

Monitors' Fourth Report

Long-term Compliance Audit
Civil Number 99-5970(MLC)

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

United States Department of Justice
Civil Rights Division

State of New Jersey

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Monitors

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Table of Contents

Topic	Page No.
	v
1 Executive Summary	1
1.1 Introduction	1
1.2 Overall Status Assessment	1
1.3 Format for Compliance Assessment	1
1.4 Compliance Assessment Processes	2
1.5 Flow of the Monitoring Process	4
2 Assessment of Compliance	5
2.1 Methodology	5
2.2 Compliance with Task 26: Prohibition from Using Race-Ethnicity in Decision Making	5
2.3 Compliance with Task 27: Monitor and Evaluate Implementation of the Motor Vehicle Stop Criteria	13
2.4 Compliance with Task 28: Request for Consent to Search only upon Reasonable Suspicion	15
2.5 Compliance with Task 29a: Recording Requirements for Motor Vehicle Stops	17
2.6 Compliance with Task 30: Communications Center Call-Ins	23
2.7 Compliance with Task 31: Reporting Consent to Search Requests	29
2.8 Compliance with Task 32: Recording and Reporting of Non-Consensual Searches	32
2.9 Compliance with Task 33: Recording and Reporting Deployment of Drug Detection Canines	34
2.10 Compliance with Task 34a: Use of Mobile Video Recording Equipment	35
2.11 Compliance with Task 34b-c: Training in MVR Operation and Procedures	36
2.12 Compliance with Task 35: Supervisory Review of Trooper Reports	38
2.13 Compliance with Task 36: Supervisory Review of MVR Tapes	39
2.14 Compliance with Task 37: Supervisory Referral to PSB of Observed Inappropriate Trooper Conduct	41
2.15 Compliance with Task 38: Periodic Reviews of Referral Decisions	42
2.16 Compliance with Task 39: Regular Supervisory Activity in the Field	43
2.17 Compliance with Task 40-51: Development of a Management Awareness and Personnel Performance System	44
2.29 Compliance with Task 52: Supervisors to Implement Necessary Changes	45
2.30 Compliance with Task 53: Supervisory Review of Troopers with More than Two Misconduct Investigations in Two Years	46

2.31	Compliance with Task 54: Drivers Survey of the New Jersey Turnpike	47
2.32	Compliance with Task 57: Troopers to Provide Name and Badge Number	48
2.33	Compliance with Task 58: State to Inform Civilians re Complaints/Compliments	48
2.34	Compliance with Task 59: Availability of Complaint/Compliment Forms	50
2.35	Compliance with Task 60: Community Outreach	51
2.36	Compliance with Task 61: Receipt of Citizens' Complaints	52
2.37	Compliance with Task 62: Institution of a 24-hour Toll-Free Telephone Hotline	53
2.38	Compliance with Task 63: PSB to Receive All Citizens' Complaints	54
2.39	Compliance with Task 64: Relocation of Office of Professional Standards Offices	56
2.40	Compliance with Task 65: Referral to OAG of Specific Dismissed Charges	56
2.41	Compliance with Task 66: Notice to Office of State Police Affairs of Pending Civil Actions	58
2.42	Compliance with task 67: Notice of Criminal Involvement of Members	59
2.43	Compliance with Task 68: Notice of Adverse Involvement	60
2.44	Compliance with Task 69: Duty to Report Misconduct	61
2.45	Compliance with Task 70: Creation of the Office of Professional Standards	62
2.46	Compliance with Task 71: Formal Eligibility Requirements for PSB	64
2.47	Compliance with Task 72: Execution of Training for Office of Professional Standards Staff	65
2.48	Compliance with Task 73: Initiation of Misconduct Investigations	66
2.49	Compliance with Task 74: Responsibility for Conducting Internal Investigations	67
2.50	Compliance with Task 75: Prohibition of Conflict of Interest in Investigations	69
2.51	Compliance with Task 76: Prohibition of Group Interviews	70
2.52	Compliance with Task 77: Alternative Locations for Interviews	71
2.53	Compliance with Task 78: Investigation of Collateral Misconduct	72
2.54	Compliance with Task 80: Revision of the "Internal Investigations Manual"	73
2.55	Compliance with Task 81: Preponderance of the Evidence Standard for Internal Investigations	74
2.56	Compliance with Task 82: MVR Tape Review in Internal Investigations	75
2.57	Compliance with Task 83: State to Consider Circumstantial Evidence in Internal Investigations	76
2.58	Compliance with Task 84: Required Case Dispositions in Internal Investigations	77
2.59	Compliance with Task 85: No Closure upon Withdrawal of Complaint	78
2.60	Compliance with Task 86: Development of a Final Investigative Report	79
2.61	Compliance with Task 87: State to Attempt to Complete Investigations within 45 Days	80
2.62	Compliance with Task 88: Imposition of Appropriate Discipline upon Sustained Complaint	81

2.63	Compliance with Task 89: Imposition of Appropriate Discipline upon Finding of Guilt or Liability	82
2.64	Compliance with Task 90: Imposition of Appropriate Discipline in Consultation with MAPPS	83
2.65	Compliance with Task 91: Tracking of Open Office of Professional Standards Cases	85
2.66	Compliance with Task 92: Inform the Complainant upon Resolution of Investigations	86
2.67	Training Assessment	87
2.68	Compliance with Task 93: Development and Evaluation of Quality of Training Programs	87
2.69	Compliance with Task 97: Encourage Superior Troopers to Apply for Academy	88
2.70	Compliance with Task 98: Formal Eligibility Criteria for Training Personnel	89
2.71	Compliance with Task 99: Training for Academy Instructors	91
2.72	Compliance with Task 100: Training in Cultural Diversity	93
2.73	Compliance with Task 101: Recruit and In-Service Training on Fourth Amendment Requirements	94
2.74	Compliance with Task 102: Training Protocols for the Trooper Process	96
2.75	Compliance with Task 103: Provision of Copies of the Decree to all State Troopers	97
2.76	Compliance with Task 104: Systems Improvement Processes for Police Training	97
2.77	Compliance with Task 105: Provision of Training for Supervisors	98
2.78	Compliance with Task 106: Training for Newly Promoted State Troopers	99
2.79	Compliance with Task 107: Provision of Specialized Training	100
2.80	Compliance with Task 108: Inclusion of Training Data in MAPPS Program	101
2.81	Compliance with Task 109: Establishment of a Central Repository for Training Records	102
2.82	Compliance with Task 110: Creation of the Office of State Police Affairs	102
2.83	Compliance with Task 111: Audits of Motorists Subjected to Motor Vehicle Stops	104
2.84	Compliance with Task 112: Internal Audits of Citizen Complaint Processes	105
2.85	Compliance with Task 113: Full and Unrestricted Access for the Office of State Police Affairs	106
2.86	Compliance with Task 114: Publication of Semi-Annual Reports of Aggregate Traffic Stop Statistics	107
2.87	Compliance with Task 115: Appointment of Independent Monitor	108

2.88	Compliance with Task 118: Full and Unrestricted Access for Monitor	109
2.89	Compliance with Task 120: State Police to Reopen Internal Investigations Determined to be Incomplete	110
2.90	Compliance with Task 122: State to File Routine Progress Reports	111
2.91	Compliance with Task 123: State to Maintain all Necessary Records	112
2.92	Compliance with Task 124: Unrestricted Access for the Department of Justice	113
3.0	Summary	115
Appendix A	Monitoring Forms NJSPIMF 1 and NJSPIMF 7	129

Executive Summary

The consent decree entered into between the State of New Jersey and the United States articulates 97 tasks, which accrue to the state. The New Jersey State Police and the Office of State Police Affairs have moved to implement these tasks, and, given the complexity of affecting change in complex organizations, have made significant strides in bringing the organization into compliance with the requirements of this decree. This monitoring report monitors only those tasks accruing to the state. For example, the report does not treat tasks 29d, 55, 56, 79, 94, 95, 116, 117, 119 or 121. These tasks either accrue to the monitors or are permissive tasks, allowing the state the latitude to make change, but not requiring it. For example, task 29d allows the state to adapt new technologies as they become available; task 55 allows the state to conduct driver surveys of other limited access highways; task 56 defines the criteria for appropriate benchmarks of persons traveling on the state's highways; and task 79 allows grouping of investigations of related misconduct investigations. Tasks 94 and 95 accrue to the independent monitors. Tasks 116, 117 and 121 define the responsibilities of the independent monitors.

Similarly, the reader should be careful to note that findings of non-compliance articulated in this report do not necessarily indicate that the state is engaging in proscribed behavior restricted by the decree. A finding of non-compliance may simply mean that the state has not finished, as of the date of this report, all of the steps necessary to come into compliance with the given task.

Several significant events have occurred during the fourth quarter of the implementation phase of the consent decree entered into between the State of New Jersey and the United States Department of Justice. First, indications of a documented active supervisory presence continue to be noted within the field-ranks of the New Jersey State Police. On several occasions, supervisory personnel have noted, and effectively responded to trooper performance that was not in compliance with various aspects of the decree. Remedial action was taken prior to the monitoring team calling these incidents to the state's attention. Second, the state has continued to make meaningful progress in development of its MAPPS personnel system. The state has worked diligently with the Department of Justice to continue to develop MAPPS system designs and is implementing prototype systems of some MAPPS components. Full implementation is scheduled for November, 2001.

The state has begun to systematically identify and address operational problems giving rise to problems in compliance with the decree. During the fourth quarter, the state identified at least nine incidents, involving four separate troopers and one supervisor, which were, in one way or another, problematic. Each of these incidents resulted in some form of remedial action, either the initiation of

misconduct investigations (for all four troopers and the supervisor) or other appropriate remedial actions (performance notices, counseling, etc.).

The state continues to work on a revised procedure for internal affairs investigations, and has made progress in provision of training for all internal affairs investigators. A revised (pending promulgation) policy for supervisory review of motor vehicle stop incidents represents a marked improvement in the requirements in this area. In addition, the state has developed a state-of-the-art training program in the areas of the Fourth Amendment and non-discrimination requirements of law enforcement.

The state is in Phase I compliance with 91 of the 96 tasks which could be monitored for Phase I compliance during this reporting period. It is in Phase II compliance with 64 of the 90 tasks, which could be monitored for Phase II compliance during this reporting period. The state is in Phase I compliance with 94 percent of the tasks that the monitoring team could monitor for Phase I compliance during this reporting period, and is in Phase II compliance with 71 percent of the tasks that the monitoring team could monitor for Phase II compliance during this reporting period.

Independent Monitors' Fourth Report Quarter Ending March 31, 2001

1 Introduction

This document represents the fourth of an anticipated twelve "Independent Monitors' Reports" assessing the levels of compliance of the State of New Jersey (the state) with the requirements of a consent decree (decree) entered into between the state and the United States Department of Justice on December 30, 1999. The monitors acknowledge the fact that the state may complete substantial compliance with the requirements of the decree prior to the anticipated five-year period, in which case, the monitors would file fewer reports. This document reflects the findings of the monitoring team regarding compliance monitoring for the period January 1, 2001 through March 31, 2001. In order to complete the report in a timely fashion, monitoring activities were accomplished during the week of May 29th through June 2, 2001.

The report is organized into three sections, identified below:

- Introduction;
- Compliance Assessment; and
- Summary.

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

1.1 Overall Status Assessment

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

1.2 Format for Compliance Assessment

This report is organized to be congruent with the structure of the consent decree. It reports on the state's compliance using the individual requirements of the decree. For example, the first section, the compliance assessment, deals with the

requirements, in paragraph 26 of the decree, relating to a specific prohibition against using “to any degree the race or national or ethnic origin of civilian drivers or passengers in deciding which vehicles to subject to any motor vehicle stop” (Decree at para 26). The following components of the decree are treated similarly. Compliance is classified as “Phase I,” and “Phase II,” with the definitions specified in Section 1.4, below.

1.3 Compliance Assessment Processes

1.3.1 Structure of the Task Assessment Process

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

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

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

The performance of the New Jersey State Police on each task outlined in the consent decree was assessed by the independent monitoring team during the quarter beginning January 1, 2001, and ending March 31, 2001. The fourth independent monitors’ report was submitted to the court on July 17, 2001.¹

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

- Official New Jersey State Police documents prepared in the normal course of business²; and/or





¹ In order to obtain “finalized” data for this site visit, only data from January-March could be sampled, due to the State’s cycle of completing entry of and verifying accuracy of electronic data. Only data entered into the system prior to April 1, 2001 was available for the purpose of drawing samples in May.

² For example, members of the monitoring team would not accept for review as documentation of compliance “special reports” prepared by state personnel describing their activities relating to a specific task. Instead, the monitoring



- Electronic documents prepared by the state or components of state government during the normal course of business.

1.3.2 Operational Definition of Compliance

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

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



team would review records created during the delivery or performance of that task.

decree. A solid red bar  indicates expired time which is more than that allowed by the decree, and which, in the judgment of the monitors, *does* seriously threaten the state’s successful compliance with the decree. A task that was not, or could not be monitored is represented by a hollow bar  .

1.3.3 Standards for “Compliance”

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

1.3.4 Compliance with a Hypothetical Task

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

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

1.4 Flow of the Monitoring Process

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

2 Assessment of Compliance

2.1 Methodology

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

The following sections of the Fourth Monitors' Report contain a detailed assessment of the degree to which the state has complied with the 97 tasks to which it agreed on December 30, 1999. The reporting period for this quarterly report deals with actions of the state to comply with the decree between January 1 and March 31, 2001.³

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

Task 26	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	Blue											
Phase II	Yellow/Black Stripes											

Task 26 stipulates that:

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

Methodology

³ See note 1, above.

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

During the week of May 29th, members of the independent monitoring team conducted structured on-site reviews of the operations of six New Jersey State Police road stations. These reviews were conducted of operations reported during the dates of January 1, 2001, through March 31, 2001, inclusive. The team conducted these reviews of the Holmdel, Bass River, Bloomfield, Moorestown, Cranbury and Newark stations. Data from the New Jersey State Police reporting systems indicated that there were a total of 1,045 stop events⁴ (resulting in a post-stop law enforcement procedure of interest to the consent decree)⁵ completed by personnel from these six stations during the January 1, 2001, through March 31, 2001 time period. According to New Jersey State Police records, the majority of these (958) resulted in the driver (or an occupant) being asked from the vehicle. These events resulted in 400 frisks of drivers or occupants, 24 consent search requests, and 231 searches of drivers, occupants or vehicles.⁶

Members of the independent monitoring team collected and or reviewed course-of-business data on 625 of the 1,043 New Jersey State Police motor vehicle stop events which involved a post-stop law enforcement procedure of interest to the decree. In addition to the records requested for 151 motor vehicle stop reports pulled as part of the data sampling process, the monitoring team requested a 100

⁴ An "event" is defined as a motor vehicle stop during which at least one of eight law enforcement procedures stipulated in the consent decree is performed. These procedures involve request for permission to search; conduct of a consensual or non-consensual search; ordering occupants out of a vehicle; frisks of vehicle occupants; deployment of a drug-detection canine; seizure of contraband; arrest of the occupants of the vehicle; or use of deadly, physical, mechanical or chemical force. A stop event may involve interaction with multiple citizens, and may involve multiple law enforcement procedures, such as ordering an individual from a vehicle, searches, frisks, use of force, etc.

⁵ A post-stop law enforcement procedure of interest to the decree is defined, by the decree, as request for permission to search; conduct of a consensual or non-consensual search; ordering occupants out of a vehicle; frisks of vehicle occupants; deployment of a drug-detection canine; seizure of contraband; arrest of the occupants of the vehicle; or use of deadly, physical, mechanical or chemical force.

⁶ Data were tallied from Motor Vehicle Stop Report systems and were provided by the New Jersey State Police based on specific requests from the monitoring team.

percent sample of all canine deployments, of all motor vehicle stop events resulting in a reportable use of force, and of all consent searches conducted by the New Jersey State Police, state-wide, as a result of a motor vehicle stop event. This request resulted in the collection of Motor Vehicle Stop Reports involving 15 canine deployments, 16 use of force events, and 24 consent requests. In addition, the monitoring team reviewed 441 video tapes of New Jersey State Police activities which resulted in a law enforcement procedure of interest to the decree.

Data Requests

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

- Electronic data for all motor vehicle stop activity for the stations selected relating to an incident in which state police personnel engaged in one of the eight articulated post-stop law enforcement procedures of interest to the decree, i.e., request for permission to search; conduct of a consensual or non-consensual search; ordering occupants out of a vehicle; frisks of vehicle occupants; deployment of a drug-detection canine; seizure of contraband; arrest of the occupants of the vehicle; or use of deadly, physical, mechanical or chemical force.
- Electronic data for all trooper-initiated motor vehicle stop "communications center call-ins" for the stations selected, including time of completion of the stop and results of the stop.
- Supporting documentation for all selected law enforcement events, including patrol charts, summonses, arrest reports, consent to search reports, motor vehicle stop reports, etc. (These data were requested on-site).

Based on these data requests, the state provided 1,045 motor vehicle stop records (taken from the state's motor vehicle stop report entry system). Computer Assisted Dispatch System (CADS) records were also requested by the monitors for all motor vehicle stop activity for the selected stations. CADS records provided by the state consisted of 28,909 records for the stations selected, from the dates of January 1, 2001 through March 31, 2001.

Incident Selection

Based on the data provided by the state, the monitoring team selected specific law enforcement activities for further assessment and analysis. The methodology for selecting these law enforcement activities consisted of identifying all post-stop law enforcement procedures of interest to the decree, i.e., request for permission to search; conduct of a consensual or non-consensual search; ordering occupants out of a vehicle; frisks of vehicle occupants; deployment of a drug-detection canine; seizure of contraband; arrest of the occupants of the vehicle; or use of deadly, physical, mechanical or chemical force, for each road station assessed. The types of cases selected for review by the monitoring team are depicted in Table One, below.

Table One: Nature of Events Identified Electronically, by Type of Action

Post-Stop Law Enforcement Procedure	Total Number of Events
Consent Request	24 ⁷
Consent Search	22
Non-Consent Search	172 ⁸
Out of Vehicle	165
Drug Canine	15
Frisk	128
Use of Force	16
Arrest	99
Total	641

These 425 activities constituted the “universe” from which the monitors selected events for Type I review, described below.⁹ The reviews of these activities and incidents consisted of three types:

- Events which were reviewed using reported data, i.e., motor vehicle stops which resulted in post-stop activities of interest to the decree, which were reviewed by comparing the electronic data to data included in motor

⁷ 24 consent search requests were reported in the electronic database for the six stations, while 22 consent searches were conducted. One request was refused, and one was terminated after consent was withdrawn.

⁸ Includes searches of drivers or occupants, as well as vehicles.

⁹ Some incidents could, of course, result in multiple activities of interest to the decree, e.g., the driver could have been ordered out of the car, searched, **and** arrested, resulting in three separate “records” of activities for a single event.

vehicle stop reports and supporting documents (patrol logs, summonses, consent to search reports, etc.), referred to as Type I data;

- Events, which were reviewed using both reported data **and** by reviewing recordings of the motor vehicle stop in question, referred to as Type II data; and
- Events which were reviewed only via video recordings, referred to as Type III data.

A total of 184 events were selected (from the activities reported electronically) for review via Type I data (records-based). A total of 151 events were selected for review via Type II data (records-based and video based). A total of 441 events were selected for Type III review (video only). In all, members of the monitoring team selected 625 events for some form of intense monitoring this quarter.

Type I Event Reviews

A Type I event review consisted of reviewing all available hard-copy and electronic documentation of an event. For example, an event review could consist of reviewing the motor vehicle stop report, associated records in the patrol log, a supporting consent to search report, and associated summonses or arrest records. Each post-stop event consisting of a law enforcement procedure of interest to the decree was subjected to a structured analysis using a form developed by the independent monitoring team (NJSPIMF-1-00 in Appendix A of the third quarterly report). Any observed problems with the reporting process were noted and tallied using this form. These data were shared with the New Jersey State Police, and clarifications were requested and received in instances in which there was doubt about the status of an event or supporting documentation.

Type II Event Reviews

A Type II event review consisted of reviewing the associated video tape for a given motor vehicle stop event, and comparing the actions noted on the tape with the elements reported in the official documents related to the event. The Type II event reviews were conducted to ensure that the actions reported in the motor vehicle stop report completed by New Jersey State Police personnel were accurate, and reflected the actions observed during the review of the video tape recording of the incident. All events selected for a Type II (video-based) review were subjected to a structured review using a form developed by the independent monitoring team (NJSPIMF-7-00, included in Appendix A of the third quarterly report).

Type III Event Reviews

In order to provide a probability that the monitors would note any events which **should** have been reported, based on the requirements of the decree, but were not reported as required, the independent monitoring team also developed a protocol that sampled the six events after a selected event at a road station. For example, if a motor vehicle stop incident, which occurred at 3am, were selected for review, the six events recorded after that were also eligible for review.¹⁰ All events selected for a Type III (video-based) review were subjected to a structured review using a form developed by the independent monitoring team (NJSPIMF-7-00, included in Appendix A of the third quarterly report).

Generalizability of Measures

As the reader will note, 625 individual events were reviewed by the monitoring team this quarter. The review of these events allows one to draw direct conclusions about the organization's performance ***in these 625 events.*** Further, the monitoring team reviewed large samples of critical events. The monitoring team reviewed the records of all canine deployments, consent search requests, and all use of force events reported by the agency for all New Jersey State Police road stations between January 1, 2001 and March 31, 2001. Thus, the team can speak with some authority regarding the quality of consent searches, canine deployments, and use of force, and the reporting of same, for personnel assigned to New Jersey State Police road stations.

In addition, the team reviewed **all available** electronic data regarding other consent-decree related activity of the personnel assigned to the six stations selected for review this quarter. Assessments of the agency's performance are based on a review of the entire available universe of consent requests, canine deployments, and use of force, as well as the performance of personnel assigned to the six road stations visited this quarter.

Status

No changes to relevant policies were made since last quarter's site visit. Training for supervisors regarding how to monitor potential race-ethnicity based motor vehicle stop decisions is pending. Development of an automated support system for supervisors, designed to assist in the process of supervision of this task, is

¹⁰ Not every law enforcement procedure reviewed by the independent monitoring team was subjected to this protocol during this quarter's site visit.

pending. More comprehensive mechanisms to monitor this task will not be available until the planned MAPPS system comes on-line.

One incident (the same number as in the third quarter) was noted which was based on a suspect-specific race/ethnicity "BOLO". The use of race/ethnicity in such instances is allowed by the consent decree.

Members of the monitoring team did note, however, that, while the vast majority of stop activity observed met the standards of the consent decree and those of professional policing, two separate and distinct types of officer activity were observed that do not fall into these categories. The first type of officer activity was observed at Moorestown station, and involved a trooper who not only met the letter and spirit of the consent decree and established New Jersey State Police procedures, but far exceeded those. His actions were directed toward impartial enforcement of the law, but included careful explanations to those with whom he interacted concerning not only what was going to happen, but why. His traffic stops—including those in which he engaged in actions of interest to the decree (asking drivers and occupants out of the vehicle, frisking drivers or occupants, searching vehicles, etc.)—were exemplary, and could serve as the source of training videos, not only for the New Jersey State Police, but for all police agencies in the United States.¹¹ Members of the monitoring team could detect no difference in this trooper's interaction with drivers, regardless of race or ethnicity.

A second type of behavior observed by members of the monitoring team, however, is more problematic. Although members of the monitoring team could detect no apparent indications that race or ethnicity was used as a factor for *initiating* traffic stops, to some extent, members of the monitoring team did note a tendency for disparities in the *process* of traffic stops among races and ethnicities. These issues were reflected in six traffic stops observed at one road station which provides policing services on the New Jersey Turnpike. These events consisted of stops of four minority and two non-minority drivers. The monitoring team's discussion of these six stops is generated from the team's review of the video recordings completed by state police personnel, and a review of written and electronic data resulting from the stops.

The reader should note that these problematic stops were generated by three troopers, and involved three African-American male drivers, one Asian Indian male driver, one white female driver, and one white male driver. All of the six stops indicated at least one of the following characteristics, which run counter to the provisions of the decree:

¹¹ This trooper's performance was brought to the attention of the Moorestown station commander, and others within the agency.

- Extended detention and questioning regarding issues not related to the reason for the stop, such as “How much money do you have in your pocket?” and “Why are you riding around on the New Jersey Turnpike?” (three African-American male drivers, one white male driver, one white female driver, and one Asian Indian male driver);
- The use of intimidating statements to obtain consent to search (such as “...the drug dog’s on the way,” and “...once the drug dog gets here, everybody gets arrested,” used with two African-American male drivers); and
- The use of “hypothetical” consent requests, a violation of both policy and the decree, such as “if I asked for consent to search your car, would you sign it?” asked of a white male driver.

Some of these protracted stops lasted well over one and one-half hours. These techniques on the part of three troopers appeared to the monitors to be deliberate attempts to obtain sufficient suspicion to request consent to search. A common thread related to most of these stops—in addition to race and ethnicity—was that many involved undocumented drivers.

It is important to note that the New Jersey State Police, prior to the monitoring team’s May site visit, noted the events which form the basis of the preceding discussion, and have taken steps to remediate the actions taken by the three troopers who engaged in these activities. These actions include active misconduct investigations (for earlier post-stop interactions with drivers) and performance notices and counseling. Members of the monitoring team noted that this behavior appeared to be isolated to one road station, serving the New Jersey Turnpike.

A related set of issues was noted at a second road station, also serving the New Jersey Turnpike. While not directly related to the proscription regarding race and ethnicity, these issues raise a specter of seriously debilitating the ability of the state, and by extension, the monitors, to assess the degree to which race and/or ethnicity are factors in enforcement activities. One trooper, it was noted, was conducting what appeared to be a series of pretextual¹² stops of vehicles with Texas plates, and pressing the stops to the point of “creating” reasonable suspicion for consent requests, or of engaging in commercial vehicle inspections. This same trooper appeared to be deliberately manipulating the on-off switch of the in-car recorder’s microphone at critical junctures. In addition, this trooper appeared to have an exceptionally high rate of stops which were not recorded

¹² While pretextual stops, of themselves are not illegal, when combined with the factors of race and ethnicity, they raise serious concerns for the monitors.

due to recorder “malfunctions.” Records indicate that this trooper was not recording his stops for a period of six days, even though the unit had been repaired. The pretextual stops of vehicles with Texas plates (mostly tractor-trailers) yielded an extremely high number of Hispanic and black drivers, sufficiently high, in the monitoring team’s opinion, to potentially skew stop data for this station. While staff inspections eventually noted these problems, and internal investigations were initiated, first-line supervision appeared to miss these problems.

The staff inspections process had noted the issues discussed above, prior to the monitoring team’s arrival, and has taken remedial steps to deal with the actions of the trooper and the trooper’s immediate supervisor, who failed to note these problems with the trooper’s performance. Internal investigations were initiated for both the trooper and the trooper’s immediate supervisor. The agency is judged to continue to be in Phase II compliance with this task, based on the fact that these problems were noted and corrected prior to the monitoring team’s arrival for the fourth site visit. The monitoring team feels that continued monitoring of the trooper engaged in this behavior, and proactive attempts to deal with this behavior, will be essential to continued compliance with this task.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

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

Task 27 stipulates that:

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

and shall revise the criteria as may be necessary or appropriate to ensure compliance with §§ 26 and 129. Prior to the implementation of any revised criteria, the State shall obtain approval from the United States and the Independent Monitor.

Methodology

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

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

Status

A review of the polices developed, the training provided to date, and the pending MAPPS process indicates that the agency continues in Phase I compliance with the requirements of this task. Training in use of the MAPPS is pending, as is implementation of the program itself. Full compliance with this task cannot be monitored until the MAPPS is brought on-line. However, use of the Motor Vehicle Stop Report was monitored for 151 incidents involving a post-stop law enforcement activity of interest to the decree. Errors noted were discussed with the New Jersey State Police, and the agency was given the opportunity to clarify—by providing additional existing documentation—any concerns. Of the 151 events monitored, members of the monitoring team found one consistent minor reporting problem—trooper’s race and gender, required decree-related elements—has not yet been pulled into the MVSR system from the state’s personnel system. The monitors do not assess this as the serious problem at this point, as these data are available through other sources. This issue, eventually, must be resolved, however.

More problematically, errors appear to be surfacing in three areas of the agency’s MVSR system, and, to date, appear not to have been addressed by supervision. Three of 33 reviewed MVSR noted a non-consensual search, but failed to adequately support (through narrative or other documentation) the non-consensual search with a report narrative indicative of probable cause. These incidents involved a white female, an Hispanic male, and a white male. None of these errors appeared to have been caught during the supervisory review process. These three reports were found by the monitoring team to concern incidents in which probable cause actually existed, but was not sufficiently documented in the reporting system. Similarly, at least 13, of the 75 reports concerning frisks of drivers (some frisks were of passengers), failed to articulate

facts in the narrative or supporting documentation that would raise a “reasonable, articulable, suspicion” that the suspect in question could be carrying a weapon. These cases referred to “baggy clothes,” “officer safety,” or simply checked “frisk” on the MVSR report without supporting the frisk via an acceptable narrative in the report. Of these thirteen cases, five involved white males, three involved African-American males, and five involved Hispanic males. None of these errors appeared to have been noted by supervisory review.

The motor vehicle stop reporting systems, obviously, has been implemented, as data exist for all 151 events reviewed by the monitoring team this quarter. The instances of poor reporting noted by the monitors’ staff, which could have been noted by supervisory review, were apparently not noted and remanded for remediation by supervisory personnel. While other systems are in effect to monitor and revise the reporting system, supervisory monitoring (which will be discussed in detail in Section 2.29, below) is a critical tool to ensure accuracy of the reporting system. Based on agreement of the parties, continued problems in this area next quarter will result in withdrawal of compliance for this task.¹³

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

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

Task 28 stipulates:

28. In order to help ensure that state troopers use their authority to conduct consensual motor vehicle searches in a nondiscriminatory manner, the State Police shall continue to require: that state troopers may request consent to search a motor vehicle only where troopers can articulate a reasonable suspicion that a search would reveal evidence of a crime; that every consent search of a vehicle be based on written consent of the driver or other person authorized to give consent which

¹³ The parties have agreed that, once compliance is attained, two consecutive quarters of failure to meet a specific requirements performance characteristics will result of loss of compliance for that task.

precedes the search; that the scope of a consent search be limited to the scope of the consent that is given by the driver or other person authorized to give consent; that the driver or other person authorized to give consent has the right to be present during a consent search at a location consistent with the safety of both the state trooper and the motor vehicle occupants, which right can only be waived after the driver or other person authorized to give consent is advised of such right; that the driver or other person authorized to give consent who has granted written consent may orally withdraw that consent at any time during the search without giving a reason; and that state troopers immediately must stop a consent search of a vehicle if and when consent is withdrawn (except that a search may continue if permitted on some non-consensual basis).

Methodology

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

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

Status



The independent monitoring team reviewed supporting documentation for all consent searches conducted by New Jersey State Police law enforcement personnel. Twenty-four consent requests were noted, and 22 consent searches were conducted. One consent was refused, and the driver was released without further intervention. A second consent search was terminated when the driver withdrew permission. Of the 22 remaining consent searches, all were supported by a statement allowing the reader to interpret the trooper's reasonable suspicion to suspect that he or she might, upon search, find evidence of a crime. The required information was present in all of the reports, i.e., drivers' names, races, genders, DOBs, notice of right to refuse, description of contraband seized, where applicable, etc. A discussion of the nature of these stops is provided in section 2.2, "Status," above (p. 12). While officers were able to develop "reasonable suspicion" in all but one of these events, in the opinion the monitors, this was accomplished under questionable circumstances in four of the 24 consent searches monitored (including the incident in which consent was not granted,

which resulted in no search)¹⁴. Fortunately, all of these four problematic events were noted by supervisory personnel, prior to the monitoring team’s noting the incidents, and steps were taken to remediate trooper behavior. Based on the agreement of the parties, the State remains in compliance based on its supervisory initiatives to correct inappropriate behavior.¹⁵ Members of the monitoring team will continue to closely monitor the involved troopers on future visits, and continued problems in this area—particularly with the troopers involved this quarter--could indicate a failure in the selected supervisory remedy or the supervisory process.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

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

Task 29a stipulates that:

29. Motor Vehicle Stop Data

a. The State has adopted protocols (captioned F-55 (Motor Vehicle Stops) dated 12/14/99; C-22 (Activity Reporting System), F-3 (Patrol Procedures), F-7 (Radio Procedures), F-19 (MVR equipment), F-31 (Consent

¹⁴ These four events included one in which an African-American male driver was subjected to protracted questioning not related to observed violations in an attempt, in the opinion of the monitoring team, to “build” reasonable suspicion. Such questions included “How much money do you have in your pocket?” asked of a driver stopped for failure to wear his seatbelt. These four events also included similar treatment of a white female driver for failure to wear her seatbelt. Two black male drivers were subjected to potentially intimidating comments such as “the drug dog’s on the way,” and “once the drug dog gets here, everybody gets arrested” in apparent attempts to obtain consent to search.

¹⁵ The parties have agreed that, to attain and remain in compliance, the state must ensure that state police personnel adhere to specific provisions of the decree, or specifically note failure to adhere, and take specific action, such as retraining, counseling, discipline, etc., to remediate the failure.

Searches), and a Motor Vehicle Stop Search Report dated 12/21/99; and a Property Report (S.P. 131 (Rev. 1/91)) that require state troopers utilizing vehicles, both marked and unmarked, for patrols on roadways to accurately record in written reports, logs, radio communications, radio recordings and/or video recordings, the following information concerning all motor vehicle stops:

- 1. name and identification number of trooper(s) who initiated the stop;**
- 2. name and identification number of trooper(s) who actively participated in the stop;**
- 3. date, time, and location of the stop;**
- 4. time at which the stop commenced and at which it ended;**
- 5. license number/state of stopped vehicle;**
- 5A. description of stopped vehicle;**
- 6. the gender and race/ethnicity of the driver, and the driver's date of birth if known;**
- 7. the gender and race/ethnicity of any passenger who was requested to exit the vehicle, frisked, searched, requested to consent to a vehicle search, or arrested;**
- 8. whether the driver was issued a summons or warning and the category of violation (i.e., moving violation or non-moving violation);**
- 8A. specific violations cited or warned;**
- 9. the reason for the stop (i.e., moving violation or non-moving violation, other [probable cause/BOLO]);**
- 10. whether the vehicle occupant(s) were requested to exit the vehicle;**
- 11. whether the vehicle occupant(s) were frisked;**
- 12. whether consent to search the vehicle was requested and whether consent was granted;**
- 12A. the basis for requesting consent to search the vehicle;**
- 13. whether a drug-detection canine was deployed and whether an alert occurred;**
- 13A. a description of the circumstances that prompted the deployment of a drug-detection canine;**
- 14. whether a non-consensual search of the vehicle was conducted;**
- 14A. the circumstances that prompted a non-consensual search of the vehicle;**
- 15. whether any contraband or other property was seized;**
- 15A. a description of the type and quantity of any contraband or other property seized;**
- 16. whether the vehicle occupant(s) were arrested, and if so, the specific charges;**
- 17. whether the vehicle occupant(s) were subjected to deadly, physical, mechanical or chemical force;**

- 17A. a description of the circumstances that prompted the use of force; and a description of any injuries to state troopers and vehicle occupants as a result of the use of force;**
- 18. the trooper's race and gender; and**
- 19. the trooper's specific assignment at the time of the stop (on duty only) including squad.**

Methodology

No changes in New Jersey State Police policies regarding this task were made in the last quarter. During the first quarter, members of the monitoring team reviewed relevant policies and approved implementation of these policies as written. See section 2.2, above, for a detailed description of the data collection and analysis processes used to determine compliance levels for this task.

Status

All 151 motor vehicle stop events reviewed by the monitoring team were reported by the personnel making the stops in accordance with the most of requirements of this task. Problematically, errors appear to be surfacing in two areas of the agency's MVSR system, and, to date, appear not to have been addressed by supervision. Three of 33 reviewed MVSR noted a non-consensual search, but failed to adequately support (through narrative or other documentation) the non-consensual search with a report narrative indicative of probable cause. These incidents involved a white female, an Hispanic male, and a white male. None of these errors appeared to have been caught during the supervisory review process. These three reports were found by the monitoring team to concern incidents in which probable cause actually existed, but was not sufficiently documented in the reporting system. Similarly, at least 13, of the 75 reports concerning frisks of drivers (some frisks were of passengers), failed to articulate facts in the narrative or supporting documentation that would raise a "reasonable, articulable, suspicion" that the suspect in question could be carrying a weapon. These cases referred to "baggy clothes," "officer safety," or simply checked "frisk" on the MVSR report without supporting the frisk via an acceptable narrative in the report. Of these thirteen cases, five involved white males, three involved African-American males, and five involved Hispanic males. None of these errors appeared to have been noted by supervisory review.

These errors constitute 16 lapses from among 151 reports reviewed by the monitoring team, and error rate in excess of the agreed-upon five percent allowable error. More importantly, these errors deal with substantive portions of the decree, i.e., they are not "technical errors" such as failing to report officer race or gender. They deal with issues at the core of the decree: efficacy of

searches and frisks. Based on the agreement of the parties, continued problems with this task will result in loss of compliance in this area.¹⁶

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

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

Task 29b stipulates that:

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

Methodology

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

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

Status

The review of state police policies, forms, training, records systems, data entry systems, and CADS processes indicates that the New Jersey State Police are in Phase I compliance with the requirements of Task 30. Effective policies and

¹⁶ See note 13, page 15, above.

forms requiring compliance with the reporting requirements of the task have been written, disseminated and implemented into the state police training process. Development of training for supervisors in the process of scrutinizing motor vehicle stop reports and associated documentation, and systems to facilitate that review are pending.

Members of the monitoring team reviewed the motor vehicle stop report data for all six stations selected for monitoring this quarter, assessing the degree to which data elements required by the decree were present in the electronic databases maintained by the state. All required data were present. Data in the electronic database were compared with data in the manual reporting data system for each of the 151 motor vehicle stop events reviewed by the monitoring team.

The earliest available electronic data in the state’s database, provided to the monitors, was September 2, 2000. In the opinion of the monitors, this qualifies as “expeditious” implementation.

Compliance:

Phase I: In Compliance
Phase II: In Compliance

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

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

Task 29c stipulates that:

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

Methodology

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

Status

Forms to support execution of tasks 31-33 have been developed and disseminated.

Compliance

Phase I: In Compliance
Phase II: In Compliance

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

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

Task 29e stipulates that:

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

Methodology

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

Status

Implementation of revisions to protocols and/or forms has been held by the state, pending the approval of the monitors and the United States.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.6 Compliance with Task 30: Communications Center Call-Ins

Task 30	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	[Solid Blue]											
Phase II	[Vertical Stripes]	[Diagonal Stripes]										

Task 30 stipulates that:

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

Methodology

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

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

Status

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

of troopers conducting traffic stops. To date, no global supervisory processes appear to have been implemented by the state police.

Data regarding CADS center “call-ins” were provided to the monitors for the fourth site visit. These data confirm the fact that troopers are “calling in” to the communications centers for motor vehicle stops, as required by Task 30. The monitoring team reviewed 151 motor vehicle stop reports, and compared them with the data included in the CADS database provided by the state. Of the 151 motor vehicle stops manually reviewed by the monitoring team this quarter, all had a corresponding record in the CADS data provided to the monitors by the state. Error rates for data reported in CADS, compared to data in the MVSR system were at less than five percent for all fields tested by the monitoring team.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

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

Task 30a stipulates that:

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

Methodology

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

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

Status

Data regarding CADS center “call-ins” were provided to the monitors for the fourth site visit. Analysis of the electronic database determined that all of the 28,909 CADS records included a time of the stop. All included a type of stop code, a clearance code, a CAD incident number, the date of the stop, the location of the stop, the unit number of the police vehicle making the stop, and other information required by the decree. A manual review of the times reported in the CADS records and the times reported in the motor vehicle stop report indicates a high correlation between the two databases. Differences in the two files were generally never more than two minutes. Unlike last quarter, trooper “call-in” from the field, as assessed through in-car video tapes, for the six stations assessed this quarter appeared problematic. Some of these apparent omissions were due to the audio tape being initiated *after* the call-in was made, but *before* the trooper approached the stopped vehicle; however, these anomalies could not account for all noted problems with trooper call-ins for this quarter. For example, members of the monitoring team noted a 26.7 percent error rate in troopers initiating audio recording when they “first signal” an offender to stop. This is the lowest error rate of all requirements for the “call-in” task observable in the 441 video tapes reviewed by the monitoring team. Call-ins prior to conducting a search or a consent search were not made in 80 percent and 70 percent respectively of the cases reviewed by the monitoring team through the process of reviewing video tapes of reported stops. Call-in of the reason for the stop, and notice of race and gender of the occupants of the vehicle indicated 33 and 30 percent error rates, respectively. A review of CAD data, however, indicates that these items are present in almost every instance.

A review of audio tapes of call ins of 27 selected events showed an 8.8 percent failure rate regarding initial call-ins. While the state remains in compliance with this task based on past performance, new monitoring strategies will be developed to address this issue for the next site visit.

Compliance

Phase I:	In Compliance
Phase II:	In Compliance

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

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

Task 30b stipulates that:

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

Methodology

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

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

Status

New Jersey State Police SOPs relating to the call-in of consensual or non-consensual searches meet the requirements of the consent decree. In addition, training regarding all searches is reasonably designed to affect the necessary behavior on the part of troopers conducting traffic stops. To date, no global supervisory processes designed to assess the quality of motor vehicle stops appear to have been implemented by the state police.

Of the 23 consent search events reported, all but one were reviewed via videotape. Members of the monitoring team were able to identify only six of 20 drivers granting consent to searches who had their search called into the communications center prior to the trooper conducting the search.¹⁷ Similar poor performance was noted regarding notice to the communications center prior to conducting non-consensual searches of vehicles.


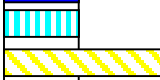
¹⁷ One consent search was declined, and the others were requested of passengers, rather than the driver.

The state remains out of Phase II compliance in this task.

Compliance

Phase I: In Compliance
 Phase II: Not in Compliance

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

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

Task 30c stipulates that:

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

Methodology

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

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

Status

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

of troopers conducting traffic stops. To date, no global supervisory processes appear to have been implemented by the state police.

Computer Assisted Dispatch (CADS) were provided by the state. These records were reviewed by the monitoring team. A total of 28,909 of the 28,909 available records included a clearance code, indicating completion of the stop.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.6.4 Compliance with Task 30d: CADS Incident Number Notification

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

Task 30d stipulates that:

d. The communications center shall inform the trooper of an incident number assigned to each motor vehicle stop that involved a motor vehicle procedure (i.e., occupant requested to exit vehicle, occupant frisked, request for consent search, search, drug dog deployed, seizure, arrest or use of force), and troopers shall utilize that incident number to cross reference other documents prepared regarding that stop. Likewise, all motor vehicle stop information recorded by the communication center about a particular motor vehicle stop shall be identified by the unique incident number assigned to that motor vehicle stop.

Methodology

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

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

Status

Policies related to 30d reasonably cover the issue of CADS incident numbers and appropriate reporting methods. Training in this area is also reasonably designed to achieve compliance with this task. All of the automated records reviewed by the members of the independent monitoring team included a unique CADS incident number. Events were trackable using this CADS incident number. Of the 28,909 events generated by personnel at the six road stations selected for review this quarter, 28,909 included a unique CADS incident number.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.7 Compliance with Task 31: Reporting Consent to Search Requests

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

Task 31 stipulates that:

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

Methodology

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

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

Status

No changes to New Jersey State Police procedures governing consent searches and reporting of consent searches were made this quarter. Supervisory systems necessary to effectively review, assess and remand consent search reports and to evaluate consent search processes of road personnel are pending.

A consent search report form was completed accurately in all of the consent search events that the monitoring team reviewed. While all 24 consent-to-search requests were based on reasonable, articulable suspicion that a search might uncover evidence of a crime, four of these 24 involved methods which the monitoring team found questionable, i.e., protracted interrogation of drivers and passengers not related to the observed offense.¹⁸ All of these four have been noted and responded to by supervisory personnel. All of the 24 events resulted in a consent to search report (MVSR), although not all reports accurately reflected the events as observed on the video tapes of the stop. The state remains in compliance with this task based on supervisory response; however, members of the monitoring team will continue to carefully assess the activities of the troopers identified as exhibiting problematic behavior regarding this task, and continued problems in this area—particularly with the troopers involved this quarter--could indicate a failure in the selected supervisory remedy or the supervisory process.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

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

Tasks 31a-c stipulate that:

¹⁸ See section 2.2, page 11, and section 2.3, page 14 above for a detailed description of these four events.

- a. The State Police shall require that all "consent to search" forms include the following information :**
- 1. the date and location of the stop;**
 - 2. the name and identification number of the trooper making the request for consent to search;**
 - 3. the names and identification numbers of any additional troopers who actively participate in the discussion with the driver or passenger(s) concerning the request for consent to search;**
 - 4. a statement informing the driver or other person authorized to give consent of the right to refuse to grant consent to search, and that if the driver or other person authorized to give consent grants consent, the driver or other person authorized to give consent at any time for any reason may withdraw consent to search;**
 - 5. a statement informing the driver or other person authorized to give consent of the right to be present during the search at a location consistent with the safety of both the state trooper and the motor vehicle occupant(s) which right may be knowingly waived;**
 - 6. check-off boxes to indicate whether consent has been granted, and if consent is granted, the driver or other person authorized to give consent shall check the appropriate box and sign and date the form; and**
 - 7. if the driver or other person authorized to give consent refuses consent, the trooper or the driver or other person authorized to give consent shall so note on the form and the driver or other person authorized to give consent shall not be required to sign the form.**
- b. A state trooper who requests permission to conduct a consent search shall document in a written report the following information regardless of whether the request for permission to conduct a search was granted or denied:**
- 1. the name of the driver or other person authorized to give consent to whom the request for consent is directed, and that person's gender, race/ethnicity, and, if known, date of birth;**
 - 2. the names and identification numbers of all troopers who actively participate in the search;**
 - 3. the circumstances which constituted the reasonable suspicion giving rise to the request for consent;**
 - 4. if consent initially is granted and then is withdrawn, the fact that this occurred, and whether the search continued based on probable cause or other non-consensual ground, or was terminated as a result of the withdrawal of consent;**
 - 5. a description of the type and quantity of any contraband or other property seized; and,**
 - 6. whether the discussion concerning the request for consent to search and/or any ensuing consent search were recorded using MVR equipment.**

c. The trooper shall sign and date the form and the report after each is fully completed.

Methodology

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

Members of the monitoring team reviewed report information for 24 consent searches, and reviewed video tape recordings of 23 motor vehicle stops involving consent searches. Supporting documentation for all consent searches was reviewed, and the events depicted on the video tape reviewed were assessed in light of the reports generated by the trooper concerning the event. See section 2.2, above, for a detailed description of the data collection and analysis processes used to determine compliance levels for this task.

Status

State police personnel reported accurately in 23 of the 23 consent search events reviewed for all reporting requirements except 7b3. None of the four problematic consent searches were supported by narratives that reflected the true nature of the protracted interrogations to which suspects were submitted. A fifth event involved a "hypothetical" consent request ("If I asked for permission to search your car, would you sign it?") that was not reported. Performance notices, counseling and other remedial measures were taken in each of these instances, prior to the monitoring team's fourth site visit. The state remains in compliance with this task, based on supervisory intervention; however, members of the monitoring team will continue to observe the behavior of troopers noted as exhibiting inappropriate actions in response to this task.

Compliance

Phase I: In Compliance
Phase II: In Compliance

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

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

Task 32 stipulates that:

- 32. Non-consensual Searches of Motor Vehicles (Excluding Vehicle Searches Begun as a Consent Search).** A state trooper shall complete a report whenever, during any motor vehicle stop, the trooper conducts a non-consensual search of a motor vehicle (excluding vehicle searches begun as a consent search). The report shall include the following information:
- 1. the date and location of the stop;**
 - 2. the names and identification numbers of all troopers who actively participated in the incident;**
 - 3. the driver's name, gender, race/ethnicity, and, if known, date of birth;**
 - 4. a description of the circumstances which provided probable cause to conduct the search, or otherwise justified the search;**
 - 5. a description of the type and quantity of any contraband or other property seized; and**
 - 6. whether the incident was recorded using MVR equipment.**

Methodology

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

Status

Members of the monitoring team monitored 172 non-consent searches reflected in events selected by the team during site visits to six New Jersey State Police road stations. With only four exceptions, all 172 of these non-consent searches were completed and reported in compliance with the requirements of the consent decree. See section 2.2, above, for a detailed description of the data collection and analysis processes used to determine compliance levels for this task. All but four of the 172 non-consent searches appeared to be based on clear principles of constitutional law, e.g., searches incidental to arrest (43 percent), probable cause (24 percent), or "proof of ownership," (12 percent).

Members of the monitoring team, during their review of video tapes of the 172 non-consent searches, noted an issue with four searches. These searches, while they appeared to have been conducted legally, based on probable cause, lacked

supporting documentation (three events) or constituted legal searches that were not appropriately “checked” in the MVSRS (one event). The latter is considered a “technical error,” but the former three cases are more serious. Even an error rate of four of 172, however, is within the allowable error rate of less than five percent.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

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

Task 33 stipulates that:

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

Methodology

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

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

Status

Members of the monitoring team reviewed all 15 of the reported canine deployments, and found them to be conducted and reported within the requirements of the decree.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

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

Task 34a stipulates that:

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

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

Methodology

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

Members of the monitoring team identified every patrol vehicle used for patrol purposes by the six road stations selected this quarter. An inventory was conducted to ensure that video tape recordings were in the possession of the road station commander (in all cases in a secured storage area) for each patrol vehicle for each day of the current quarter. In addition, members of the monitoring team requested to view video tapes for 441 events known to have occurred during the current quarter at the six stations selected.

Status

Members of the monitoring team found evidence of video tape recordings for every patrol vehicle identified for every day of the current quarter, except for vehicles which had recorder malfunctions. Each of the events requested by the monitoring team was located and had been video taped according to policy, with several exceptions. All of these exceptions related to malfunctions of video recording equipment or to recorders that ran out of tape during a tour of duty (see Section 2.11, below).

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

Task 34b-c	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	[Solid Blue]											
Phase II	[Diagonal Stripes]											

Task 34b-c stipulates that:

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

c. Except when MVR equipment unforeseeably does not function, all motor vehicle stops conducted by State Police vehicles with MVR equipment shall be recorded by these vehicles, using both the video and audio MVR functions. The recording shall begin no later than when a trooper first signals the vehicle to stop or arrives at the

scene of an ongoing motor vehicle stop begun by another law enforcement trooper; and the recording shall continue until the motor vehicle stop is completed and the stopped vehicle departs, or until the trooper's participation in the motor vehicle stop ends (the recording shall include requests for consent to search a vehicle, deployments of drug-detection canines, and vehicle searches). If a trooper operating a vehicle with MVR equipment actively participates in a motor vehicle stop and is aware that the motor vehicle stop was not recorded using the MVR equipment, the trooper shall notify the communications center of the reason the stop was not recorded, which the center shall record in a computerized information system.

Methodology

In addition to verifying the existence of a video tape in each patrol vehicle for each day of this quarter (see above), members of the monitoring team pulled for review a sample of 592 post-stop law enforcement actions of interest to the decree. These included 151 events selected from New Jersey State Police databases, and 441 events assessed by reviewing video tapes.

Status

While policies have been implemented requiring video and audio recording of all consent-decree related traffic stops, not all stops are recorded in conformance with the decree. Members of the monitoring team noted that 13 percent of audio recordings did not begin "when first signaled to stop." Fully 21 percent did not continue until completion, and more than 80 percent did not depict a notice to the communications center prior to conducting a consent search. The state is currently developing policy revisions to remedy these difficulties.

More serious problems arose, however, with the monitoring process related to Task 34. One road station assessed this quarter, a New Jersey Turnpike station, had fully 43 percent (70 of 169) of the selected stops and post stops (see Section 2.2, above) unavailable due to either malfunctioning video recorders, lapsed tape (the video tape ran out prior to end of shift) or other "technical" problems with the video/audio recording process. Most of these 70 events were the result of one trooper knowingly taking on patrol a vehicle with a malfunctioning tape unit. In addition, this same trooper knowingly continued patrol, on at least one occasion patrolling in the opposite direction from the station, after he had run out of tape. Other stations were noted to be experiencing a much reduced level of "out of tape" events, but, nonetheless, these resulted in stops that were not video taped. More seriously, it appears that the same trooper (who had a history of knowingly patrolling with an

inoperative recorder) may have been shutting of his microphone at critical junctures of at least three traffic stops.

While the monitoring team expects some level of technical difficulty with the video and (especially) audio equipment, the levels of malfunctions and “out of tape” incidents at this station far exceed anything observed at other road stations observed. The level of difficulty with video and audio recording encountered at this station is sufficient to abrogate this aspect of the consent decree-related policies of the agency.

Three points should be noted in relation to these findings: first, staff inspections personnel have noted the problems identified above, and have begun internal investigations into the trooper’s behavior. Second, the state police have also initiated an internal investigation of the trooper’s immediate supervisor for failure to note and correct the trooper’s behavior. Third, the road station in question was among the first stations to implement video and audio recording processes, and has equipment that is among the oldest in the agency. Five troopers exhibited “tape out” incidents or took malfunctioning recorders on patrol. Only three “MVR Malfunction Reports” were located. Based on staff inspections of this road station (and others), the state police and the Office of the Attorney General have taken specific steps to deal with issues of deliberate non-compliance. These steps include continuing inquiries into the use of consent searches by Troop D (New Jersey Turnpike) personnel in the year 2000, requiring all recordings of consent searches to be reviewed by supervisory personnel, requiring supervisory approval of requests for consent searches before the trooper makes the request of a motorist, enhancing on-road supervision, revising training for all law enforcement personnel regarding proper consent search methods, and, continuation of the development process for MAPPs.

Compliance

Phase I: In Compliance
 Phase II: Not in Compliance

2.12 Compliance with Task 35: Supervisory Review of Trooper Reports

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

Task 35 stipulates that:

35. The reporting trooper's supervisor shall review each report prepared pursuant to ¶¶31-33 within 14 days of

the precipitating incident and, as appropriate, in conjunction with that review, may view any associated MVR tape.

Methodology

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

Members of the monitoring team requested data from the state, in electronic form, which allowed analysis of this task. For the 991 records recorded in the database provided by the state, supervisory review of trooper reports was completed, on average, 13.6 days after the report was filed. The minimum number of days required to complete supervisory review was zero (same day); the maximum number of days was 82. A total of 330 of the 991 reports were not reviewed by supervisory personnel within 14 days of the date the initial report was filed.

Status

The state has improved its performance on this task, and but has not reached Phase II compliance.

Compliance

Phase I: In Compliance
 Phase II: Not In Compliance

2.13 Compliance with Task 36: Supervisory Review of MVR Tapes

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

Task 36 stipulates that:

36. The State shall adopt a protocol requiring that State Police supervisors review MVR tapes of motor vehicle stops on a random basis. The protocol shall establish the schedule for conducting random reviews and shall specify whether and in what manner the personnel

conducting the review shall prepare a written report on each randomized review of an MVR tape. Prior to implementation, the protocol shall be approved by the United States and the Independent Monitor.

Methodology

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

Status

Training for supervisory personnel regarding MVR review and a supervisory-management system for using MVR reviews as part of the MAPPS process is pending. The state is currently developing a formal policy requirement regarding MVR review processes for supervisory personnel. Members of the monitoring team have reviewed the proposed policy, and notice of formal approval is forthcoming.

During on-site reviews at six New Jersey State Police road stations, members of the monitoring team reviewed all supervisors' MVR review reports for those stations. The quality of these reports varied widely. Many of the problematic performances in motor vehicle stop and recording processes noted by the members of the monitoring team were also noted through supervisory review at two of the stations. At other stations, the supervisory review appeared perfunctory, and appeared to be designed to meet the minimum requirements of policy, rather than to effectively review trooper performance.

Despite these findings, it should be noted that the state's performance on this task is vastly improved over that observed during the third quarter's site visit. The state's new MVR review policy, once implemented, should improve performance in this area. Phase I compliance is dependent upon finalization and promulgation of policies relating to supervisory review of field activities.

Review of, and noting problematic field activities requires an understanding of not only New Jersey State Police policy and procedures and the intricacies of the consent decree, it requires the ability to carefully assess individual trooper performance in light of the need to balance law enforcement activities against constitutional protections of both the Fourth and Fourteenth Amendments. Supervisory training in this process, in the opinion of the monitoring team, should receive the same attention, and should be of the same caliber as the state's current training in Constitutional issues of motor vehicle stops. Noting the kinds of issues uncovered by the members of the monitoring team this quarter is

a task requiring relatively high levels of skill and sophistication. Training for supervisory personnel in these processes should be exemplary.

Further, members of the monitoring team noted, with some dismay, the primitive nature of the equipment provided for supervisory personnel to review MVRs. In most, if not all, of the road stations visited to date, there is no suitable office space in which supervisory personnel can accomplish what should constitute complex, time-consuming, painstaking work. The equipment provided to accomplish this task often must be borrowed from the station commander. Only one set of recording review equipment is available at most stations, and it consists of standard commercial VCRs and televisions. On numerous occasions, members of the monitoring team were required to give the equipment "a rest" in the middle of tape review sessions, and frequently, the equipment simply failed to play the tapes. As MVR review becomes a more frequent process with the state police, professional level equipment will be necessary to facilitate an effective review process. To prevent queuing for time on the equipment, larger stations may need multiple sets of equipment.

Compliance

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

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

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

Task 37 stipulates that:

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

the State. Appropriate personnel shall evaluate all incidents reviewed to determine the need to implement any intervention for the involved trooper.

Methodology

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

Status

During the fourth quarter, supervisory and/or staff review of trooper performance resulted in referral of at least one trooper’s actions to OPS for initiation of a formal complaint. In addition, the actions of the trooper’s supervisor were referred to OPS for initiation of a formal complaint.¹⁹ The trooper’s behavior to be investigated involves knowingly taking on patrol a police vehicle with a malfunctioning video recorder, tampering with audio recording equipment, and other proscribed behavior. The sergeant’s behavior to be investigated involves failure to note and correct the actions of the trooper.

The Office of the Attorney General has noted in an report released in March, 2001 that questionable decisions were being made in the year 2000 among some road stations serving the New Jersey Turnpike. The OAG is continuing its on-going inquiry into the Moorestown and Cranbury stations, based on earlier findings.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.15 Compliance with Task 38: Periodic Reviews of Referral Decisions

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

Task 38 stipulates that:

¹⁹ See section 2.11, above.

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

Methodology

Personnel at the Office of the Attorney General (Office of State Police Affairs) and the New Jersey State Police are aware of the requirement to monitor referral decisions pursuant to paragraph 37 of this decree, although no specific policy has been developed requiring such reviews.

Two referral has been made to PSB (now the Office of Professional Standards), and at least three incidents (one during the second quarter, one during the third quarter, and an additional case during this quarter) uncovered by the monitoring team could have led to such referrals. Given the recent nature of the two referrals that were made, neither state police nor Office of the Attorney General personnel could have made a periodic audit of referral decisions pursuant to this task. Personnel from the OAG are aware of the requirement for periodic audits, and have conducted audits of New Jersey State Police activities during the last quarter (see section 2.83, below).

Status

At this point, members of the monitoring team were unable to audit this task, as the one referral made is recent.

Compliance

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

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

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

Task 39 stipulates that:

39. The State Police shall require supervisors of patrol squads that exclusively, or almost exclusively, engage in

patrols on limited access highways to conduct supervisory activities in the field on a routine basis.

Methodology

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

Status

Policy, training and support systems regarding "routine" supervisory activities in the field are pending.

Compliance

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

2.17 Compliance with Task 40-51: Development of a Management Awareness and Personnel Performance System

Task 40	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	[Blue bar]											
Phase II	[Yellow and black diagonal bar]											

Task 40 stipulates that:

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

Methodology

During the last quarter, the State of New Jersey continued to make substantial progress regarding development and deployment of the planned Management Awareness and Personnel Performance System (MAPPS). During this quarter, the state has developed one of the final components of the planned MAPPS system, the interface module for the Internal Affairs Bureau. In addition, the

state has begun the process of implementing an operational prototype motor vehicle stop module. Code development and testing continue, as articulated in MAPPS planning documents forwarded to the monitoring team. Assessment of current planning documents provided to the monitoring team indicate that the state continues to develop systems design documents which comply with the requirements of the decree. Training for supervisory personnel in MAPPS operational processes is currently under development.

On-going discussion between the parties concerning the development of the motor vehicle stop module and the Internal Affairs Bureau module are continuing. Final approval of the IAB module and protocol are pending the outcome of the cooperative process currently underway between the parties. The parties are also working toward final agreement regarding the protocols which will support use of the MAPPS (task 47). While substantial work remains to be done, progress is being made. The state’s decision regarding the nature and process of the supervisory review methodologies increases the pressure for adequate guidance and oversight of this review process, and the parties are working to identify, outline and operationalize this guidance and oversight.

As all MAPPS components currently reflect the same status at this time, i.e., in compliance for Phase I and not in compliance for Phase II (pending implementation and satisfactory deployment of MAPPS systems), the monitoring team will report only on Task 40 for this report. The state remains in Phase I compliance with tasks 41-51. The state has not yet attained Phase II compliance with tasks 41-51.

2.29 Compliance with Task 52: Supervisors to Implement Necessary Changes

Task 52	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 52 stipulates that:

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

troopers; and/or make any appropriate recommendations.

Methodology

Members of the monitoring team, during their fourth quarter site visit, noted nine instances of supervisory personnel issuing “performance notices,” or interventions for actions of division personnel inconsistent with policy or established practice. Until an effective division-wide MAPPS process is implemented, and supported by appropriate training and usage protocols, compliance with this task is not feasible. The United States Department of Justice and the State of New Jersey continue to work together to finalize requirements for activities addressed in this section.

Compliance

Phase I: In Compliance
 Phase II: Not In Compliance

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

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

Task 53 stipulates that:

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

Methodology

See Section 2.17, above, for a specific discussion of MAPPs-related functions.



Status

The state has developed a system of OPS notification of more than two misconduct investigations in a two-year period, but additional work is pending regarding protocols for and assessment of supervisory response to this section.

Compliance

Phase I: In Compliance
Phase II: Not In Compliance

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

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

Task 54 stipulates that:

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




Methodology

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

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

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

Task 57 stipulates that:

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

Methodology

No changes in New Jersey State Police policies regarding this task were made in the last quarter.




Status

During the third quarter, the State Police received and appropriately investigated an allegation of failure to provide identification. While the case was closed as not resolved, the referral and investigation of the complaint indicates conformance to established policies regarding this task. During the fourth quarter, no such allegations were received or investigated. The state remains in compliance with this task based on past performance.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

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

Task 58 stipulates that:

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

Methodology

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

Status

The compliment/complaint forms developed by the state are reasonably designed to accomplish the purpose of Task 58, are available in English and Spanish, and have, apparently been printed in numbers large enough to have been distributed to road stations, carried in patrol vehicles and to have been made available at the entry vestibule to road stations. Informational materials were available at all road stations and headquarters buildings visited by the monitoring team during the fourth quarterly visit. A member of the team fluent in Spanish has reviewed the Spanish language forms and informational materials, and found them to be an effective translation, portraying virtually the same concepts as the English version. None of the 592 motor vehicle stop video tapes reviewed by the monitoring team this quarter contained any evidence that citizens with potential complaints were discouraged from filing, or not provided the requisite information regarding filing, such complaints.

Compliance

Phase I: In Compliance
Phase II: In Compliance

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

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

Task 59 stipulates that:

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

Methodology

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

Status

Compliment and complaint forms and informational materials were available at all state police facilities visited by the members of the monitoring team, and both English and Spanish forms were provided. Of the eight rest areas/service areas visited by the monitoring team this quarter, all had the notice of compliment/complaint procedures posted in conspicuous locations. The state police web site conforms to the requirements of this task. Fact sheets and complaint forms were in all patrol vehicles inspected during the first quarter. No incidents of trooper notice to civilians of rights to complain were noted on the

592 video tapes reviewed this quarter. Nor were any incidents related to the prohibition of troopers from discouraging complaints.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.35 Compliance with Task 60: Community Outreach

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

Task 60 stipulates that:

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

Methodology

The state police have modified their outreach programs to include provision of information related to the decree in their public meetings and organized interactions with various groups within the state. These meetings are often held in conjunction with local law enforcement agencies, and discuss topics of interest to the communities in attendance, as well as topics specifically related to the consent decree. Members of the monitoring team were provided with a "community contacts" schedule for the state police superintendent for through March 31, 2001. The schedule shows an active outreach on radio, through professional appearances at policing conferences, and through community meetings. In addition, members of the monitoring team reviewed all "presentation request" synopses for state police personnel for January through March. These presentations, made to various community groups, public schools, township organizations, drug awareness programs and other groups, addressed topics such as state police procedures and functions, civilian complaint and compliment processes, search and seizure, motor vehicle stops, etc.

Status

Based on the updated community outreach practice, the state is deemed to be in Phase I compliance with the requirements of this task. In addition, based on the review of "presentation requests," the state is deemed to be in Phase II compliance with the requirements of this task.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.36 Compliance with Task 61: Receipt of Citizens' Complaints

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

Task 61 stipulates that:

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

Methodology

Members of the independent monitoring team, during the May 2001 visit noted that the documents reviewed in previous visits continue to be the policy guidelines to assure compliance with Task 61. The New Jersey State Police are currently revising policy B-10 and the Internal Affairs investigative manual to incorporate many of the changes made in Internal Affairs processes over the past months.

Status

Unit policy, memoranda and inter-office correspondence remain the sole policy guidance for this task. Regarding acceptance of complaints, the members of the monitoring team noted that there are four personnel in OPS who answer the telephone. Written procedures have been provided to these personnel relevant to these duties. These procedures comport with the provisions of this task. Members of the monitoring team during the May 2001 site visit were able to

determine that the State Police do accept anonymous complaints. The monitoring team examined the "Investigative Control Ledger" and found two citizens' complaint investigations that were initiated based on anonymous letters. The monitoring team also examined a citizen compliant investigation initiated as a result of an anonymous phone call, and finds that the State has a sustained practice of accepting and following through with anonymous complaints.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

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

Task 62 stipulates that:

62. The State Police shall institute a 24-hour toll-free telephone hotline for civilians to call to make a complaint or compliment or otherwise provide feedback regarding State Police performance. The hotline shall be operated by the Professional Standards Bureau (hereinafter "PSB"). The State Police shall immediately connect or refer all civilians to this hotline who telephone a State Police station to file a complaint. The State Police shall publicize the hotline telephone number on informational materials, complaint forms, and "consent to search" forms. The State Police shall tape record all conversations on this hotline and shall notify all persons calling the hotline of the tape recording. The State Police shall develop a procedure to assure that callers are being treated with appropriate courtesy and respect, that complainants are not being discouraged from making complaints, and that all necessary information about each complaint is being obtained. This procedure shall include regular reviews of the tape recordings.

Methodology

No changes in New Jersey State Police policies regarding this task were made in the last quarter. During the previous quarters, members of the monitoring team

reviewed relevant policies and approved implementation of these policies as written.

Members of the monitoring team during the May, 2001 site visit, observed the operation of the 24 hour toll-free telephone hotline and confirmed that Inter-Office Communications regarding activation of toll-free hotline, Inter-Office Communications establishing the New Jersey State Police hotline, and a memorandum outlining procedures for receiving hotline calls and conducting weekly reviews are still in place and serve as the basis for Phase I compliance. Members of the independent monitoring team reviewed the hot-line log, listened to excerpts of the hot-line recordings for the quarter, and reviewed existing training and management practices for the hot-line.

Status

Log entries have the requisite information to determine appropriate follow-up for calls received on the hot-line. Members of the monitoring team observed the operation of the 24-hour toll free telephone hot-line and confirmed the interoffice communications regarding activation of the toll free hotline and a memorandum outlining procedures for receiving hot-line calls and conducting weekly reviews are still in place and serve as the basis for Phase I compliance.

All log entries reviewed by the monitoring team included the requisite information for generating a citizen’s complaint investigation. Hot-line calls appeared to be followed up in a reasonable amount of time. Personnel handling hot-line calls notify callers that the conversation is being recorded, and all callers whose calls were reviewed by the monitoring team were treated professionally.

The monitoring team, during its May 2001 site visit, listened to the toll-free hotline and determined that it is functional and serves as the basis for initiating investigations. Members of the monitoring team listened to complaints received by the hotline on March 13, 2001 and verified that the complaints were appropriately documented on citizen complaint forms.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

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

Task 63 stipulates that:

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

Methodology

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

Members of the monitoring team during the May, 2001 site visit again queried representatives of OPS to confirm if New Jersey State Police SOP B10 "Internal Investigations Procedures" dated March 15, 1996, and a memorandum outlining procedures for the assignment of control numbers, were still the guiding authorities for compliance with Task 63.

Status

Based on a review of citizen complaint forms and an examination of the fifty-nine cases completed this quarter, there appears to be compliance with Task 63. While there is still reliance on Inter-Office Communications and Memoranda, these documents will be eventually replaced by specific mention of these requirements in the "Operational Guide and Manual for Conducting Internal Investigations" and SOP B10. During the May, 2001 site visit, members of the monitoring team reviewed several citizen complaints that were taken at facilities other than PSB and appropriately forwarded to PSB.

Compliance

Phase I: In Compliance
Phase II: In Compliance

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

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

Task 64 stipulates that:

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

Methodology

During previous site visits, members of the monitoring team have visited the Freehold offices of the PSB. Members of the monitoring team during the May, 2001 site visit and previous visits reviewed the website for references to advertisement of the location and function of the Freehold offices of the Office of Professional Standards.

Status

Members of the independent monitoring team determined that the Freehold location is still a viable alternative facility. Members of the monitoring team, during the May, 2001 site visit observed documents substantiating that there was at least one interview of a civilian witness and thirty interviews of troopers who were witnesses or principals in investigations held at the Freehold offices of the Office of Professional Standards.

Compliance

Phase I: In Compliance
Phase II: In Compliance

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

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

Task 65 stipulates that:

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

Methodology

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

Further, members of the team reviewed complaint investigations to determine whether or not a case had been created for actions consistent with the stipulations of this decree.




Status

Representatives of the Office of Professional Standards continue to indicate to members of the monitoring team that there is some systemic difficulty in assuring that local prosecutors will forward this information to either to the Division of Criminal Justice or directly to the NJSP. During the May, 2001 site visit, representatives of the state indicated that there has been some progress in this regard. During the May 2001 site visit, members of the monitoring team reviewed at least one case which serves as an example of State compliance with this requirement. The monitoring team is satisfied that the state has implemented an adequate process to assure notice of circumstances as articulated in this task. In future site visits, the monitoring team will continue to closely scrutinize the state's efforts to improve and formalize the requisite process essential for continued compliance with this task.

Compliance

Phase I: In Compliance
Phase II: In Compliance

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

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

Task 66 stipulates that:

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

Methodology

No changes in New Jersey State Police policies regarding this task were made since the last quarterly visit. During previous visits, members of the monitoring team reviewed a memorandum from the Office of State Police Affairs to the Division of Law which addressed the requirements of this task. During the May, 2001 site visit, members of the independent monitoring team were provided a list of pending civil cases.

Status

Members of the independent monitoring team find the state to be in compliance with this task. During the February, 2001 site visit, it was determined that the Division of Law of the State of New Jersey had forwarded to the Division of State Police notification that seven claims had been filed during the relevant reporting period. During the May 2001 site visit, members of the monitoring team inspected two citizen complaints which document receipt of notices of claim by the Office of Professional Standards. Since all citizen complaints are reviewed by OSPA, the state is in compliance with this requirement by virtue of this review process. The monitoring team believes there is a sufficient process of notification currently in place to notice both the state Police and the OAG.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

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

Task 67 stipulates that:

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

Methodology

Members of the monitoring team during the May 2001 site visit confirmed that the memorandum of May 18, 2000 from the OAG to the Division of Criminal Justice was still the basis for Phase I compliance.

While no changes in NJSP policies regarding this task were made since the last quarterly visit, members of the monitoring team believe that the state has established a record of sustained compliance indicative of “reasonable effort.” During previous visits, the monitoring team reviewed a memorandum from the Office of State Police Affairs to the Division of Law, which addressed the requirements of this task.

Status

Members of the monitoring team, during the May, 2001 site visit reviewed a citizen complaint which documents an incident in which a Municipal Court Judge asserted that a traffic stop conducted by the Trooper was a problematic stop which may have involved a race-based factor. The matter came to the attention of the state Police pursuant to the state’s request for notification of such actions, and pursuant to the decree, it was referred to the OSPA who opened up a complaint investigation file. This case is now being investigated by OPS. This is the second site visit in which the monitoring team has reviewed evidentiary material that supports a sustainable effort to comport with this requirement.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.43 Compliance with Task 68: Notice of Adverse Involvement

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

Task 68 stipulates that:

68. The State Police shall require all state troopers promptly to notify the State Police of the following: the trooper is arrested or criminally charged for any conduct; the trooper is named as a party in any civil suit involving his or her conduct while on duty (or otherwise while acting in an official capacity); or the trooper is named as a party in any civil suit regarding off-duty conduct (while not acting in an official capacity) that alleges racial bias, physical violence, or threats of physical violence by the trooper. State troopers shall report this information either directly to the PSB or to a supervisor who shall report the information to the PSB. The PSB shall notify the OAG of PSB's receipt of this information.

Methodology

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

Status

During its February 2001 site visit, the monitoring team had determined that this requirement is now incorporated into SOP B10, III.C.1. During its May, 2001 site visit, members of the monitoring team reviewed two cases reflecting compliance with this task. In both of these cases, there was supporting documentation to indicate that troopers had self-reported activity required by the decree. These documents verify that the state is complying with the requirements of this task

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.44 Compliance with Task 69: Duty to Report Misconduct

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

Task 69 stipulates that:

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

Methodology

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

Status

The status of this task essentially remains the same as in previous site visits. Requirements outlined in this task are now part of SOP B10, III.C.2, which is pending promulgation. The monitoring team, during its February, 2001 site visit, was advised by a member of the OSPA that of the seventy-five citizens complaints reviewed by the OSPA during that reporting period, there had been no instances of internally generated allegations of the types of conducts enumerated in this task. During its May, 2001 site visit, members of the monitoring team reviewed one case in which a trooper reported a violation by a Lieutenant involving an unreported traffic stop. Requirement 69(d) specifically addresses this issue. Members of the monitoring team find that the state presented sufficient evidence to support a compliance with this requirement.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

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

Task 70 stipulates that:

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

Methodology

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

Members of the monitoring team again discussed compliance with Task 70 with representatives of the OPS. It was determined that the same documents reviewed during the previous site visits were still in place and served as the basis for Phase I compliance.

Status

The New Jersey State Police, Office of Professional Standards, has the same duties and responsibilities as those identified in the decree for the "Professional Standards Bureau." Final revisions to the Internal Investigations Manual are still pending. Problems with compliance with this task are centered around the requirement that the state "encourage highly qualified candidates to become PSB

investigators,” and that the bureau be staffed and funded “sufficiently.” While it appears that the state has assembled a cadre of highly qualified, committed investigators (all personnel assigned to OPS are new to the unit), there appears to be no formalized process institutionalized to ensure that the most qualified continue to be recruited for these positions. Documentation of the “selection process” consists of self-generated “resumes” for personnel selected.

Members of the monitoring team, during the May 2001 site visit, were able to identify more discernible progress in the active recruitment for personnel for the OPS function. Members of the monitoring team, during the last site visit, reviewed documents that indicate that as of December, 29, 1999, there had been eleven sworn personnel and three civilian personnel assigned to the IAB. As of the end of the last reporting period, December 31, 2000, there were twenty-two sworn personnel and four civilians assigned to the OPS. While this was a significant increase and the unit is populated with dedicated professionals, the backlog of investigations alone raises questions as to the proper staffing of this function. Representatives of the OPS indicate to the members of the monitoring team that a concerted effort to clear old cases has been a priority of the organization. During its May, 2001 site visit, members of the monitoring team were presented with a roster of OPS personnel, dated March 26, 2001. According to the tally of that sheet and representations made to the monitoring team by members of OPS, there are forty-three sworn and twelve civilian personnel assigned to OPS. On May 29, 2001, an additional three personnel were assigned to OPS. The monitoring team has been advised that the backlog of cases currently awaiting completion will be addressed by the temporary full-time assignment of investigative personnel, who will be assigned the responsibility of clearing the backlogged cases. The monitoring team, during future site visits, will determine if the staffing levels sufficiently address whether the number of incoming citizens’ complaints equals the number of resolved citizens’ complaints, over an extended period of time.

The monitoring team recognizes that it is currently difficult to accurately gauge the state’s progress in this regard, since many of the OPS efforts are being committed to backlogged investigative files. The monitoring team will continue to assess the state’s progress in this area.

Compliance

Phase I:	In Compliance
Phase II:	Not In Compliance

2.46 Compliance with Task 71: Formal Eligibility Requirements for PSB

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

Task 71 stipulates that:

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

Methodology

Members of the monitoring team have reviewed and approved the eligibility criteria for members of the Office of Professional Standards. Members of the monitoring team during the May, 2001 visit, reviewed material relevant to both training and performance evaluation for personnel assigned to the OPS.

Status

OPS still maintains in its files "resumes" generated by OPS personnel of their own backgrounds. These assignments are still made by the Office of the Superintendent and are not subject to the same requirements as are positions covered by the collective bargaining agreement. The standard New Jersey State Police performance evaluation still does not reflect the categories or skill sets as outlined in this task. As of December 31, 2000, the OPS began to use a specially crafted instrument for incumbent personnel that directly reflect the eligibility criteria as articulated in this task. Representatives of OPS also cited the creation of a revised New Jersey State Police evaluation form that is being used by OPS, but had not been fully and formally been adopted by the agency at that time. The instrument will use benchmarking to assist the evaluation process.

The specific performance indicators for IAB personnel are nonetheless captured in the specially designed instrument. Positions in IAB are still not "posted" for vacancies because of provisions relevant to the collective bargaining agreement.

Members of the monitoring team inspected personnel information on OPS members and noted that the locally generated performance monitoring forms had been completed on one-half of assigned personnel. This is a continuing process that commenced at the end of calendar year 2000 and reflects the skills as articulated in this task. The monitoring team believes that the state, notwithstanding constraints of the collective bargaining agreement, is in compliance with this task. During its May, 2001 site, the members of the monitoring team reviewed a "Personnel Transfer Form" and an attached self-generated resume, which includes the skill sets and required selection criteria of the applicant. In future site visits, the monitoring team will continue to look for more substantive, across-the-board progress relevant to the agency's uniform performance appraisal system and its applicability to OPS personnel and the skill sets and criteria articulated in this task.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

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

Task 72 stipulates that:

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

Methodology

Members of the monitoring team during the February 2001 site visit had reviewed various OPS internal documents regarding training for OPS personnel. The documents included a training roster which showed attendance dates,

course titles and the names of OPS attendees. Additionally, members of the monitoring team reviewed an IOC and an "Operations Instruction," both of which directed OPS personnel to attend training in ethics.

Status

Members of the monitoring team, during the May 2001 site visit reviewed a copy of an attendance roster of OPS personnel who were in attendance at an in-service training course on March 1, 2001, and observed the training program by attending one session of the B-10 training provided by the state. Subject matters were consistent with the skills and topical areas as articulated in this requirement. Additionally, members of the monitoring team were given copies of two Inter-Office Communications (IOCs) directing OPS personnel to two courses: one sponsored by NYPD, the other by the FBI. The state is demonstrating a continuing pattern of compliance with this task.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.48 Compliance with Task 73: Initiation of Misconduct Investigations

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

Task 73 stipulates that:

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

Methodology

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

During the last site visit, members of the monitoring team confirmed that the Office of Professional Standards is still using the documents and IOC reviewed during the September site visit as the basis for the unit's procedures and its compliance with Phase I. During the September 2000 site visit, representatives of OPS, at the request of the monitoring team, presented a verbal flow chart with accompanying documents that sufficiently outlined the investigative process. The independent monitoring team continues to encourage the state to complete revisions to, and documentation of, internal investigative policies.

Status

Members of the monitoring team, during the May 2001 site visit inspected fifty-nine cases completed during the relevant reporting period and verified that the state is in fact opening investigations consistent with the requirements as articulated in this task. Members of the monitoring team noted one instance in which a case was dismissed by a judge (see section 2.42, above). In addition, during this quarter, the state received seven "notices of pending civil actions." Two of these fit the stipulations of this task requiring opening of misconduct investigations. Both of these events resulted in the initiation of misconduct investigations at OPS (see section 2.41, above).

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.49 Compliance with Task 74: Responsibility for Conducting Internal Investigations

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

Task 74 stipulates that:

74. All misconduct investigations shall be conducted by the PSB or the OAG except as delegated to the chain-of-

command supervisors. Assignment of misconduct investigations will be made as follows:

a. The PSB or the OAG shall conduct misconduct investigations in the following circumstances:

i. all complaints alleging a discriminatory motor vehicle stop; all complaints alleging an improper enforcement action or procedure in connection with or during the course of a motor vehicle stop; and all complaints alleging excessive force in connection with any motor vehicle stop;

ii. all complaints relating to any motor vehicle stop where a State Police supervisor either was at the incident scene when the alleged misconduct occurred or was involved in planning the State Police action whose implementation led to the complaint;

iii. any misconduct investigation undertaken pursuant to any event identified in subparagraphs (b) through (e) of ¶73; and

iv. any other category of misconduct complaints or any individual misconduct complaint that the OAG and/or State Police determines should be investigated by PSB or OAG.

The State Police may continue to assign misconduct investigations not undertaken by the OAG or PSB to the chain-of-command supervisors.

b. The PSB and the OAG shall review all misconduct complaints as they are received to determine whether they meet the criteria (set forth in subparagraph (a) above) for being investigated by the PSB, the OAG or being delegated to a chain-of-command supervisor.

Nothing in this decree is intended to affect the allocation of misconduct investigations between the PSB and the OAG.

Methodology

Members of the monitoring team during the May 2001 site visit determined that the same material reviewed during previous site visits governed the state's Phase I compliance with this task. A memorandum dated September 14, 2000 from the Office of Professional Standards to the Office of State Police Affairs memorialized a general understanding that OPS and OAG would continue to review complaints to jointly determine the appropriate venue for the initiation of an investigation. Further, the monitoring team reviewed cases which covered allegations of the types enumerated in Task 74.

Status

Members of the monitoring team, during the May, 2001 site visit, determined that the memoranda dated September 14, 2000 and December 8, 2000 still govern and memorialize the allocation of investigative cases. The monitoring team verified through a review of all citizen complaint forms for the period January 1, 2001 through March 31, 2001 that no instances of misallocation of investigative responsibilities existed. During the May, 2001 site visit, members of the monitoring team were able to determine that proper assignment criteria are being used by the state in the allocation of cases. This was based on a review of citizen complaints and a specific review of a sensitive complaint that was properly dispatched to OSPA, OAG for investigation and follow-up. The monitoring team's audit of these records confirmed this process. Members of the monitoring team examined OSPA form "Tasks Requiring Review of SP-251" and determined that this instrument effectively audits whether or not the state is properly allocating matters for investigative follow through that are enumerated in Task 74. Members of the monitoring team have noted no "misassigned" investigations in the files reviewed by the team.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

Task 75	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	[Solid Blue]											
Phase II	[Solid Blue]	[Diagonal Yellow/Black]										

Task 75 stipulates that:

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

Methodology

Methodology

No changes in New Jersey State Police policies regarding this task were made in the last quarter. During the first quarter, members of the monitoring team

reviewed relevant policies and approved implementation of these policies as written.

During its May, 2001 site visit, members of the monitoring team revisited the "Conduct of Investigations" section of the Inter-Office Communications from the Superintendent, which specifically precludes investigators with a conflict of interest from participating in any way in the conduct or review of the investigation.

Status

Previous IOC's which have governed this requirement have been properly incorporated into SOP B10. Members of the monitoring team were advised by representatives of both the OSPA and OPS that during the reporting period of January 1, 2001 to March 31, 2001, there were two instances of conflicts of interest which resulted in reassignment of cases.. During its May, 2001 site visit, members of the monitoring team was able to examine a variety of documents which verify the state's compliance with this requirement. Members of the monitoring team are satisfied that the state continues to comply with the requirements of this task. The monitoring team believes that the state remains in Phase II compliance with this task.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.51 Compliance with Task 76: Prohibition of Group Interviews

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

Task 76 stipulates that:

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

Methodology

No changes in New Jersey State Police policies regarding this task were made since the last site visit. During previous site visits, members of the monitoring team reviewed relevant policies and approved implementation of these policies as written.

Members of the monitoring team, during the May, 2001 site visit, determined that the same documents reviewed during previous visits continue to serve as the basis for Phase I compliance. During its May, 2001 site visit, members of the monitoring team reviewed investigative folders that were completed from the period of January 1, 2001 to March 31, 2001.

Status

Paragraph C.4 of the Inter-Office Communication regarding disciplinary procedures precludes the use of group interviews in an internal investigation. Additionally, members of the monitoring team inspected the "Case Content Analysis Instrument," an OSPA document that ensures OPS compliance with the decree as well as other indicators not specifically articulated in the decree. The state, through the OSPA, OAG, completes and maintains this "Case Content Analysis Instrument" for every investigation. This form is an internal screening form used by the state, but not controlling on the monitoring team. The monitoring team is satisfied that the state has sufficient safety nets to assure that investigations are conducted in a manner consistent with this requirement. Of the sixty-four elements addressed by this form, two of them, questions 34 and 35, are relevant to this task. In no case was there any instance of investigative processes violative of the provisions of this task. No group interviews or written statements in lieu of an interview were found in any of the 59 cases reviewed by the monitoring team.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.52 Compliance with Task 77: Alternative Locations for Interviews

Task 77	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	[Solid Blue]											
Phase II	[Vertical Stripes]	[Diagonal Stripes]										

Task 77 stipulates that:

77. The State shall arrange a convenient time and place, including by telephone (or TDD), to interview civilians for

misconduct investigations. The State Police shall reasonably accommodate civilians' circumstances to facilitate the progress of an investigation. This may include holding an interview at a location other than a State office or at a time other than regular business hours.

Methodology

No changes in New Jersey State Police policies regarding this task were made since the last site visit. During the first two quarters, members of the monitoring team reviewed relevant policies and approved implementation of these policies as written.

Status

Members the monitoring team reviewed the OSPA, OAG "Case Content Analysis Instrument" for its assessment of cases completed during the period January 1, 2001 to March 31, 2001. During its May, 2001 site visit, the monitoring team determined that the state accommodates the needs of civilian witnesses and/or complainants as evidenced, for example, by a case in which an investigator went to a complainant's place of employment to conduct an interview. In another case, a witness was interviewed at his home. Other examples include telephonic interviews and one interview conducted in Pennsylvania. Members of the independent monitoring team are satisfied that the state is complying with this task and that adequate safeguards, as promulgated by the OSPA, have been implemented to assure OPS is satisfactorily meeting the requirements of this task.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.53 Compliance with Task 78: Investigation of Collateral Misconduct

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

Task 78 stipulates that:

78. In conducting misconduct investigations, the State shall assess the propriety of all state trooper conduct during the incident in which the alleged misconduct occurred. If during the course of an investigation the investigator has reason to believe that misconduct occurred other than that alleged, and that potential misconduct is one of the types identified in ¶69, the investigator also shall investigate the additional potential misconduct to its logical conclusion.

Methodology

No changes in New Jersey State Police policies regarding this task were made since the last site visit. During the previous quarters, members of the monitoring team reviewed relevant policies and approved implementation of these policies as written.

Status

Members of the independent monitoring team, during the May, 2001 site visit, noted that documentation previously accepted as supportive of Phase I compliance has now been appropriately incorporated into SOP B10, III.G.2. (a) and (b), "Conduct of Investigation." During the May, 2001 site visit, the monitoring team determined that the state, in its "Case Content Analysis" is checking if "satellite" matters are being identified and pursued. They were properly investigated in at least four cases. The monitoring team finds that the OSPA instrument adequately assures that the OPS complies with the provisions of this task, and found evidence of such compliance during their case file review for this quarter. Members of the monitoring team noted four cases, of the 30 reviewed, in which collateral misconduct was investigated.

Compliance

Phase I: In Compliance

Phase II: In Compliance

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

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

Task 80 stipulates that:

80. The State shall update its manual for conducting misconduct investigations to assure that it is consistent with the recommendations contained in the Final Report and the requirements of this Decree.

Methodology

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

Status

During its May, 2001 site visit, the members of the monitoring team determined that the Investigations Manual is no longer going to be considered an appendage to SOP B-10. The Chief Investigator of OPS advised the members of the monitoring team that the state determined it inappropriate to circulate amongst all 2,700 members the intricacies of the investigative process as articulated in the Manual. Consequently, the Manual is no longer a part of SOP B-10. Members of the monitoring team were advised that NJSP personnel are going through Phase V training which includes "constitutionality of stops" and also includes specific training regarding the new B-10 policy. This is half-day training. Constitutional issues are taught by OSPA and B-10 training is conducted by State Police personnel. The operative date for B-10 is projected to be July 1, 2001. As of the date of the site visit to OPS, May 29, 2001, the "Manual" has not been signed by the Superintendent.

Compliance

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

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

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

Task 81 stipulates that:

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

Methodology

Members of the independent monitoring team, during the May, 2001 site visit, determined that the state continues to rely on a collection of memoranda, inter-office correspondence and unit policies to address this requirement. Additionally, the "Case Content Analysis Instrument," question 46, captures this information and assures that the OSPA, can verify OPS compliance with this task.

Status

Members of the independent monitoring team, based on reviews of 30 completed case investigation files made available during the May, 2001 site visit, determined that there is a discernable pattern of compliance with the requirements of this task. Additionally, the state through its "Case Content Analysis" worksheets, question 46 attempts to verify, during its own reviews, whether or not the preponderance standard has been met. All 30 cases reviewed this quarter had findings developed in accordance with the preponderance of evidence standard.

Compliance

Phase I: In Compliance
Phase II: In Compliance

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

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

Task 82 stipulates that:

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

Methodology

No changes in New Jersey State Police policies regarding this task were made since the last site visit. During the previous site visits, members of the monitoring team reviewed relevant policies and approved implementation of these policies as written.


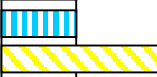
Status

During its May 2001 site visit, members of the independent monitoring team determined that, in all instances in which tapes were recorded, investigators reviewed these tapes as part of the investigative process. Additionally, the OSPA, OAG "Case Content Analysis Instrument," question number 38 was effectively used by the state as a tool to determine OPS compliance with the provisions of this requirement. All case files reviewed in which an MVR tape existed included a narrative or other evidence that the investigator had reviewed the MVR.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

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

Task 83 stipulates that:

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

Methodology

No changes in New Jersey State Police policy regarding this task were made since the last site visit. During the first three quarters, members of the independent monitoring team reviewed relevant policies and approved implementation of these policies as written.

Status

The monitoring team noted that previous internal memoranda used to document compliance with this task continue in effect. Training for OPS personnel in processes related to this task is still pending, but is highlighted as part of the annual training plan. The thirty case files reviewed this quarter indicate that circumstantial evidence is being considered where appropriate. The state, through its "Case Content Analysis Worksheet," also verifies this information through questions 47 and 48.

Compliance

Phase I: In Compliance
Phase II: In Compliance

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

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

Task 84 stipulates that:

- 84. The State shall continue to resolve each allegation in a misconduct investigation by making one of the following dispositions:**
- a. "Substantiated," where a preponderance of the evidence shows that a state trooper violated State Police rules, regulations, protocols, standard operating procedures, directives or training;**
 - b. "Unfounded," where a preponderance of the evidence shows that the alleged misconduct did not occur;**
 - c. "Exonerated," where a preponderance of the evidence shows that the alleged conduct did occur but did not**

violate State Police rules, regulations, operating procedures, directives or training; and d. "Insufficient evidence" (formerly "unsubstantiated"), where there is insufficient evidence to decide whether the alleged misconduct occurred.

Methodology

No changes in New Jersey State Police policies regarding this task were made since the last site visit. During the first three quarters, members of the monitoring team reviewed relevant policies and approved implementation of these policies as written. Additionally, members of the monitoring team reviewed thirty of the fifty-nine cases completed from the period January 1, 2001 to March 31, 2001.

Status

Members of the Independent Monitoring Team during the May, 2001 site visit, confirmed that existing unit policy, memoranda and inter-office communications continue to be the source of policy guidance for this task. Additionally, the OSPA, OAG "Case Content Analysis Instrument," question 45 accurately captures OPS compliance with this requirements and sufficiently assures that OSPA, OAG, is effectively monitoring the Division's compliance with this task. Despite the "Case Content" instrument, however, members of the monitoring team determined that findings of "unsubstantiated" still had to be changed to "insufficient evidence" upon administrative review. Training for investigators in these specific requirements appears necessary, although the change in disposition at the administrative level meets the minimum requirements of the decree. Letters to complainants issued by the state meet the "insufficient evidence" disposition classification requirement.

Compliance

Phase I: In Compliance
Phase II: In Compliance

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

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

Task 85 stipulates that:

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

Methodology

No changes in New Jersey State Police policies regarding this task were made since the last site visit. During the first three quarters, members of the monitoring team reviewed relevant policies and approved implementation of these policies as written. Members of the independent monitoring team during the May 2001 site visit reviewed thirty of the fifty-nine investigative folders completed between January 1, 2001 and March 31, 2001.

Status

Unit policy, memoranda and inter-office correspondence continue to serve as the only policy guidance for this task. The state, through its "Case Content Analysis Worksheet" captures OPS compliance with this requirement through question number 31. No withdrawn complaints were noted this quarter. The agency remains in compliance based on past performance.

Compliance

Phase I: In Compliance
Phase II: In Compliance

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

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

Task 86 stipulates that:

86. At the conclusion of each misconduct investigation, the individual responsible for the investigation shall issue a report on the investigation, which shall be made

a part of the investigation file. The report shall include a description of the alleged misconduct and any other misconduct issues identified during the course of the investigation; a summary and analysis of all relevant evidence gathered during the investigation; and findings and analysis supporting the findings.

Methodology

Unit policy, memoranda and inter-office communications continue to serve as the only policy guidance for this task. A review of a sample of the completed case folders places the agency in Phase II compliance with this task. Training for Office of Professional Standards personnel in processes related to this task is still pending and is appropriately addressed in the annual training plan. All 30 cases reviewed this quarter had final reports responsive to this task. Additionally, the state, through the "Case Content Analysis" worksheet determines OPS compliance through question 49.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

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

Task 87 stipulates that:

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

Methodology

Although the state continues to attempt completion of misconduct investigations within 45 days, the parties have agreed to a 120 day maximum for completion of misconduct investigations, with exceptions specifically noted in the current policies developed by the state and approved by Justice and the monitors.

Status

Members of the independent monitoring team during the February 2001 site visit discussed with representative of the state the revision to the time period articulated in this task. None of the fifty-nine cases completed during the time period January 1, 2001 and March 31, 2001 were in compliance with either the forty-five day time period or the revised requirement of 120 days.

Members of the monitoring team were presented with fifty-nine completed cases for this reporting period. A completed case is considered as such upon the placement of the Superintendent’s signature. The team reviewed for content and practice 30 of these cases.

None of the 59 cases completed during this quarter were completed in 45 days. None was completed in 120 days. The monitoring team reviewed the state’s policy requiring investigators to bring to the attention of their superiors the need to request extensions if the completion will be in excess of 120 days. Members of the monitoring team were given two documents, “Request for Extension of Time” policy, that articulates a requirement for an extension request at the ninety-day mark, and the actual form used in making requests for extension of time. The oldest case completed this quarter, as determined by the date it was received and the date it was closed, was twenty-eight months between initiation and completion.

Compliance

Phase I: In Compliance
 Phase II: Not In Compliance

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

Task 88	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	[Solid Blue]											
Phase II	[Vertical Stripes]	[Diagonal Stripes]										

Task 88 stipulates that:

88. The State Police shall discipline any state trooper who is the subject of a substantiated misconduct adjudication or disposition regarding: (a) prohibited discrimination; (b) an unreasonable use of force or a threat of force; (c) an intentional constitutional violation; (d) an intentional failure to follow any of the

documentation requirements of this Decree, (e) an intentional provision of false information in a misconduct investigation or in any report, log, or transmittal of information to the communications center; or (f) a failure to comply with the requirement of ¶169 to report misconduct by another trooper.

Methodology

No changes in New Jersey State Police policies regarding this task were made since the last site visit. During the first three quarters, members of the monitoring team reviewed relevant policies and approved implementation of these policies as written.

Status

Unit policy, memoranda and inter-office correspondence continue to serve as the only policy guidance for this task. The "New Jersey State Police Office of Professional Standards Update" is still posted throughout the organization. The document lists an issuance date of written reprimands/suspensions for this reporting period. During its May, 2001 site visit, the monitoring team reviewed two cases, in which troopers were disciplined pursuant to the provisions of part (d) of this task requirement. Additionally, members of the monitoring team reviewed a document, prepared during the normal course of business at OSP, which lists the written reprimands issued during this reporting period which are relevant to the examples of misconduct as articulated by this requirement. By virtue of tangible examples of applications of this requirement, the monitoring team believes the state has shown measurable Phase II compliance with this requirement.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

Task 89	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	[Solid Blue]											
Phase II	[Vertical Stripes]											

Task 89 stipulates that:

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

Methodology

No changes in New Jersey State Police policies regarding this task were made since the last site visit. During the first three quarters, members of the monitoring team reviewed relevant policies and approved implementation of these policies as written. Members of the independent monitoring team during the May 2001 site visit determined that documents previously accepted for Phase I compliances purposes continue to be the sole policy guidance for this task.



Status

Members of the monitoring team during the May 2001 site visit queried representatives of the OPS and the OSPA as to the existence of any case, the substance of which touches upon the criteria as enumerated in this task. The monitoring team determined that there were no instances in which a trooper was disciplined during the relevant reporting period for violations as articulated in this requirement. Members of the monitoring team and representatives of the OSPA and OPS discussed the appropriate definition of "discipline" with the context of this task requirement. The state cited instances in which a trooper may, in fact, resign his position as part of a plea arrangement in lieu of internal discipline or criminal sanction. A specific case that was outside of the current reporting period was cited.

Compliance

Phase I: In Compliance
Phase II: Unable to Monitor

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

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

Task 90 stipulates that:

90. In deciding the appropriate discipline or intervention for each state trooper who is the subject of a "substantiated" adjudication or disposition in a misconduct investigation and each trooper who is to be disciplined pursuant to ¶89, the State shall consider the nature and scope of the misconduct and the information in the MAP. In all instances where the State substantiates a misconduct allegation regarding matters identified in ¶88 or disciplines a trooper pursuant to ¶89, it shall also require that intervention be instituted (except where the discipline is termination). Where a misconduct allegation is not substantiated, the State shall consider the information in the investigation file and in the MAP to determine whether intervention should be instituted.

Methodology

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

Members of the independent monitoring team during the May 2001 site visit determined that documents presented during the earlier site visits still serve as the basis for Phase I compliance. During this visit, members of the monitoring team reviewed 30 of the 59 investigative folders completed during the quarter.

Status

New Jersey State Police disciplinary actions are covered in the agency's "Rules and Regulations," Article II, Sections 1-10. While these regulations leave discretionary decision authority to the superintendent, nothing in those regulations prohibit the agency from being responsive to this task. The MAPPS computer support program for disciplinary decisions is in the planning state, and is expected to come on-line in the winter of 2001. During its May, 2001 site visit,

members of the monitoring team were advised by representatives of the state that certain elements of the MAPPS computer support program are being tested and altered but will still not be operational until the Winter, 2001. Members of the monitoring team have still not approved the manner and process by which MAPPS data will be considered in imposing appropriate discipline, as the state's plans are not sufficiently specific to allow such an assessment. In all instances in which the OPS investigative process has sustained a misconduct investigation this quarter, appropriate discipline or other stipulated intervention was executed, in accordance with the tenets of progressive discipline (see section 2.62, above). No findings of guilt or liability were noted this quarter (see section 2.63, above).

Compliance

Phase I: In Compliance
 Phase II: Not in Compliance

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

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

Task 91 stipulates that:

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

Methodology

Members of the independent monitoring team during the May, 2001 site visit, received an updated demonstration of the "IA Professional" case management software from CI Technologies. Members of the independent monitoring team had noted in previous site visits that the state was awaiting the arrival and installation of this system.

Status

The IA case management software will be used to track open and historical cases relevant to timeliness, assignment, status, disposition and discipline associated with investigations. Trooper synopsis information will also be available from the system. The system will be used to generate sequential case numbers – numbers that are currently assigned from a written ledger. Current plans call for OPS to continue to use redundant processes until such time as there is greater confidence in both the understanding and reliability of the new system. The system is currently receiving live cases into the data base. Current plans are for "IA Professional" to report the information required for the MAPPS program into the MAPPS data system. Based on the on-site review of the IA case management system, the software continues to appear to be capable of serving as the unit's management information system, as it replicates most of the current paper-based management system, and, in many ways, improves upon the current system's capabilities. The monitoring team, during its May 2001 site visit, reviewed the CI Technology software. The state indicates that they want to incorporate the "Reportable Incident Form" which should take effect on or about July 1, 2001 to avoid duplicating information initially received at the stations. Eventually, the state wishes to replace the internal citizen complaint form with an "electronic" version accessible from the state Police on-line computer system.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.66 Compliance with Task 92: Resolution of Investigations

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

Task 92 stipulates that:

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

Methodology

During the May, 2001 site visit, members of the independent monitoring team examined completed case files to determine if the policy changes which took effect during the second and third quarter were being followed. Members of the monitoring team, during their May 2001 site visit, examined fifty-nine case files completed between January 1, 2001 and March 31, 2001.

Status

During the May, 2001 site visit, the monitoring team determined that of the fifty-nine cases completed during this reporting period, fifty-one were externally generated and letters were in fact sent to each of the complainants upon completion. Additionally, the state, through its "Case Content Analysis" worksheet internally determines OPS compliance through question 57.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.67 Training Assessment

The following sections of this report deal with the process of training, as delineated in the consent decree, sections 93-109. The New Jersey State Police have continued to responded professionally in developing agency training processes. The methodology they have used in developing this training reflects an intention to move New Jersey State Police to a state-of-the-art training process. While the reader will note a number of "not in compliance" assessments in the training section of this report, this is due in no way to a resistance or reluctance on the part of the agency to comply. It is due to the painstaking, thorough and professional manner in which the academy is planning and implementing training which, as members of the academy staff note, will carry the agency into the next phase of its history.

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

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

Task 93 stipulates that:

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

Methodology

Members of the monitoring team spoke with academy staff responsible for this task.

Status

The Academy staff continues to engage in the five essential stages of training development for the many courses they are developing and for those they currently provide. There is an overlap of stages in some content areas. The current supervisory training continues to be taught while Academy staff evaluate and assess the need for revisions.

The state has submitted a ten-point plan for creation of a feedback mechanism to evaluate the degree to which state troopers implement the practices and procedures being taught. This plan constitutes a reasonable approach. As of the date of this report, none of the requirements for in-field assessments have produced tangible product. These will be reviewed during the next site visit.

Compliance

Phase I: In compliance
 Phase II: Not in compliance

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

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

Task 97 stipulates that:

97. The State shall continue to encourage superior troopers to apply for Academy, post-Academy, and trooper coach training positions.

Methodology

A member of the monitoring team spoke with Academy staff responsible for this task, and reviewed selection processes for trooper coach and academy training positions.

Status

The state is in the process of advertising via teletype to all stations within the agency for openings for trainers at the Academy. No new training personnel were selected this quarter. The state remains in compliance based on past performance.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

2.70 Compliance with 98: Formal Eligibility Criteria for Training Personnel

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

Task 98 stipulates that:

98. The State shall establish formal eligibility and selection criteria for all Academy, post-Academy, and trooper coach training positions. These criteria shall apply to all incumbent troopers in these training positions and to all candidates for these training positions, and also shall be used to monitor the performance of persons serving in these positions. The

criteria shall address, inter alia, knowledge of State Police policies and procedures, interpersonal and communication skills, cultural and community sensitivity, teaching aptitude, performance as a law enforcement trooper, experience as a trainer, post-Academy training received, specialized knowledge, and commitment to police integrity.

Methodology:

A member of the monitoring team spoke with Academy staff responsible for this task, and reviewed progress regarding this task for the current quarter.

Status:

Academy Trainers

The state has developed a more comprehensive selection process for Academy trainer positions and will be implementing this process with those currently applying for the new trainer positions.

The new process requires the following:

1. A minimum of five years experience as a trooper;
2. Bachelor's degree;
3. Compliance with departmental physical examination requirements;
4. No pending EEO or IA investigations;
5. No history of discipline within the past year;
6. Completion of a writing assignment related to adult-based learning;
7. Completion of an oral interview.

Extra credit will be given to candidates who have already been certified by the state as trainers.

Trooper Coaches

No further recruitment of coaches has been undertaken at this point. After the 123rd graduating class completes its probationary training with the coaches, the trooper coach evaluations and performance data gathered from the probationary troopers, coaches, and coach coordinators will be reviewed to determine if any changes to the selection and training process for coaches are required. At that time, recruitment of future coaches will be considered.

Compliance with this task is partially dependent upon trooper coach performance evaluations that will be completed by the probationary troopers and the coach

coordinator. These data will not be available until late August when the 123rd class has finished its probationary status with the coaches, so the monitoring team was unable to evaluate all the essential documents due to lack of availability. A member of the monitoring team will assess these documents as they become available on future site visits.

Compliance

Academy Personnel

Phase I: In Compliance

Phase II: Unable to Monitor

Trooper Coach Personnel

Phase I: In Compliance

Phase II: Unable to Monitor

2.71 Compliance with Task 99: Training for Academy Instructors

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

Task 99 stipulates that:

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

Methodology:

A member of the monitoring team spoke with Academy staff responsible for implementing this task, and assessed available documentation. This section discusses only the requirements relating to leadership for academy and post-academy instructors, as all other components were treated in the second quarterly report.

Status:

Academy/post-Academy Instructors

A three-hour block on situational leadership has been added to the 80-hour train-the-trainers course. The curriculum describes a process for identifying the developmental level of the employee, in relationship to a given task that he/she is required to perform, by determining the degree of competence and commitment the employee brings to the task. With this information, the supervisor is then able to determine one of four supervisory styles that is most appropriate to utilize in assisting the employee to successfully learn to complete the task.

The course touches upon leadership in that it is focused upon improving performance, and it could certainly be used by trainers as one method of diagnosing why a student might be having a problem learning a given concept or skill. However, it does not directly address the topic of leadership. A leadership course would need to provide a more specific focus upon the characteristics, roles, responsibilities, skills and abilities that define leadership. Phase II compliance for this task requires a mechanism to document the state's methodologies to require trainers to "maintain, and demonstrate on a regular basis, a high level of competence." Data to support the attainment of this requirement are not available at this time.

Trooper Coach

Trooper coach training was completed in March 2001. Trooper coach performance evaluations will not begin to be available until the probationary troopers from the 119th class have completed the coaching program in June and final data will be available when the 123rd class is finished in late August 2001. The monitor is unable to determine compliance until these documents become available.

Interviews with trooper coaches and probationary troopers from the 119th class were conducted by staff from the Academy and forwarded to the Office of State Police Affairs. These documents will be reviewed on the next site visit.

Compliance:

Academy/Post-Academy		Trooper Coaches	
Instructors			
Phase I:	In Compliance	Phase I:	In Compliance
Phase II:	Not in Compliance	Phase II:	Not Monitored

2.72 Compliance with 100: Training in Cultural Diversity

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

Task 100 stipulates that:

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

Methodology:

A member of the monitoring team spoke with Academy staff responsible for implementing this task, and assessed the current status of the state's efforts to comply with this task. This section deals with cultural diversity and ethics, as the state has previously been assessed as in compliance with communications skills training in the second quarterly report.

Status:

Cultural Diversity

The consent decree specifies the recruits and troopers shall receive cultural diversity training, "...which shall include training on interactions with persons from different racial, ethnic, and religious groups, persons of the opposite sex, persons having a different sexual orientation, and persons with disabilities."

The curriculum has been revised to address all required issues by the inclusion of an exercise titled, "Cards That You Are Dealt." This information was reviewed by the monitoring team by reviewing the video to be used in the newly revised training, assessing the scenarios to be used in the revised training, and evaluating examination questions used to assess the revised training. Training

for on this topic is scheduled to begin on June 23, 2001. A strategy for retraining anyone who already received the cultural diversity training is being developed.

Ethics/Integrity

Members of the New Jersey State Police completed a one-day training on ethics and integrity. This training was delivered in 24 sessions at 4 locations between March 19th and April 20th.

A twenty-question test was given at the completion of the training, and the five most frequently missed questions were identified. The monitor has requested, and received, a copy of the test and the questions missed, along with a list of how many participants passed or failed the testing. These examination scores will be assessed at the next site visit, as they were not received at a date which would allow review for this quarter.

Compliance:

Phase I: In Compliance
Phase II: Unable to Monitor

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

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

Task 101 stipulates that:

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

Methodology:

A member of the monitoring team spoke with Academy staff responsible for implementing this task, and reviewed the curriculum for Fourth Amendment training.

Status:

The New Jersey State Police came into compliance with this task during a previous site visit. Recruits who do not pass the examination on these topics are allowed one opportunity to retake the exam. If they fail a second time, they are dismissed from the Academy.

Several new recruit classes have been started at weekly intervals. The recruit test results for these topics will be evaluated as they become available.

This task also requires that the state shall provide this information as a mandatory annual in-service. Academy staff and an attorney designated by the Attorney General's Office are in the process of delivering the first annual in-service to all personnel. This effort began on May 14th, and the 43 one-day sessions will be completed on July 13th.

The curriculum was submitted to the monitor for review, and it covers all the items related to completing a lawful motor vehicle stop. The material is comprehensive, clear, and presented in a logical and easily understandable order. Case law and scenarios are used to illustrate points. The instructor's materials demonstrate a broad awareness of relevant issues, as well as the ability to present the relevant issues within the context of daily operational responsibilities. The training provided on this topic by the state is truly state-of-the-art, which emphasizes both Fourth and 14th Amendment issues. The training includes an amendment to the agency's mission statement, reflecting the agencies commitment to equal protection under the law. The training would be a step forward for any law enforcement agency in America concerned with the issue of racial profiling.

Compliance: In-Service

Recruit

Phase I: In Compliance
Phase II: In Compliance

In Compliance
In Compliance

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

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

Task 102 stipulates that:

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

Methodology:

A member of the monitoring team spoke with Academy staff responsible for implementing this task to determine if any progress in this area had been made since the team’s last site visit.

Status:

Phase II compliance cannot be monitored until members of the monitoring team have access to trooper coach evaluations of probationary performance, and other trooper coach and probationary trooper evaluation materials. These documents will not be available until late August.

Compliance:

Phase I: In Compliance
 Phase II: Unable to Monitor

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

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

Task 103 stipulates that:

103. The State Police shall as soon as practicable provide copies and explain the terms of this Decree to all state troopers and employees in order to ensure that they understand the requirements of this Decree and the necessity for strict compliance. After the State has adopted new policies and procedures in compliance with this Decree, the State shall provide in-service training to every state trooper regarding the new policies and procedures and the relevant provisions of this Decree. The State shall incorporate training on these policies and procedures into recruit training at the State Police Academy.

Methodology:

This task was not monitored this quarter.

Status:

The New Jersey State Police achieved compliance in September 2000.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.76 Compliance with 104: Systems Improvement Processes for Police Training

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

Task 104 stipulates that:

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

Methodology:

A member of the monitoring team spoke with Academy staff responsible for implementing this task to determine if any changes have been implemented since the team’s last site visit.

Status:

No process changes have been instituted for this task during this reporting period.

Compliance: In-Service

Phase I: In Compliance

Phase II: In Compliance

2.77 Compliance with 105: Provision of Training for Supervisors

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

Task 105 stipulates that:

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

Methodology:

A member of the monitor’s team spoke with Academy staff responsible for this task, and reviewed a new lesson plan related to supervision.

Status:

Academy staff is presently in the diagnosis/assessment phase related to this task. A committee of operational supervisors and Academy staff will meet in June to identify supervisory issues that need to be addressed in this training.

A one-day training for all supervisors is scheduled to begin in late June or early July and will cover the following topics:

- MAPPS overview;
- Supervisory responsibilities related to the motor vehicle stop reviews; and
- Mobile data computers.

The supervisory training curriculum, still under development, has not been approved by the monitoring team.

Compliance:

Phase I: Not in Compliance

Phase II: Not in Compliance

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

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

Task 106 stipulates that:

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

Methodology:

A member of the monitor’s team spoke with Academy staff responsible for this task, and assessed progress made by the state since the teams last site visit.

Status:

No promotions were made during the fourth quarter. The state remains in compliance on this task.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.79 Compliance with Task 107: Provision of Specialized Training

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

Task 107 stipulates that:

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

Methodology:

Status:

The state and the Department of Justice have identified specialized positions subject to this task. No new assignments or promotions have been to these positions, as of the fourth quarterly site visit.

Compliance

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

2.80 Compliance with 108: Inclusion of Training Data in MAPPS Program

Task 108	1	2	3	4	5	6	7	8	9	10	11	12
Phase I	In Compliance											
Phase II	Not in Compliance											

Task 108 stipulates that:

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

Methodology:

Members of the monitoring team spoke with Academy staff responsible for implementing this task, and assessed progress on this task since the team's last site visit.

Status:

The monitoring team will not be able to assess compliance with this task until the MAPPS program is functional, and the interim computerized data collection system that the Academy continues to use to capture training information can be merged with MAPPS.

Preliminary discussions concerning the training elements to be included in the MAPPS system are underway, but until MAPPS system specifications for training records are provided to the monitors, the state is judged to remain out of compliance with this task.

Compliance

Phase I: In Compliance
Phase II: Not in Compliance

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

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

Task 109 stipulates that:

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

Methodology:

This task was not monitored on this site visit.

Status:

The state remains in compliance on this task, based on past performance.

Compliance

Phase I: In Compliance
Phase II: In Compliance

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

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

Task 110 stipulates that:

110. The Attorney General of New Jersey shall create an Office of State Police Affairs ("office"). The office shall have the responsibility to ensure implementation of the terms of this Consent Decree and provide coordination with the Independent Monitor and the United States

concerning the State Police and matters related to the implementation of the Consent Decree. An Assistant Attorney General shall head the office. The office's responsibilities shall include auditing the manner in which the State receives, investigates, and adjudicates misconduct allegations; auditing the State Police's use of MAP data; and auditing state trooper performance of the motor vehicle stop requirements discussed in the Consent Decree. The office also shall be responsible for providing technical assistance and training regarding these matters. The office shall have such additional responsibilities as may be assigned by the State Attorney General.

Methodology:

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

Status

Based on the monitoring team's review of work product, and information obtained during the process of conducting site visits, it is clear to the members of the monitoring team that the state is in Phase I compliance with this task. Not all duties assigned to the Office of State Police Affairs have been completed as of the fourth site visit. For example, members of the Office of State Police Affairs cannot audit the use of the MAPPs program until the program is functioning. The mechanism and duty assignments, however, exist to complete the duties of the office as soon as practicable, given the implementation schedule of the state's compliance efforts.

While the OSPA has accomplished significant tasks in response to the requirements of this section (initiation of staff inspections of state police road stations, development of content analysis instruments for assessing the quality of OPS investigations, and the initiation of on-going misconduct investigations relative to poor performance at the road station and trooper level, as well as strong quality control of the motor vehicle stop reporting process), Phase II compliance with this task is dependent upon implementation of the MAPPs.

Compliance

Phase I: In Compliance

Phase II: Unable to Monitor

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

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

Task 111 stipulates that:

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

Methodology:

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

Status

The office has developed and disseminated a procedure for compliance with this task, and continues to implement this audit process. Members of the monitoring team have reviewed the state's current report in response to this task. As of June 18, 2001, the state has interviewed (telephonically) 26 of the 92-driver sample of drivers stopped by the New Jersey State Police during the fourth quarter. Work continues to locate and interview a larger portion of the selected drivers sample. Given the nature of the work required by this task, the state's efforts are reasonable and proper. Work continues, by mail and telephone, to contact larger numbers of the universe of stopped drivers. To date, based on documentation reviewed by the monitoring team, no driver has provided the state with information to indicate that the processes engaged in during his or her stop were different from that reported by state police personnel.

Compliance

Phase I: In Compliance
Phase II: In Compliance

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

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

Task 112 stipulates that:

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

Methodology:

Members of the monitoring team have reviewed audit reports for Office of State Police Affairs personnel who have conducted internal audits of the compliment/complaint hotline. The criteria selected for audit of those tapes are included in the audit report. No policies or practice-related documentation exists for internal processes of using testers, although, based on discussions with the state, decisions regarding how to legally and effectively implement this requirement have been made. No use of testers has been made during the last quarter. The state’s audit process for this task is to contact all citizens who have had an internal affairs case resolved during the past quarter and to ask them, in a telephonic interview, specific questions regarding their perceptions of the New Jersey State Police IA process. Eleven of 59 complainants have been contacted and interviewed by OSPA. Eight of the eleven stated that they felt the investigation was unfair or not thorough. Ten of eleven believed OPS “obtained all pertinent information. All eleven confirmed receipt of notice of outcome from the state. Audio tapes of interviews are assessed by the state through the use of its Case Content Analysis Review form, and by the by reviewing transcripts of audio tapes made during OPS interviews. OSPA routinely monitors the hotline to ensure that incoming calls are logged and responded to properly. This process is

completed using OSPA's "800 Questionnaire," a 15-element screening form. A total of 40 hotline calls were assessed.

Status

During the fourth quarter, the state has developed and implemented its policy regarding the use of "testers," which was the one task keeping the state from compliance with this task. During the fourth quarter, OSPA conducted "test" calls to all three road stations at Troop E, requesting information about filing complaints with the state police. These calls were made on 12 separate occasions, over a four-day period, during each of the three shifts (day, evening and night). In each of the twelve cases, according to documents available to the monitoring team, the individual answering the calls at the road stations responded correctly: complaints could be filed telephonically, in person or by mail. In no instance did the individual responding to the "test" attempt to dissuade the caller (the tester) from filing a complaint.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

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

Task 113 stipulates that:

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

Methodology:

Members of the monitoring team observed the personnel from the Office of State Police Affairs during the course of the site visit during the week of May 29, 2001.

Status

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

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

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

Task 114 stipulates that:

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

Methodology:

The state has produced its “Third Semi-Annual Public Report of Aggregate Data,” in response to this provision of the decree.

Status

Members of the monitoring team have reviewed the report entitled "Second Semi-Annual Public Report of Aggregate Data," prepared by the Office of State Police Affairs in January, 2001, and found it to be responsive to the requirements of the decree.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.87 Compliance with Task 115: Appointment of Independent Monitor

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

Task 115 stipulates that:

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

Methodology:

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

Status

The state is judged to be in compliance with this task.

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

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

Task 118 stipulates that:

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

Methodology:

During the course of planning the fourth site visit, the monitoring team made several dozen requests for data, including copies of all canine deployment reports, use of force reports, and consent search reports for all New Jersey State Police Troop commands. In addition, the monitoring team requested copies of 151 specific Motor Vehicle Stop Reports, including supporting documentation. Copies of all completed investigations of citizens' complaints were also requested.

Status

All data requested by the monitoring team were provided, as requested, by the state.

Compliance

Phase I: In Compliance
Phase II: In Compliance

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

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

Task 120 stipulates that:

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

Methodology:

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

Status

The office is in Phase I compliance with this task. Thirty of 59 completed cases were reviewed this quarter. None were selected by the monitoring team to be reopened.

Compliance

Phase I: In Compliance
 Phase II: Unable to Monitor

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

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

Task 122 stipulates that:

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

Methodology:

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

Status

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

Compliance

Phase I: In Compliance
 Phase II: In Compliance

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

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

Task 123 stipulates that:

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

Methodology:

Members of the monitoring team requested for review numerous documents, records, recordings and other information during the course of the team's site visit during the week of May 29, 2001.

Status

All records requested were provided by the state (see Section 2.88, above).

Compliance

Phase I: In Compliance
Phase II: In Compliance

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

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

Task 124 stipulates that:

124. During all times while the Court maintains jurisdiction over this action, the United States shall have access to any State staff, facilities and non-privileged documents (including databases) the United States deems necessary to evaluate compliance with this Consent Decree and, within a reasonable time following a request made to the State attorney, shall, unless an objection is raised by the State, be granted such access and receive copies of documents and databases requested by the United States. In the event of an objection, the Court shall make a final determination regarding access. In any instance in which the State objects to access, it must establish that the access sought is not relevant to monitoring the implementation of the Consent Decree, or that the information requested is privileged and the interest underlying the privilege cannot be adequately addressed through the entry of a protective order. In any instance in which the State asserts that a document is privileged, it must provide the United States and the Monitor a log describing the document and the privilege asserted. Notwithstanding any claim of privilege, the documents to which the United States shall be provided access include: (1) all State Police documents (or portions thereof) concerning compliance with the provisions of this Decree, other than a request for legal advice; and (2) all documents (or portions thereof) prepared by the Office of the Attorney General which contain factual records, factual compilations, or factual analysis concerning compliance

with the provisions of this Decree. Other than as expressly provided herein with respect to the United States, this paragraph is not intended, and should not be interpreted to reflect a waiver of any privilege, including those recognized at common law or created by State statute, rule or regulation, which the State may assert against any person or entity other than the United States.

Methodology:

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

Status

The state is in compliance with this task.

Compliance

Phase I: In Compliance
Phase II: In Compliance

3.0 Summary

The consent decree entered into between the State of New Jersey and the United States articulates 97 tasks, which accrue to the state. The New Jersey State Police and the Office of State Police Affairs have moved to implement these tasks, and, given the complexity of affecting change in complex organizations, have made significant strides in bringing the organization into compliance with the requirements of this decree. This monitoring report monitors only those tasks accruing to the state. For example, the report does not treat tasks 29d, 55, 56, 79, 94, 95, 116, 117, 119 or 121. These tasks either accrue to the monitors or are permissive tasks, allowing the state the latitude to make change, but not requiring it. For example, task 29d allows the state to adapt new technologies as they become available; task 55 allows the state to conduct driver surveys of other limited access highways; task 56 defines the criteria for appropriate benchmarks of persons traveling on the state's highways; and task 79 allows grouping of investigations of related misconduct investigations. Tasks 94 and 95 accrue to the independent monitors. Tasks 116, 117 and 121 define the responsibilities of the independent monitors.

Similarly, the reader should be careful to note that findings of non-compliance articulated in this report do not necessarily indicate that the state is engaging in proscribed behavior restricted by the decree. A finding of non-compliance may simply mean that the state has not finished, as of the date of this report, all of the steps necessary to come into compliance with the given task.

Several significant events have occurred during the fourth quarter of the implementation phase of the consent decree entered into between the State of New Jersey and the United States Department of Justice. First, indications of a documented active supervisory presence continue to be noted within the field-ranks of the New Jersey State Police. On several occasions, supervisory personnel have noted, and effectively responded to trooper performance that was not in compliance with various aspects of the decree. Remedial action was taken prior to the monitoring team calling these incidents to the state's attention. Second, the state has continued to make meaningful progress in development of its MAPPS personnel system. The state has worked diligently with the Department of Justice to continue to develop MAPPS system designs and is implementing prototype systems of some MAPPS components. Full implementation is scheduled for November, 2001.

The state has begun to systematically identify and address operational problems giving rise to problems in compliance with the decree. During the fourth quarter, the state identified at least nine incidents, involving four separate troopers and one supervisor, which were, in one way or another, problematic. Each of these incidents resulted in some form of remedial action, either the initiation of

misconduct investigations (for all four troopers and the supervisor) or other appropriate remedial actions (performance notices, counseling, etc.).

The state continues to work on a revised procedure for internal affairs investigations, and has made progress in provision of training for all internal affairs investigators. A revised (pending promulgation) policy for supervisory review of motor vehicle stop incidents represents a marked improvement in the requirements in this area. In addition, the state has developed a state-of-the-art training program in the areas of the Fourth Amendment and non-discrimination requirements of law enforcement.

The state is in Phase I compliance with 91 of the 96 tasks which could be monitored for Phase I compliance during this reporting period. It is in Phase II compliance with 64 of the 90 tasks, which could be monitored for Phase II compliance during this reporting period. The state is in Phase I compliance with 94 percent of the tasks that the monitoring team could monitor for Phase I compliance during this reporting period, and is in Phase II compliance with 71 percent of the tasks that the monitoring team could monitor for Phase II compliance during this reporting period.