

**State of New Jersey
Office of the State Comptroller**



***FOURTH PERIODIC REPORT ON LAW
ENFORCEMENT PROFESSIONAL
STANDARDS***

***Review of the Training Bureau
at the
Division of New Jersey State Police
and its monitoring by the
Office of Law Enforcement Professional Standards***

**PHILIP JAMES DEGNAN
State Comptroller**

December 20, 2016

TABLE OF CONTENTS

I.	Introduction	1
II.	Background	1
III.	Scope of Review and Methodology	2
IV.	Summary of Findings	3
V.	Findings	4
	A. Staffing	4
	B. Firearms	6
	1. NJSP Firearms Training Program	7
	2. Firearms Training Issues Identified by State Auditor	8
	3. OSC Review	9
	4. Return to Duty Firearms	11
	C. Trooper Coach Program	12
	D. Motor Vehicle Search Procedures	14
VI.	Conclusions and Recommendations	15

I. Introduction

The unequal treatment of persons on the basis of race in motor vehicle stops and other law enforcement activities has been an issue of national concern. Even the perception of racial discrimination by law enforcement officers creates an environment of distrust and undermines the goals of the criminal justice system. In December 1999, to remedy claims of racial profiling, the United States Department of Justice (DOJ) and the State of New Jersey entered into a Consent Decree, transforming New Jersey State Police (NJSP) policies and seeking to eliminate discriminatory law enforcement practices on our roadways.

This report is the fourth statutorily required review of the NJSP and the state Office of Law Enforcement Professional Standards (OLEPS) by the Office of the State Comptroller (OSC). OSC's reviews intend to determine if the NJSP is maintaining its commitment to non-discrimination, professionalism and accountability while fulfilling its mission to serve and protect New Jersey and its residents. In its first report, OSC evaluated the state's transition from the Consent Decree and assessed the NJSP's Training Bureau (Training Bureau). Later reports reviewed the NJSP's internal affairs and disciplinary processes, policies and procedures for documenting and reviewing motor vehicle stops and post-stop enforcement activity. This fourth report returns to an examination of the Training Bureau, which plays a critical role in the NJSP's efforts to maintain non-discriminatory practices.

II. Background

On December 30, 1999, the state and the NJSP entered into a Consent Decree with DOJ, ending a lawsuit brought by DOJ and reforming NJSP policies and procedures with the intent to eliminate racial profiling and prevent discriminatory law enforcement practices. The Consent

Decree further mandated the appointment of an independent monitoring team to evaluate the NJSP's compliance with the Consent Decree's reforms. The independent monitoring team issued 16 reports between October 2000 and April 2009. A final report by the New Jersey Office of Attorney General, under the guidance of the independent monitoring team, concluded that the NJSP had become compliant with the Consent Decree's requirements. In September 2009, the United States District Court dissolved the Consent Decree.

After the Consent Decree was dissolved, but to ensure the NJSP's continued compliance with reforms initiated under the Consent Decree, the state Legislature enacted the Law Enforcement Professional Standards Act of 2009, *N.J.S.A. 52:17B-222 et seq.* (the Act). To fulfill the role of the independent monitoring team, the Act mandated the creation of OLEPS to, among other things, prepare and issue bi-annual reports of the NJSP's performance and semi-annual reports of aggregate statistics concerning the NJSP's enforcement activities. Additionally, the Act directed OSC to review 1) the NJSP's performance concerning non-discrimination in its policies, practices and procedures relating to motor vehicle stops and 2) OLEPS' monitoring of the NJSP's law enforcement activities.

OLEPS published its Ninth and Tenth Oversight Reports, dated July 2015 and September 2015, respectively. As noted, this is OSC's fourth report of findings and recommendations to the Governor, Legislature and public pursuant to the Act.

III. Scope of Review and Methodology

N.J.S.A. 52:17B-236 provides that OSC shall conduct audits and reviews of the NJSP and OLEPS to examine "stops, post-stop enforcement activities, internal affairs and discipline, decisions not to refer a trooper to internal affairs notwithstanding the existence of a complaint, and training." For this review, OSC evaluated the NJSP and OLEPS with regard to the Training

Bureau's capacity for providing, assessing and enhancing instruction for NJSP troopers and supervisory staff.

OSC's methodology included the following:

- Reviewed relevant rules, regulations, directives, protocols and operating procedures.
- Reviewed relevant training materials, curricula and lesson plans used by the Training Bureau.
- Interviewed Training Bureau leadership and staff as well as the Deputy Superintendent of Administration.
- Observed and evaluated recruit training, executive leadership training and in-service training sessions at the Training Bureau in Sea Girt.
- Met with OLEPS personnel and discussed their oversight of the training provided by the NJSP to its troopers and trooper candidates.
- Reviewed OLEPS' Oversight Reports assessing NJSP training activity as well as other documentation provided by OLEPS regarding their oversight of the Training Bureau.
- Reviewed a relevant audit report and met with personnel from the Office of the State Auditor regarding firearms training and inventory.
- Reviewed firearms training and inventory records, provided by the NJSP, of selected NJSP members for compliance with training requirements.
- Reviewed a sample of ten candidate application files for compliance with the Trooper Coach Program's trooper coach selection process.

IV. Summary of Findings

OSC's review found that, in general, the NJSP has enacted the policies and procedures necessary to provide the training outlined in the Consent Decree and appears capable of fulfilling its training responsibilities; OLEPS has also provided appropriate oversight of such training. While OSC's review determined OLEPS is appropriately monitoring the Training Bureau and that the NJSP is generally responsive to OLEPS' recommendations, OSC shares a concern of OLEPS'

regarding diminished permanent staffing and high turnover at the Training Bureau. OSC's review also found the Trooper Coach Program's selection process is generally working appropriately, and the NJSP is, in general, conducting the required firearms training for all NJSP troopers. As set forth below, however, our review found the following issues – some of which have been previously noted in OLEPS' Oversight Reports – are matters of concern which require attention:

- Reduced permanent staffing and high turnover at the Training Bureau may threaten to weaken the quality of training provided to NJSP troopers and trooper candidates.
- Firearms inventory and training databases do not clearly and comprehensively reflect all weapons authorized to be used by each NJSP trooper and for which that trooper requires training, as well as all trainings completed.
- There have been issues concerning the availability of qualified troopers for the Trooper Coach Program.

V. Findings

A. Staffing

Decreased staffing levels and high turnover rates at the Training Bureau could potentially impact the quality and thoroughness of training provided to NJSP troopers and trooper candidates. OSC's review revealed that the Training Bureau generally appears to be satisfying its training obligations and cooperating with OLEPS in implementing recommendations; however, we found, and several of OLEPS' Oversight Reports have noted, that diminished levels of permanent staff could impact the Training Bureau's ability to perform its year-round duties.

Among other responsibilities, the Training Bureau develops, assesses and conducts training for NJSP troopers and trooper candidates. Training curricula is created using a seven-step cycle identified in the Consent Decree: 1) diagnosis and training needs assessment; 2) curriculum development; 3) program delivery; 4) program evaluation; 5) curriculum revision; 6) measurement of training effectiveness; and 7) documentation of the training process. In

addition to developing training curricula, the Training Bureau conducts pre-service training for trooper candidates, in-service training to keep troopers up to date on evolving policing issues and policies, firearms training, trooper coach training, executive training, remedial training for troopers experiencing difficulties in their job functions, and training for troopers advancing in rank. The Training Bureau is also responsible for maintaining records of the trainings it conducts.

Since the dissolution of the Consent Decree in 2009, the number of troopers permanently assigned to the Training Bureau has shrunk at a proportionally greater level than the total NJSP trooper force. In 2009, 58 troopers were permanently assigned to the Training Bureau; as of December 2015, that number had been reduced to 40. During that time, the total number of NJSP troopers was reduced from about 3,000 troopers to about 2,600. Therefore, according to the staffing levels described above, in 2009, about 1 out of every 52 troopers was assigned to the Training Bureau; as of December 2015, that ratio changed to about 1 out of every 65 troopers. In other words, even though the total state trooper force has gotten smaller, each trooper assigned to the Training Bureau is currently responsible for training more troopers on a per-member basis than when the Consent Decree was dissolved.

The Training Bureau receives assistance from temporarily assigned troopers, or detachments, from other sections when a recruit class is in session. While detachments provide short-term help, the Training Bureau performs ongoing functions throughout the year, including working on the seven-step training cycle, maintaining training records, conducting in-service training, and training supervisors newly promoted in rank. Many of these tasks involve continuous year-round work from permanent personnel, and the workforce required to complete some of these

tasks – such as assessing and developing new training materials – may not necessarily fluctuate with the total number of troopers or trooper candidates.

OSC notes that, in addition to expressing concern about total staffing levels, OLEPS has also found that the Training Bureau suffers from relatively high turnover among its permanent personnel. When questioned about staffing at the Training Bureau, NJSP personnel stated they have implemented selection and promotional practices to better identify and retain instructors for the Training Bureau.

Based on our review, the Training Bureau appears to be providing appropriate training to troopers and trooper candidates as well as working with OLEPS to address issues identified in OLEPS' Oversight Reports. OSC agrees with OLEPS, though, and noted in our first report on the Training Bureau in 2010, that the Training Bureau would likely benefit from the assistance of a civilian analyst to enhance data collection and analysis. An analyst well-versed in statistics and quantitative analysis could help the Training Bureau analyze historical motor vehicle stop data and design its curriculum to address past deficiencies. Further, in addition to the engagement of a civilian analyst, the NJSP should monitor permanent staffing levels at the Training Bureau on an annual basis for continued adequacy and consider assigning more personnel if necessary.

B. Firearms

The NJSP assigns each trooper a standard issue sidearm and some troopers may be assigned a shotgun at the beginning of each work shift. The NJSP may also assign certain troopers, such as those in a specialized unit, other tactical weapons. Troopers may also carry their own off-duty/backup firearms that have been approved by the NJSP. All troopers must qualify two times per year by demonstrating proficiency with any weapon they are assigned, including their standard issue sidearm, a shotgun, any tactical firearms assigned, and their approved off-duty/backup

firearms.¹ The Training Bureau is responsible for conducting and maintaining records for NJSP firearms trainings. The Training Bureau's Armorer Unit is also responsible for maintaining the Armorer Online Application System (Armorer Online), the database which inventories all firearms assigned to troopers. While the NJSP is largely conducting the required firearms trainings, our review revealed some deficiencies regarding tactical and off-duty/back-up firearms.

1. NJSP Firearms Training Program

OSC spoke to Training Bureau personnel who explained that each year all troopers, in coordination with their supervising officers, are required to schedule themselves for at least two qualification sessions held at four regional ranges. Upon arrival at the regional range for qualification, each trooper writes their name and badge number onto a sign-in sheet and gives all weapons they must qualify with to the Armorer Unit. Troopers must also complete a separate sign-in sheet if qualifying with any off-duty/backup firearms.

Training Bureau personnel then enter the troopers' names and badge numbers into the Academy Computerized Training System (ACTS), which records all NJSP firearms trainings. At two of the four regional firearms shooting ranges, ACTS uses Armorer Online to automatically populate the serial number for the standard issue sidearm into the ACTS page which records sidearm and shotgun qualification scores (shotgun serial numbers are not recorded in ACTS because, as discussed below, troopers often use a communal shotgun for qualification). At the time of OSC's review, the other two regional ranges did not have remote access to Armorer Online,

¹ The NJSP confirmed that troopers must qualify twice a year with any tactical firearms assigned. While the NJSP's Standing Operating Procedure (SOP) C31 specifically states that the semi-annual qualification requirement applies to the state police issued sidearm and shotgun, it does not specifically state the same requirement applies to state police issued tactical firearms. Thus, we recommend that the NJSP consult with its counsel to determine if an update to the SOP is warranted.

and the Range Masters had to manually enter all firearms information. In response to the discussion draft of this report, however, Training Bureau staff informed OSC that this issue has been resolved at those two regional ranges, and that, as of early September 2016, both ranges now have remote access to Armorer Online. Armorer Unit staff also told OSC that ACTS occasionally incorrectly captures the serial numbers for rifles and shotguns in the handgun section of ACTS. When that occurs, it must be manually corrected.

Training Bureau personnel further explained that ACTS does not have one comprehensive page showing all of a trooper's authorized weapons. As noted above, ACTS automatically populates the serial number for a trooper's sidearm into the page recording qualification scores for the sidearm and shotgun, which has only two data fields for entry of weapons information. To record qualification scores for any tactical weapons or off-duty/backup firearms, Training Bureau personnel must navigate to distinct pages in ACTS and manually enter the firearms information. Therefore, aside from the standard issue sidearm and shotgun, Training Bureau personnel conducting a qualification session cannot always rely on ACTS to verify all weapons for which a trooper must qualify and only know to have troopers qualify with the firearms they present.

2. Firearms Training Issues Identified by State Auditor

A report issued by the State Auditor, dated April 2015, addressed, among other things, the NJSP's firearms training and inventory. The State Auditor's analysis identified 14 troopers who attended a fall 2013 and/or spring 2014 qualification session who were recorded as having kept possession of assigned weapons with which they did not qualify. The State Auditor also noted that, in both fall 2013 and spring 2014, two additional troopers appeared not to qualify with all their weapons only because Armorer Online incorrectly showed outdated weapons assignments.

3. OSC Review

When asked about the incorrect weapons assignments noted by the State Auditor, Training Bureau personnel explained that unit leaders sometimes failed to timely report that tactical weapons were no longer assigned to a particular trooper after they transferred out of the unit. They acknowledged that the ability to keep up-to-date records for tactical weapons was reliant on unit leaders' timely reporting of trooper re-assignments. Training Bureau personnel stated they have recently sought to improve record-keeping for the assignment of tactical weapons by having the Armorer Unit maintain inventory and assignment of those weapons.

After speaking with the Office of the State Auditor regarding their findings, OSC requested that the NJSP provide firearms training records from 2013 through 2015 for 13 troopers included in the State Auditor's review.² The records reviewed by OSC as provided by the NJSP showed the following for each of the firearm-types stated below:

Standard issue sidearm and shotgun: ACTS showed all 13 troopers complied with the qualification requirements for the standard issue sidearm and shotgun. OSC notes that troopers often qualify with a communal shotgun maintained at the regional range, and thus, shotgun serial numbers are generally not recorded in ACTS.

Tactical weapons: In addition to the standard issue sidearm and shotgun, troopers assigned to the Technical Emergency and Mission Specialists (TEAMS) Unit may be issued tactical

² The information initially provided by the State Auditor to OSC indicated that the State Auditor's sample consisted of a total of 13 troopers - 11 who attended a fall 2013 and/or spring 2014 qualification session but did not qualify, and 2 whose weapons assignments in Armorer Online were incorrect or outdated. After receipt of the discussion draft of this report, the State Auditor advised OSC that there were 3 additional troopers who attended a fall 2013 and/or spring 2014 qualification session but did not qualify, however that information had not been provided to OSC. OSC's review focused on the original sample of 13 troopers provided by the State Auditor.

weapons. Training Bureau personnel explained that the TEAMS Unit conducts trainings for tactical weapons and should forward those records to the Training Bureau to record in ACTS for the purposes of qualification requirements.³ Training Bureau personnel further explained that tactical weapons training records not currently recorded in ACTS may be maintained by the Training Bureau in hard copy files. Armorer Online showed that, between 2013 and 2015, 16 tactical weapons had been assigned to the 13 troopers included in OSC's review. OSC requested all training records for those tactical weapons, which included 5 rifles and 11 handguns.

Rifles: Armorer Online showed five rifles were assigned to the troopers reviewed by OSC. The records provided for these rifles were insufficient to show that the trooper completed all required training for their assigned weapon. For example, the records provided for four of the rifles included at least one record that did not include the serial number or model of the weapon used by the trooper to complete the firearms training and instead only specified "Rifle." The records provided for another trooper showed an instance when the trooper qualified with a weapon that had a serial number different than his assigned weapon. The record did not show the weapon model number which made it difficult to determine without further records whether it was the same model as the assigned rifle.

Handguns: Armorer Online showed 11 handguns were assigned to the troopers reviewed by OSC. We were provided full and complete records for only five of these weapons.⁴ The records for the remaining six weapons were insufficient to confirm that all required training had been completed. For example, although the records for three of these weapons appeared to indicate that

³ SOP C31 specifically requires quarterly training sessions for rifles, however, the SOP requires only semi-annual qualification for tactical weapons (rifles and handguns).

⁴ Three of these handguns (model 1911 R) are not specifically listed in SOP C31, but appear to be tactical weapons.

the weapon was still assigned to a trooper, the records did not include documentation for at least one qualification session with that weapon. The records for the remaining three weapons seemed to suggest, but did not explicitly confirm, that the trooper may not have been required to train with the weapon because there was an indication that the trooper and/or weapon had been reassigned due to a transfer or leave.

Off-duty/backup firearms: Troopers must qualify twice each year at an NJSP qualification session with each approved off-duty/backup firearm they intend to carry in the performance of law enforcement responsibilities. For several troopers, the training records did not have scores or attendance records regarding various qualification sessions for off-duty/backup weapons previously approved for the troopers' use. Training Bureau personnel told OSC that each individual trooper is responsible for ensuring they are fully qualified for each off-duty/backup firearm they carry. OSC notes that neither Armorer Online nor the ACTS system is currently designed to document if there is a change of status with regard to a trooper's use of an off-duty/backup weapon.

4. Return To Duty Firearms Training

In addition to discrepancies in the firearms training records for troopers who attended a fall 2013 and/or spring 2014 qualification session, the State Auditor appeared to suggest that some troopers who missed a qualification session were permitted to complete a Return to Duty (RTD) shoot instead of a make-up qualification even though the troopers were not on leave at the time of the missed qualification session. An RTD shoot, which is an abbreviated qualification course, is not a substitute for the standard semi-annual qualification session. Training Bureau personnel told OSC that, since the issuance of the State Auditor's report, they revised their RTD policy so that an RTD shoot will not supplant a semi-annual qualification and

ACTS will no longer capture an RTD shoot as a make-up qualification.

While it appears that all 13 troopers in OSC's sample qualified with their standard issue sidearm and a shotgun, and that the NJSP is generally conducting firearms trainings properly, OSC found that training records for tactical and off-duty/backup weapons shown as being assigned to some troopers were incomplete or erroneous. OSC further notes that the NJSP neither records nor requires troopers to report when they discontinue or suspend use of an off-duty/backup firearm. Limitations to NJSP's firearms databases and reliance on individual troopers or unit leaders to identify the firearms that troopers must qualify with, may have contributed to the deficiencies found by OSC. Increased interaction between ACTS and Armorer Online could provide Training Bureau staff better access to records of all authorized firearms for which a trooper requires training. Enabling Training Bureau staff to view all authorized firearms for each trooper while they conduct a qualification session could better ensure all troopers are fully trained and/or qualified with all of their authorized weapons.

C. Trooper Coach Program

The Trooper Coach Program provides training, assistance and monitoring to probationary troopers as they begin to perform NJSP duties. The selection of well-qualified trooper coaches is integral to the Trooper Coach Program's success. OLEPS has previously found, however, that some troopers assigned to be trooper coaches had not completed and/or satisfied all elements of the trooper coach selection process. While our review of a limited candidate sample did not find any discrepancies in the selection process, OSC reiterates the need to ensure only qualified troopers are assigned to be trooper coaches. OSC further shares OLEPS' concern regarding the NJSP's temporary relaxation of the amount of experience a trooper must have to become a trooper coach.

To identify and select qualified trooper coaches, the NJSP developed a selection process requiring each candidate to, among other things, submit a resume and undergo a “meaningful review process” which includes an interview, as well as a review of the candidate’s Equal Employment Opportunity Bureau (EEOB) history, Office of Professional Standards (OPS) history and compliance with NJSP physical fitness standards. EEOB and the OPS review any previous and pending matters or complaints involving each candidate and then forward their respective recommendations/findings to the Deputy Superintendent of Operations (DSO) for a final determination on selection.

OLEPS’ audit of the Trooper Coach Program for its Ninth Oversight Report, which reviewed the 2013 calendar year, found, among other things, that trooper coaches had been assigned without approval from either the EEOB/OPS committee or the DSO, or without going through the meaningful review process. OLEPS also found instances of troopers serving as trooper coaches without attending trooper coach training or complying with physical fitness standards. OSC’s independent review of the trooper coach selection process examined a sample of ten trooper coach candidates and found each candidate had been properly reviewed, with one candidate not being recommended following the meaningful review process.

As referenced above, the NJSP could allow troopers with less than three years of experience to serve as trooper coaches for the 156th recruit class, despite SOP F12’s three year minimum. The NJSP decided to expand the pool of potential trooper coaches out of concern that there may not be enough eligible volunteers with three years of experience to serve as coaches for this recruit class. OLEPS and the NJSP advised OSC, however, that troopers with less than three years of experience will be selected only as a last resort after the availability of more experienced trooper coaches has been exhausted. While not ideal, reducing the minimum experience

requirement seems preferable to lowering other standards or not providing trooper coaches to some recruits at all. OSC further notes the minimum experience requirement was lessened as a one-time exception, and the three year minimum remains in effect for future recruit classes.

While the process appears to be mostly working appropriately, the NJSP should ensure only qualified troopers are assigned to serve as trooper coaches. Further, should the need to select trooper coaches with less than three years of experience arise in the future, NJSP should follow OLEPS' advisement regarding any modification to the selection process for those less experienced trooper coaches.

D. Motor Vehicle Search Procedures

The New Jersey Supreme Court recently reversed prior law requiring exigent circumstances for a law enforcement officer to search an automobile during a motor vehicle stop without a warrant. *See State v. Witt*, 223 N.J. 409 (2015). The Court ruled that an officer may search a vehicle without a warrant during a roadside stop if the officer has probable cause to believe an offense has been committed or the vehicle contains evidence of a crime, provided the events leading to probable cause were spontaneous and unforeseeable. As a result of this decision, the NJSP is returning to former procedures whereby motorists are generally not asked to consent to a search when probable cause exists. OSC observed classroom instruction regarding this recent development and may more specifically review this issue in a future report on stops and post-stop enforcement activity.

VI. Conclusions and Recommendations

OSC's review has found that the Training Bureau is, on the whole, appropriately providing training to NJSP troopers on topics relating to the Consent Decree. OSC also notes OLEPS has been effective in identifying issues regarding NJSP training in its Oversight Reports and recommending improvements.

Decreased permanent staffing at the Training Bureau since dissolution of the Consent Decree continues to be a concern. While the number of troopers requiring training has fluctuated, the Bureau needs permanent staff to perform year-round duties, such as assessing and designing curricula and maintaining weapons inventory databases. Moreover, without a sufficient number of permanently assigned troopers, institutional knowledge can suffer. Our review further revealed that the Training Bureau's firearms inventory and training databases should be updated to ensure troopers are fully trained and qualified with each firearm they are authorized to use. Finally, if the trooper coach selection process continues to be an issue or requires the selection of troopers with less than three years of experience, the Training Bureau must ensure that it follows OLEPS' advisement regarding any modification to the trooper coach selection process.

In light of these observations, OSC makes the following specific recommendations:

- 1) While accounting for total staffing levels, the NJSP should, at least, assess on an annual basis whether the Training Bureau's permanent staffing level will ensure it can fully accomplish all functions and remain proactive in developing, assessing and conducting trooper training.
- 2) The NJSP should consider employing a civilian analyst to enhance data collection and quantitative analysis with regard to the Training Bureau.
- 3) The NJSP should upgrade its firearms inventory and training databases to ensure the Training Bureau is aware of all firearms for which a trooper requires training. For instance, the NJSP should assess whether Armorer Online and ACTS can be more interactive with each other. Improved interaction between the databases would allow trainers better access to information about the weapons with which a trooper must qualify.

- 4) The NJSP should follow OLEPS' advisement regarding any modification to the selection process for trooper coach candidates with less than three years of experience.
- 5) The NJSP should continue to adhere to the standards set forth by the Consent Decree in its SOPs, policies and procedures.
- 6) The NJSP should continue to assess the functions of its Training Bureau, including relevant SOPs, to ensure the Bureau is effectively performing the tasks required by law and the Consent Decree.
- 7) The NJSP should continue to work with OLEPS to make improvements noted in OLEPS' Oversight Reports.
- 8) OLEPS should continue to independently monitor NJSP performance and submit its periodic reports on issues involving training. OLEPS should continue to recommend changes in procedures where appropriate.