common type of error not caught by State Police were those pertaining to consent searches and reporting; 28% of errors not caught, 26 errors each, pertained to consent to search requests and reporting. There were 18 (20%) arrest errors, 14 (15%) recording errors, four (5%) frisk errors, two (3%) use of force errors, and two (3%) communication errors. Compared to errors caught, State Police caught a higher number of errors in each category type than they failed to catch with the exception of force errors.

**Figure Eighteen: Type of Errors Not Caught in Stops with State Police Reviews**  
10<sup>th</sup> OLEPS Reporting Period



As noted in previous reporting periods, OLEPS has paid close attention to the reviews of stops since 2012 as a way to assess the appropriateness of the new motor vehicle stop review schedule. OLEPS' approval of a revised review schedule, which allowed State Police to review a smaller number of stops, was contingent upon continued detail in these reviews. OLEPS encourages continued commitment on these patterns of errors for several reporting periods and commends State Police for the improvement.

### *Interventions*

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

OLEPS examined the extent to which supervisors note that they informed the trooper of errors by reviewing MAPPS for evidence of interventions. According to State Police policy, interventions are required when a supervisor notes that a trooper has made an error during a motor vehicle stop. The current reporting period is the fourth where OLEPS recorded the number of interventions issued. While State Police did catch 319 errors, there were only 152 interventions issued. Thus, about 47.64% of all errors caught by State Police resulted in an intervention, more than in the previous reporting period. Table Fourteen depicts the number and proportion of stops with interventions by category of error.

In the current reporting period, there are four categories of caught errors where the rate of intervention was above 70%. Caught errors pertaining to frisks resulted in an intervention in 80% of instances, caught errors pertaining to search of a person resulted in an intervention in 83.33% of instances, caught errors pertaining to search of a vehicle resulted in an intervention in 90% of instances, and caught errors pertaining to canine deployments resulted in an intervention in 100% of instances (there was only one error). Additionally, 54.39% of caught errors pertaining to reporting resulted in interventions, 53.49% of errors pertaining to arrests resulted in interventions, and 53.01% of caught errors pertaining to consent to search requests resulted in interventions. The proportion of errors pertaining to reporting, search of a vehicle, and arrests represent large increases from the previous reporting period. In the previous reporting period, 37.25% of reporting errors resulted in an intervention while 54.39% resulted in an intervention in the current reporting period. Search of vehicle errors resulted in an intervention in 16.67% of instances in the previous reporting period but increased to 90% in the current reporting period. Arrests errors that were caught resulted in an intervention in 33.33% of instances in the previous reporting period and 53.49% in the current reporting period. Overall, 47.65% of all errors caught resulted in an intervention in the current reporting period, more than the 40.28% in the previous reporting period.

**Table Fourteen: Proportion and Type of Caught Errors Resulting in an Intervention**  
10<sup>th</sup> OLEPS Reporting Period

	Number of Interventions	Number of Errors Caught	% of Errors Caught
<b>Recording</b>	18	77	23.38%
<b>Reporting</b>	31	57	54.39%
<b>Communication Call-Ins</b>	0	14	0.00%
<b>Vehicle Exits</b>	0	0	
<b>Frisks</b>	20	25	80.00%
<b>Search of Person</b>	5	6	83.33%
<b>Search of Vehicle</b>	9	10	90.00%
<b>Consent Requests</b>	44	83	53.01%
<b>K9</b>	1	1	100.00%
<b>Use of Force</b>	1	3	33.33%
<b>Arrest</b>	23	43	53.49%
<b>Total</b>	<b>152</b>	<b>319</b>	<b>47.65%</b>

The current reporting period marks the second with a noticeable increase in the proportion of errors resulting in an intervention. While this increase is commendable, slightly less than half of all errors noted by State Police resulted in interventions. OLEPS continues to recommend the use of interventions following an error to ensure that troopers are aware of mistakes made, and that they have the opportunity to remedy those errors in the future.

## Summary of Standard 9

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The current reporting period is the fifth with a number of stops that did not receive a supervisory review by State Police. As such, the overall number of errors caught by OLEPS that were not noted by State Police is high. Further, State Police did not note a number of errors in the stops that they did review, especially pertaining to consent to search requests and reporting. The State Police needs to conduct more detailed reviews and note all trooper errors during stops.

OLEPS notes that 23% of all stops reviewed by State Police contained errors not noted in reviews. More troubling is that roughly 47% of all stops not reviewed by State Police contained errors. Thus, there are actions and behaviors that violate State Police policies and procedures that are not identified and cannot be corrected.

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

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## Performance Standard 10: Supervisory Referral to OPS

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### Standards

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

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

### Assessment

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OLEPS has reviewed records of referrals to OPS based on actions or omissions by road personnel. Such referrals are generally rare. During the current reporting period, OLEPS referred one incident to OPS for review.

## Performance Standard 11: Supervisory Presence in the Field

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### Standard

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This standard remains unchanged from the Consent Decree:

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

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

### Overview

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For several reporting periods, OLEPS has noted a trend of low supervisory presence. Supervisory presence began increasing in the fifth reporting period, but has since declined. Figure Nineteen presents this trend. In the current reporting period, supervisors were present in 136, 37.15%, stops. Eighty-seven stops were verified by video and 49 were only able to be verified through stop reports. In the previous reporting period, a supervisor was present in about 40% of all stops. Since the 15<sup>th</sup> reporting period (under the independent monitors), the percent of stops where a supervisor was present has declined, reaching a low of 22.1% in the third reporting period. Since then, the percent has increased. Although the proportion of stops with a supervisor present in the current reporting period is lower than the previous reporting period, overall, the proportion remains high and is likely reflective of minor fluctuation.

Supervisors were present in 124 stops or 36.79% of all stops with consent requests, 7 stops or 40% of all stops with official canine deployments, and 11 stops or 44% of stops with uses of force. Compared to the previous reporting period, there was a higher proportion of supervisory presence in stops with uses of force and a smaller proportion in stops with consent requests and canine deployments.

**Figure Nineteen: Trend of Supervisory Field Presence**  
10<sup>th</sup> OLEPS Reporting Period

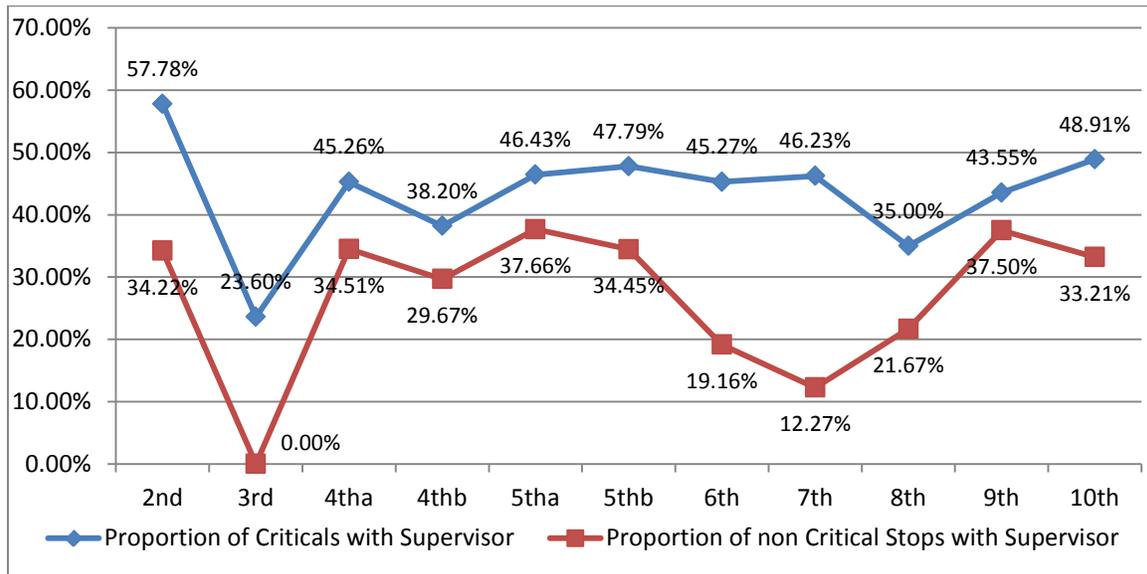


Interestingly, the number of errors in a stop is significantly related to whether the supervisor was present at the scene of a stop. There were significantly more errors caught in stops where the supervisor was at the scene of a stop ( $M=1.09$ ,  $s=1.699$ ) compared to stops where the supervisor was not at the scene of the stop ( $M=.739$ ,  $s=1.389$ ),  $t(240.735)=-2.071$ ,  $p<.01$ ,  $\alpha=.05$ . Additionally, there is a significantly different number of errors not caught in stops with supervisory presence ( $M=.448$ ,  $s=1.024$ ) and those without supervisory presence ( $M=.713$ ,  $s=1.349$ ),  $t(341.970)=2.116$ ,  $p<.01$ ,  $\alpha=.05$ . Stops with supervisory presence have fewer uncaught errors and more caught errors. This analysis does not necessarily indicate that fewer errors are made in stops where a supervisor was present. Analysis did not reveal a significant difference in the total number of errors made between stops with ( $M=1.544$ ,  $s=1.825$ ) and without ( $M=1.452$ ,  $s=1.776$ ) supervisory presence,  $t(364)=-.474$ ,  $p=.636$ .

Critical stops, those with RAS consent requests, canine deployments, and uses of force, are deemed as such because of their importance to the independent monitors and prominence in the Consent Decree. Because of the priority placed on these stops- they undergo mandatory reviews and their activities require supervisory approval and additional reports. Figure Twenty depicts supervisory presence in critical stops compared to non-critical stops. As can be seen, the proportion of stops with supervisors present is generally higher among critical stops than non-critical stops. In the current reporting period, there were 92 critical stops. A supervisor was present in 48.91% of these stops (45 stops). This proportion is the highest since the second reporting period. While there were roughly twice as many non-critical stops reviewed in the current reporting period, 274, only 33.21% of these stops (136) had a supervisor present on the scene. The proportion of non-critical stops with supervisory presence fluctuates across reporting periods in Figure Nineteen because of changes to the secondary sample of stops reviewed in each reporting period. In the third reporting period, only 95 stops were reviewed, 89 of which were critical stops; there were only six non-critical stops reviewed. In all other reporting

periods, the majority of stops reviewed were non-critical stops. The activities occurring in these stops vary across reporting periods, which may impact the likelihood that a supervisor might be on scene.

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



OLEPS anticipated increases in supervisory presence in the field in the coming reporting periods, especially since State Police implemented a revised review schedule for motor vehicle stops in 2011, which should allow supervisors more time to perform supervisory duties other than motor vehicle stop reviews. Given that the State Police have recently graduated several Academy classes, an increase in supervisory presence in the field was expected due to an increase in staffing. OLEPS anticipates an increase in supervisory presence in future reporting periods.

# Office of Professional Standards & Investigations

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

## Methodology

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

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

## Performance Standard 12: Appropriate & Timely Investigations

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### Standards

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

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

OLEPS may re-open any case for further investigation.

### Assessment

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In the current reporting period, OLEPS performed an audit of investigations conducted by OPS, covering January 1, 2014- June 30, 2014.

This audit consisted of a review of 80 closed misconduct cases. Of this total, 51 consisted of complaints involving racial profiling, disparate treatment, excessive force, illegal or improper searches, and domestic violence. An additional 29 cases were selected for review from all other misconduct investigations. Reviews of the written files for all 80 closed investigations were conducted. An additional review of audio and video evidence was conducted for four cases.

### *Investigation Length*

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

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

For the audit covering the current reporting period, OLEPS noted that 56%, 45 cases, were not completed within the 120 working day requirement. During this audit, OLEPS did not comment on the appropriateness of these delays but did note that in the delayed cases, no requests for an extension

were filed. However, OLEPS noted that several cases had an extended period of time pass between receipt of a complaint and assignment to an investigator, thus delaying the beginning of the investigation. Additionally, OLEPS noted an extended period of time between investigator completion of a misconduct case and supervisory review of the case. In 14% of cases, six months passed between completion of the investigation and completion of the supervisory review.

### *Appropriate Interventions*

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In addition to evaluating the investigation length of all misconduct cases, OLEPS also reviews the proposed penalty for each substantiated investigation. During this review, OLEPS has full access to the involved trooper's disciplinary history. This is evaluated in conjunction with the evidence developed by the investigation before disciplinary charges are filed and a penalty recommended. Disciplinary matters cannot move forward unless OLEPS has performed a legal sufficiency and penalty review. In the first half of 2014, OLEPS performed roughly 43 legal sufficiency and penalty reviews.

### *Re-Open Cases*

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

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

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### Standards

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

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

### Assessment

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OLEPS is tasked with auditing the citizen complaint process. This is accomplished through an audit of the complaint hotline, checking for proper classification and reception of complaints. This audit covered the time period of January 1, 2014- June 30, 2014. A total of 93 complaint calls were made to the hotline during the review period, and OLEPS reviewed a selected portion of these calls. All calls reviewed were assigned an OPS case number and handled appropriately.

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# Training

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The New Jersey State Police Training Bureau (hereafter Training Bureau) continues its mandate to oversee and ensure the quality of training for state troopers, including the development and implementation of pre-service and post-service curriculum and the selection and training of both trooper coaches and instructors. OLEPS' primary focus is on curriculum/training pertaining to cultural awareness, ethics, leadership, arrest, and search and seizure.

OLEPS' review of all 2014 training will appear in the 11<sup>th</sup> Oversight Report.

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# MAPPS

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

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

## Methodology

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

A formal audit of MAPPS is conducted in two parts. First, OLEPS accesses MAPPS to find evidence of specific information as required by State Police policy and procedures. Second, all troopers subject to a meaningful review<sup>23</sup> in the current reporting period are queried in MAPPS to determine whether there was a resolution of the review. Finally, OLEPS audits the MAPPS system by selecting a sample of troopers and accessing all records in MAPPS to ensure that all requirements per State Police policies and procedures are appropriately recorded.

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

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<sup>23</sup> Meaningful reviews are conducted on troopers who receive 3 misconduct allegations within 2 years.

## Performance Standard 23: Maintenance of MAPPS

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### Standards

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According to State Police policies and procedures MAPPs must include the following types of data:

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

### Assessment

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Typically, a sample of troopers is randomly selected from the badge numbers of those involved in motor vehicle stops for the MAPPs audit. OLEPS reviewed 366 motor vehicle stops in the current period conducted by 265 troopers. Of these troopers, 23 were probationary troopers on the date of the motor vehicle stop reviewed in this reporting period. All 265 troopers were selected for the MAPPs audit, representing about 10.5% of the Division. The troopers selected are representative of all troops. Each trooper's MAPPs records were accessed to determine whether the required information was recorded for the reporting period in question.

#### *Motor Vehicle Stop Data*

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MAPPs must contain information on all motor vehicle stops performed by a given trooper. This module contains several analytic tools that allow a trooper's stop data to be examined in relation to both internal and external benchmarks. MAPPs contained motor vehicle stop data for all 265 troopers for the current reporting period.

#### *Performance Data*

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##### *Trooper Reviews*

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

Of the troopers sampled, 210 troopers received quarterly reviews. As of April 2015, 55 troopers had not received quarterly reviews for the first half of 2014. Of these troopers, 24 received the requisite annual evaluations.

Annual evaluations are categorized as Partial, First Probationary, Second Probationary, and Third Probationary evaluations. There were 55 evaluations conducted in the first half of 2014; 21 Partial evaluations, 32 First Probationary evaluations, and two Second Probationary evaluations conducted.

In total, there were 31 troopers who did not receive any quarterly or annual evaluations for this reporting period. Twenty-nine of the troopers missing evaluations had recently graduated from the Academy. One trooper retired during the reporting period. Thus, there was only one trooper who lacked the requisite reviews.

### *Assignments*

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MAPPS provides information on trooper assignments, containing both current and historical assignments for each trooper. In the current reporting period, MAPPS listed current and past assignments for all 265 troopers.

### *Training*

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The Academy Computerized Training System (ACTS) feeds data into MAPPS regarding training completion. Annual in-service training, physical fitness, and firearms training will be discussed in depth in OLEPS' 11<sup>th</sup> Oversight Report.

Of the 265 troopers reviewed in this reporting period, 263 troopers completed spring firearms training. One of the two troopers who did not fulfill the firearms training retired during this reporting period. The remaining trooper received the requisite firearms training during the summer of 2014.

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

### *Compliments*

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The compliments module in MAPPS contains records of all compliments received by troopers for service performed. OLEPS found that the State Police is successfully implementing this module and lists general information pertaining to the compliment. In total, OLEPS found that 42 of the troopers sampled received a compliment in the current reporting period.

### *Motor Vehicle Stop Reviews*

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Motor vehicle stops are required to undergo supervisory review as determined by Field Operations' review schedule. For this requirement, OLEPS examined whether the stops conducted by the sampled troopers were reviewed and stored in MAPPS. OLEPS found evidence that 260 of the sampled troopers had reviews of motor vehicle stops on record for the current reporting period. One of the five troopers

without any reviews did not routinely conduct motor vehicle stops. One trooper retired during the reporting period. Additionally, MVR's were not required for the probationary troopers sampled.

### *Journals*

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

There were ten journal entries in the current reporting period for the sample of troopers. Three of these entries related to risk management awareness, three pertained to supervisory meaningful reviews, three were scatter plot comprehensive reviews, and one was related to career development. As noted in previous reports, OLEPS recommends that State Police more effectively use this module, especially given that the State Police does not regularly utilize interventions to record errors made in motor vehicle stops.

### *Interventions*

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#### *Interventions*

MAPPS contains an Interventions module wherein members may issue an intervention or task another member with administering an intervention directed toward improving a member's performance. OLEPS found that interventions were recorded for 205 of the 265 sampled troopers. These interventions resulted from a number of actions and behaviors, not necessarily from a motor vehicle stop. As noted in Performance Standard 9, interventions stemming from motor vehicle stops were noted in only 47% of errors caught by State Police.

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

Commendation PN's are stored within the Intervention module and are used by supervisors to commend a trooper for a job well done. OLEPS found that 209 troopers had at least one commendation performance notice in the current period.

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

Counseling PN's are stored within the Intervention module and are used by supervisors to counsel a trooper. OLEPS found that 17 troopers had at least one counseling performance notice in the first half of 2014.

### *Misconduct*

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MAPPS contains information regarding trooper misconduct. This information is intended to be used by supervisors to remedy any deficiencies through a progressive system of discipline. In the current reporting period, 28 of the 265 sampled troopers had at least one misconduct allegation listed in MAPPS.

OLEPS also checked to ensure that all cases listed in IAPro (the database that houses misconduct information) were also listed in MAPPS for the troopers selected. OLEPS found that all misconduct information displayed in IAPro was also displayed in MAPPS for the selected troopers.

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### *Use of Force Supervisory Reviews*

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The State Police have set a threshold of two uses of force per trooper within a one year period before an alert is triggered that begins a supervisory review process. In the current reporting period, six of the 265 troopers had documented use of force supervisory reviews in MAPPS.

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

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The procedure for evaluating meaningful reviews differs slightly from the overall MAPPS review. Instead of utilizing a sample of all troopers involved in stops, a list of all troopers receiving a meaningful review in the first half of 2014 was obtained from IAPro. In total, there were 16 meaningful reviews conducted during this period.

As has been noted in previous reporting periods, inconsistency remains regarding the documentation of meaningful reviews. MAPPS contained an intervention for eight of the 16 meaningful reviews conducted during this reporting period. In four meaningful reviews, there was evidence of a journal entry documenting a supervisor's meeting with the trooper. The four remaining meaningful reviews involved troopers on administrative leave when the alert was triggered, explaining the lack of documentation. Interventions are not mandatory for meaningful reviews, but a Supervisory Meaningful Review Report, located in the journal module, should appear for all meaningful reviews as noted in State Police policies and procedures.

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### *Additional MAPPS Issues*

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Central to the development and maintenance of the MAPPS system is the issue of appropriate staffing to analyze the data. In earlier reporting periods, OLEPS has highlighted the staffing issues in MAPPS. More recently, the Unit added an additional civilian staff member. The State Police are commended for addressing this concern. However, given the workload of the MAPPS Unit, the staff remains burdened by their numerous responsibilities, which require technical expertise. The MAPPS unit, primarily, analyzes data from motor vehicle stops, to identify potential risk in the Division. This analysis requires familiarity with both motor vehicle stops and State Police policies, and a working knowledge of data analysis processes. In the continuing opinion of OLEPS, the addition of a senior analyst with strong technical report-writing skills would be an excellent addition to the civilian staff. MAPPS personnel need to perform an increasing array of new analytic tasks in an organization with escalating data needs to inform its decisions.

Because MAPPS is a warehouse system drawing data from several sources, discrepancies are possible based on the sources used for information. During previous reporting periods, OLEPS noted issues in MAPPS pertaining to the display of data and apparent discrepancies in data. Clarification was requested from the State Police regarding these issues and the State Police continues to work with vendors to correct these discrepancies.

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## **Summary of Standard 23**

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OLEPS' audit of MAPPS indicated that MAPPS contains the requisite information and data. As noted in Performance Standard 9, OLEPS recommends that the State Police utilize the Intervention module in

MAPPS to record communication to troopers who have made an error during a motor vehicle stop. Additionally, the audit continues to highlight the issue between the MAPPS, ACTS, NJLearn, and NJ.gov databases, as discussed in previous reports. OLEPS also continues to recommend that a clear official policy on meaningful reviews be enforced, especially in relation to the cataloging of such reviews. As noted above, there is a lack of consistency in the way such reviews are recorded in MAPPS. Additionally, meaningful reviews are not routinely conducted if a trooper is on leave when the alert is triggered. A formal policy that details the instructions for these reviews is needed.

## Performance Standard 24: MAPPS Reports

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### Standards

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

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

### Assessment

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

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

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

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

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

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

Overall, the MAPPS Reports exceed the requirements of this performance standard.

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# Oversight & Public Information

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

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### Standards

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

OLEPS is required to complete the following tasks:

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

### Assessment

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

- Second Public Aggregate Misconduct Report

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

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

Just as OLEPS audits the State Police, the State Comptroller audits OLEPS. Noted in the June 2014, Office of the Comptroller Report, which reviewed the same reporting period as this report; "Since OLEPS was created by statute in 2009, it has come to be a repository for institutional knowledge of NJSP issues and its staff has gained expertise in overseeing the NJSP process regarding motor vehicle stops and post-stop enforcement activity."<sup>24</sup> These audits can be found on the Comptroller's website:

<http://www.nj.gov/comptroller/index.shtml>

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<sup>24</sup> Third Periodic Report on Law Enforcement Professional Standards, Review of Motor Vehicle Stops and Post-Stop Enforcement Activities at the Division of the State Police and its monitoring by the Office of Law Enforcement Professional Standards," State Office of the State Comptroller, June 10, 2014, pg. 11.

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

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### **Standards**

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

### **Assessment**

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

# Summary

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## Overview

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The results of OLEPS' analysis of State Police from January 1, 2014 to June 30, 2014 indicate that, overall, the State Police follows the guidelines regulating trooper activity. The 366 motor vehicle stops, MAPPS data, and OPS cases reviewed indicate that State Police adheres to its own policies and procedures.

The review of motor vehicle stops indicated that there was no clear evidence of a significant racial/ethnic bias in stops or post-stop activities. The analysis in the current reporting period indicates that there are no significant differences in the racial/ethnic distributions of the number of stops or those involving consent to search requests, canine deployments, uses of force, or arrests. As noted in the previous reporting period, Black drivers were involved in the largest proportion of all activities reviewed. This is likely the result of the secondary sample selected, whereby stops with PC consent requests based on the odor of marijuana were reviewed.

In the current reporting period, OLEPS noted several instances where troopers did not meet the appropriate legal standards for the post-stop activities used. Specifically, there were five instances where the legal standard of PC was not met to request consent to search. Three of these errors were noted by State Police and two resulted in an intervention. There was also one instance of a canine deployment where the facts and circumstances did not meet the standard of RAS. This error was caught and resulted in an intervention. There were 18 frisks that did not meet the standard of RAS, 15 of these errors were noted by State Police and 11 resulted in an intervention. OLEPS discovered seven stops with errors in non-consensual vehicle searches. OLEPS noted two searches of a driver and four of a passenger that were not conducted incident to arrest. Six of these errors resulted in interventions. Additionally, OLEPS noted two uses of force that were deemed unnecessary given the facts and circumstances of the stop. One of these errors was caught by State Police and resulted in an intervention. The other error was referred back to State Police for review. Despite these instances, the majority of post-stop activities reviewed were performed in accordance with State Police policies, procedures, and legal standards.

Overall, stops reviewed in the current reporting period were, on average, similar in length to the previous reporting period. Significant differences were found between the length of all stops for White and Black drivers and in the length of stops with RAS consent requests for White and Black drivers. The differences between all other racial/ethnic groups for all types of stops were not significant. The independent monitors had expressed concerns regarding the length of stops while State Police was under the Consent Decree. In previous reporting periods, OLEPS noted several instances of *de facto* arrests. OLEPS reminds State Police of this history and encourages supervisors to note issues regarding the length of motor vehicle stops.

State Police continues to fail to note a number of errors made during motor vehicle stops. In the previous reporting period, 32% of all stops contained errors not caught while in the current reporting period, 30% of all stops reviewed contained errors not caught. This proportion had been decreasing for several reporting periods. As noted previously, OLEPS reviewed a high number of stops that did not receive a State Police review. Among the stops State Police did review, they failed to note errors in

24% of stops. Due to the number of errors noted in the current reporting period, even among those reviewed by State Police, OLEPS continues to reinforce the need for detailed reviews with appropriate feedback to troopers. Feedback on motor vehicle stops, especially any errors or deficiencies, ideally would influence a trooper's behavior in all stops, not just those that were reviewed.

Related, the use of interventions following an error during a motor vehicle stop has been increasing over the past few reporting periods. In the current reporting period about 47% of all errors caught resulted in an intervention, a notable improvement from the previous reporting period where 40% caught errors resulted in interventions. In the current reporting period, interventions were used most frequently for errors pertaining to frisks, searches of a person, and searches of a vehicle. OLEPS continues to recommend State Police supervisors use interventions when errors are noted.

While the State Police supervisors increased the use of interventions when an error was caught, there was a slight decrease in the proportion of stops in which supervisors were present at the scene of the stop. OLEPS will continue to examine the proportion of supervisors on the road to determine whether the quality of reviews and use of interventions are inversely related to supervisor presence during stops. OLEPS expects that both supervisory presence and the quality of supervisory reviews should increase as State Police have recently added a number of new troopers to their ranks.

Recording issues persist in the current reporting period. Recordings of stops are still not ideal; many stops have missing recordings, malfunctions, or difficulties that make reviewing stops difficult. State Police should continue to ensure appropriate cataloging of motor vehicle stop recordings and to ensure that equipment remains up to date and in working order. Additionally, in the current reporting period, State Police upgraded their recording hardware, software, and cataloging database. While the upgrade will help address some of the issues noted in these reviews, as of May 2015, OLEPS remains unable to view any stops recorded on this new equipment. Recordings of these stops must be provided to OLEPS, or OLEPS must review these stops at a State Police station. OLEPS is committed to remaining an impartial and separate entity from the State Police. Requiring OLEPS to conduct motor vehicle stop audits at a State Police location is potentially problematic. OLEPS recommends the State Police provide requisite access to these new recordings so that OLEPS may fulfill its auditing functions. The State Police is currently working on remedying this issue, but the problem persists.

## Recommendations

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

- Continue analysis on racial/ethnic distributions and differences of motorists involved in stops.
- Conduct detailed, focused supervisory reviews, especially in noted areas of concern.
- If necessary, reiterate the expectations of supervisory reviews by informing supervisors of OLEPS' concerns regarding these reviews.
- Increase the use of interventions as a record of supervisory comments.
- Reiterate the requirements for a RAS and PC to ensure that troopers appropriately engage in post-stop activities.
- Reinforce concerns regarding the length of stops. Refer to previous Monitoring Reports written by the Independent Monitor for more detail regarding the concerns surrounding *de facto* arrests.
- Increase supervisory presence in the field, especially in light of the reduced review workload.

- Ensure that State Police units that handle a large portion of tasks related to the Decree (i.e., OPS, MAPPS, ITB, and Training Bureau) remain appropriately staffed to meet their mission.
- Ensure continuity of staff in highlighted areas (i.e. OQA, OPS, MAPPS, ITB, and Training Bureau) to ensure the understanding of historical decisions, events, and issues. Consideration should be given to assign a civilian analyst to these units to lend technical support for the collection and analysis of data in addition to the provision of continuity during transfers and detachments of enlisted personnel.
- Clearly and formally detail the process for conducting 3 in 2, or meaningful, reviews.
- Continued vigilance in upgrades or repairs to aging audio and video equipment and ensure that troopers are appropriately activating this equipment.
- Continue efforts to resolve technical issues with OLEPS' access to motor vehicle stops recorded on upgraded recording equipment.

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

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

Appendix One

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

**APPENDIX TWO**

Table 2.1: Type of Errors Caught by Station

	Recording	Reporting	Communication	Exits	Frisks	Search of Person	Search of Vehicle	Consent Requests	Canine Deploy.	Use of Force	Arrests	Total
Atlantic City	3	4	0	0	2	1	0	1	0	2	0	13
Bass River	1	1	0	0	0	0	1	5	1	0	5	14
Bellmawr	1	1	0	0	0	0	0	1	0	0	0	3
Bloomfield	3	2	0	0	0	0	0	8	0	1	3	17
Bordentown	1	8	0	0	5	1	2	12	0	0	5	34
Bridgeton	4	2	7	0	0	0	0	2	0	0	0	15
Buena Vista	6	0	0	0	0	0	0	1	0	0	1	8
Cranbury	5	3	0	0	0	0	0	4	0	0	0	12
Hamilton	6	6	5	0	7	1	2	12	0	0	5	44
Holmdel	5	2	0	0	0	0	1	5	0	0	6	19
Hope	8	4	0	0	2	0	0	3	0	0	0	17
Kingwood	0	1	0	0	1	0	0	1	0	0	1	4
Metro North	0	0	0	0	0	0	0	0	0	0	0	0
Moorestown	4	6	0	0	2	0	0	3	0	0	3	18
Netcong	2	2	0	0	1	0	0	1	0	0	0	6
Newark	2	1	0	0	2	0	0	4	0	0	3	12
Other	2	1	0	0	0	0	0	4	0	0	0	7
Perryville	1	2	0	0	0	0	0	0	0	0	1	4
Port Norris	1	1	0	0	0	0	0	0	0	0	0	2
Red Lion	2	3	0	0	0	1	1	2	0	0	1	10
Somerville	4	3	0	0	1	1	2	4	0	0	1	16
Sussex	3	0	0	0	0	0	0	1	0	0	0	4
Totowa	6	0	0	0	0	0	0	1	0	0	3	10
Tuckerton	2	0	2	0	0	0	0	1	0	0	1	6
Washington	0	1	0	0	2	1	0	0	0	0	0	4
Woodbine	4	1	0	0	0	0	0	4	0	0	1	10
Woodstown	1	2	0	0	0	0	1	3	0	0	3	10
<b>Total</b>	<b>77</b>	<b>57</b>	<b>14</b>	<b>0</b>	<b>25</b>	<b>6</b>	<b>10</b>	<b>83</b>	<b>1</b>	<b>3</b>	<b>43</b>	<b>319</b>

Table 2.2: Type of Errors Not Caught by Station

	Recording	Reporting	Communication	Exits	Frisks	Search of Person	Search of Vehicle	Consent Requests	Canine Deploy.	Use of Force	Arrest	Total
Atlantic City	0	0	0	0	0	0	0	6	0	0	2	8
Bass River	0	1	0	0	0	0	0	1	0	0	4	6
Bellmawr	0	0	0	0	1	0	0	3	0	0	0	4
Bloomfield	0	1	0	0	0	0	0	1	0	1	0	3
Bordentown	13	1	0	0	0	0	0	5	0	0	0	19
Bridgeton	4	3	0	0	0	0	0	2	0	0	3	12
Buena Vista	1	3	0	0	0	0	0	2	0	1	4	11
Cranbury	2	3	0	0	0	0	0	2	0	0	0	7
Hamilton	5	6	0	0	1	0	0	4	0	0	3	19
Holmdel	0	2	0	0	0	0	0	2	0	0	3	7
Hope	1	3	0	0	0	0	0	0	0	0	0	4
Kingwood	0	1	0	0	0	0	0	0	0	0	0	1
Metro North	0	0	0	0	0	0	0	0	0	0	0	0
Moorestown	3	1	5	0	0	0	0	1	0	0	10	20
Netcong	0	4	0	0	0	0	0	0	0	0	1	5
Newark	0	0	0	0	0	0	0	0	0	0	0	0
Other	1	3	0	0	0	0	0	2	0	0	1	7
Perryville	0	1	0	0	0	0	0	0	0	0	0	1
Port Norris	2	4	1	0	0	0	0	2	0	0	0	9
Red Lion	4	6	2	0	0	0	0	9	0	0	8	29
Somerville	1	1	0	0	0	0	0	1	0	2	3	8
Sussex	0	1	0	0	1	0	0	0	0	0	2	4
Totowa	3	7	0	0	1	0	0	1	0	0	1	13
Tuckerton	2	1	0	0	0	0	0	1	0	0	1	5
Washington	0	1	0	0	0	0	0	0	0	0	1	2
Woodbine	2	7	6	0	0	0	0	3	0	0	1	19
Woodstown	0	1	0	0	0	0	0	1	0	0	0	2
<b>Total</b>	<b>44</b>	<b>62</b>	<b>14</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>49</b>	<b>0</b>	<b>4</b>	<b>48</b>	<b>225</b>

## APPENDIX THREE

### Supplemental Data Analysis Results

#### Chi-Square Overview:

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

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

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

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

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

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

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

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

**Example:**

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

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

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

	<b>White</b>	<b>Non-White</b>	<b>Total</b>
<b>No Consent Request</b>	15	14	29
<b>Consent Request</b>	127	210	337
<b>Total</b>	142	224	366

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

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

First, calculate the expected frequency for White drivers with no consent request. The row total is 29 and the column total is 142. The total n for the table is 366.

$$\frac{29 * 142}{366} = 11.25$$

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

	<b>White</b>	<b>Non-White</b>	<b>Total</b>
<b>No Consent Request</b>	15 (11.25)	14 (17.74)	29
<b>Consent Request</b>	127 (130.75)	210 (206.25)	337
<b>Total</b>	142	224	366

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

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

$$\chi^2 = \frac{(15-11.25)^2}{11.25} + \frac{(14-17.74)^2}{17.74} + \frac{(127-130.75)^2}{130.75} + \frac{(210-206.25)^2}{206.25}$$

$$\chi^2 = 2.21$$

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

Next, calculate the degrees of freedom.

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

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

$$df = 1$$

Consulting the chi-square Distribution Table (available in most basic statistics books or online), indicates that in order to reject the null hypothesis at a significance level of .05, the chi-square statistic needs to be 3.84 or greater. Our value is 2.21, less than the required value. This means that we fail to reject the null hypothesis; there is not a significant difference between the racial/ethnic distribution of consent requests.

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

	Non-White	White	Total
<b>No Canine Deployment</b>	215	136	351
<b>Canine Deployment</b>	9	6	15
<b>Total</b>	224	142	366

$\chi^2=.010$ , df=1  
 $p=.922$

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

	Non-White	White	Total
<b>No Force</b>	211	129	338
<b>Use of Force</b>	13	12	25
<b>Total</b>	224	142	366

$\chi^2=.957$ , df=1  
 $p=.328$

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

	Non-White	White	Total
<b>No Arrest</b>	4	7	11
<b>Arrest</b>	220	135	355
<b>Total</b>	224	142	366

$\chi^2=2.947$ , df=1  
 $p=.086$   
One cell has an expected count less than five.

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

	White	Non-White	Total
<b>FTML</b>	29	10	39
<b>Equipment Violations</b>	17	34	51
<b>Safety Violations</b>	10	15	25
<b>Rate of Speed</b>	32	55	87
<b>Unsafe Lane Change</b>	13	16	29
<b>Total</b>	<b>82</b>	<b>149</b>	<b>231</b>

$$\chi^2=3.146, df=4$$

$$p=.534$$

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

Race/Ethnicity	Reasonable Articulable Suspicion	Probable Cause	Total
<b>White</b>	37	90	127
<b>Black</b>	16	125	141
<b>Hispanic</b>	9	50	59
<b>Total</b>	62	265	327

$$\chi^2=14.4, df=2$$

$$p=.00$$

**Table Seven: Type of RAS Consent Request by Race/Ethnicity of Driver**  
10<sup>th</sup> OLEPS Reporting Period

	White	Non-White	Total
<b>Intangible</b>	2	1	3
<b>Tangible</b>	1	1	2
<b>Probative</b>	33	23	56
<b>Total</b>	36	25	61

$\chi^2 = .14$ ,  $df = 2$

$p = .932$

Four cells have an expected count of less than five.

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

Race/Ethnicity	Reasonable Articulable Suspicion	Probable Cause	Total
<b>White</b>	4	2	6
<b>Non-White</b>	7	1	8
<b>Total</b>	11	3	14

$\chi^2 = .884$ ,  $df = 1$

$p = .347$

Three cells have an expected count of less than five.

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

Race/Ethnicity	Probable Cause	Warrant	Warrant and PC	Total
White	111	5	19	135
Non-White	163	4	53	220
<b>Total</b>	274	9	72	355

$\chi^2 = .6.029$ , df=2

p=.049

One cell has an expected count less than five

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

	Day	Night	Total
White	76	66	142
Black	71	80	151
Hispanic	25	37	62
Asian	3	8	11
<b>Total</b>	175	191	366

$\chi^2 = 5.146$ , df=3

p=.161

## Independent Samples *t*-test

### Overview

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

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

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

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

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

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

$\mu_1$  = population 1

$\mu_2$  = population 2

*S* = estimated standard error

### Example:

Hypothesis: Do White and Black drivers differ in the length of their motor vehicle stops? The mean stop length for White drivers is 58.08, the standard deviation is 26.36, and *n*=142. The mean stop length for Black drivers is 64.58, the standard deviation is 27.32, and *n*=151.

Hypothesis:

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

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

Set criteria:

Significance level ( $\alpha$ ) = .05

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

$$df = n_1 + n_2 - 2$$

$n_1$  = the number of observations in sample 1

$n_2$  = the number of observations in sample 2

$$df = 142 + 151 - 2$$

$$df=291$$

Critical value for the  $t$ -test:

This is determined by looking at a  $t$ -distribution and finding where the degrees of freedom for the sample and the desired significance level intersect. For this example,  $t$  critical is: 1.66

Calculate the mean and standard deviation. This information has been provided. The mean stop length for White drivers is 58.08, the standard deviation is 26.36, and  $n=142$ . The mean stop length for Black drivers is 64.58, the standard deviation is 27.32, and  $n=151$ .

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

$$t = \frac{(58.08 - 64.58) - (\mu_1 - \mu_2)}{S_{x_1 - x_2}}$$

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

$$t = \frac{(58.08 - 64.58)}{S_{x_1 - x_2}}$$

To calculate  $S$ , use this equation:

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

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

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

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

$$df_2 = n_2 - 1 \quad df_2 = 151 - 1 \quad df_2 = 150$$

$$S_{pooled}^2 = \frac{(141)26.36^2 + (150)27.32^2}{141 + 150}$$

$$S_{pooled}^2 = \frac{(141)694.85 + (150)746.38}{291}$$

$$S_{pooled}^2 = \frac{97973.79 + 111957.36}{291}$$

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

$$S_{x1-x2} = \sqrt{\frac{721.41}{141} + \frac{721.41}{150}}$$

$$S_{x1-x2} = \sqrt{5.12 + 4.81}$$

$$S_{x1-x2} = \sqrt{9.93}$$

$$S_{x1-x2} = 3.15$$

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

$$t = \frac{(58.08 - 64.58)}{S_{x1-x2}}$$

$$t = \frac{(58.08 - 64.58)}{3.15}$$

$$t = \frac{-6.5}{3.15}$$

$$t = -2.06$$

Compare the  $t$  value calculated, -2.06, to the critical  $t$  value from the table, 1.64.

Since the calculated  $t$  value is lower, we reject the null hypothesis and accept the alternative hypothesis.

Therefore, there is a significant difference in the length of motor vehicle stops for White drivers and Black drivers.

## **APPENDIX FOUR**

### Definitions of Acronyms and Abbreviations

BOLO: Be On the Look Out

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

DTT: Duty to Transport

FTML: Failure to Maintain Lane

IAIB: Internal Affairs Investigation Bureau

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

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

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

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

MVR: Motor vehicle stop review

MVSR: Motor vehicle stop report

O.I.: Operations Instructions

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

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

OSPA: Office of State Police Affairs

PC: Probable Cause

RAS: Reasonable Articulable Suspicion

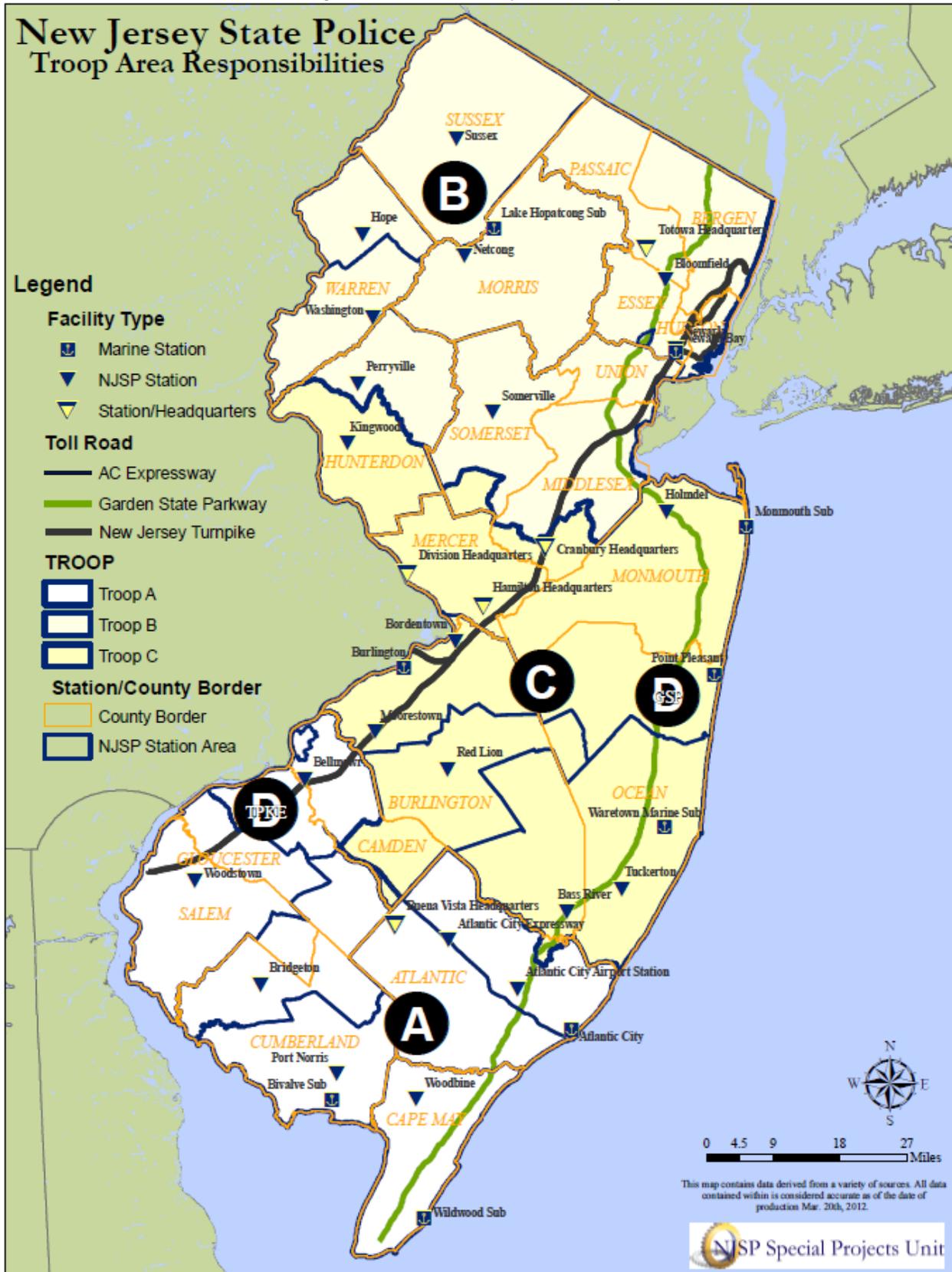
RMS: Records Management System

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

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

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

APPENDIX FIVE  
New Jersey State Police Troop Area Responsibilities



Appendix Five