# OLEPS

OFFICE OF LAW ENFORCEMENT PROFESSIONAL STANDARDS

# Fourteenth Oversight Report February 2019

*January 1, 2016 – June 30, 2016*

**New Jersey Office of the Attorney General** • Gurbir S. Grewal, *Attorney General*

**Office of Law Enforcement Professional Standards** • Christina M. Glogoff, *Director*

# Table of Contents

## Executive Summary

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

In this 14th Oversight Report, which covers the period of January 1, 2016 to June 30, 2016, OLEPS reviewed and analyzed data from 291 motor vehicle stops, including records associated with the stops. As required, OLEPS reviewed all critical stops (i.e., those with an RAS consent request, uses of force, or drug detection canine deployments) in the current reporting period. OLEPS reviewed an additional sample of stops based on changes to the laws governing search and seizure (See State v. Witt, 223 N.J. 409 (2015) (hereafter: Witt). Accordingly, for the secondary sample, OLEPS selected a random sample of stops where a non-consensual Probable Cause-based search occurred. OLEPS further reviewed records and documentation from Field Operations, MAPPS, and the Office of Professional Standards (OPS). While this report outlines some issues, overall, OLEPS determined that State Police acted in conformity with its established performance standards. The major findings of this report are as follows:

- There was no definitive evidence that State Police engaged in any race/ethnicity-based decision making processes in this reporting period. Differences in enforcement activities are more likely the result of chance rather than purposeful behavior.
    - Analyses in the current reporting period indicate that there were no statistically significant differences in the racial/ethnic distributions in the number of stops, including those involving consent to search requests, drug detection canine deployments, uses of force, or arrests. Although there was not a statistically significant difference in the volume of arrest reasons (i.e., warrant arrests, Probable Cause arrests, or warrant and Probable Cause arrests) among White, Black, and Hispanic drivers, this difference approached statistical significance in the current reporting period.
    - OLEPS noted a continued increase in the number of motor vehicle stops with uses of force. The racial/ethnic distribution of the 44 stops with uses of force was not statistically significant. Whereas, in the last reporting period, half of these stops involved Black drivers, in the current reporting period, proportions for White and Black drivers were similar (41% and 39%, respectively). OLEPS did not find that any of the uses of force were in violation of State Police's use of force policy. Further, OLEPS' analysis indicated that, in all stops, the recipient physically resisted arrest, refused to follow trooper commands, threatened or attacked the trooper, and/or fled the scene of the stop. OLEPS will continue to monitor the volume of stops with uses of force and examine the facts and situations that resulted in uses of force.
- OLEPS refers to instances where State Police deviates from its policy and procedures during a motor vehicle stop as "errors." State Police has the ability to review stops and note the errors during these reviews. State Police should then notify the trooper of the error through issuance of an intervention. OLEPS' sample of stops includes those that underwent State Police review and those that did not undergo State Police review. State Police reviewed 128 of the 291 stops that OLEPS reviewed for this report. Of the stops State Police reviewed, 13% (16 of 128)

contained an error not caught, a slight increase from 12% noted in the previous reporting period. Of the stops that did not receive State Police review, 29% (47 of 163) stops contained at least one error, a slight decrease from 30% in the previous reporting period. The total number of errors that State Police did not catch in the current reporting period (104 errors in 63 stops) is less than the previous reporting period (121 errors in 64 stops).

- In the current reporting period, OLEPS noted instances where troopers did not meet the appropriate legal standards for post-stop activities. Specifically, OLEPS noted the following:

    - Two stops did not meet the legal standard of Reasonable Articulable Suspicion (RAS) to request consent to search. State Police caught both errors. However, State Police issued an intervention for only one of these errors.

    - One stop did not meet the legal standard of RAS for a canine deployment. State Police supervisory review caught this error but did not issue an intervention.

    - Six stops with a frisk of the driver did not meet the legal standard of RAS. State Police supervisory review caught four of these errors. However, only one resulted in an intervention. State Police supervisory review did not catch these errors in the remaining two stops because State Police did not review these stops.

    - Three stops with a frisk of passenger 1 did not meet the legal standard of RAS. State Police caught two of these errors, but neither resulted in an intervention. State Police did not catch the remaining error because State Police did not review the stop.

    - One stop with a frisk of passenger 2 did not meet the appropriate legal standard of RAS. State Police did not catch this error because State Police did not review the stop.

    - One frisk of passenger 1 extended beyond a pat down. State Police caught this error but did not issue an intervention.

    - Seven stops with a non-consensual vehicle search had errors on the search. State Police caught three of these errors and two resulted in an intervention.

    - Three stops involved searches of drivers not conducted incident to arrest (ITA), and one stop involved a search of passenger 1 not conducted ITA. State Police caught two errors involving the driver, and one resulted in an intervention. Despite reviewing the stop, State Police did not catch the other error pertaining to the search of the driver. State Police caught the error pertaining to passenger 1. However, it did not issue an intervention.

- Despite the above instances, State Police performed the majority of post-stop activities reviewed in accordance with State Police policies, procedures, and legal standards.

    - When noting an error during a motor vehicle stop, State Police is required to issue an intervention. An intervention notifies the trooper and his/her supervisor of the error so that supervisors can monitor and modify conduct. Historically, State Police has not issued interventions consistently. The current reporting period continues the decrease in State Police's use of interventions. In the previous reporting period, 25.54% of all

errors State Police caught resulted in an intervention, while in the current reporting period only 20.30% of all errors State Police caught resulted in interventions. Most of the interventions issued pertained to consent requests, arrests, reporting, and communication call-ins. OLEPS recommends that State Police increase its use of interventions so that troopers who make an error during a motor vehicle stop have the ability to modify future behavior, as needed and allows upper level command to review supervisory oversight of the trooper.

- In addition to reviewing stops, State Police policy requires supervisors to be present during motor vehicle stops on a routine basis to ensure that troopers conduct stops in accordance with State Police policy. To promote an increase of supervisory presence on the roadway, in July 2011, State Police modified its motor vehicle stop review schedule. Although OLEPS noted decreasing levels of supervisory presence in recent reporting periods, the proportion of stops with supervisors on scene increased from 22.33% in the previous reporting period to 28.52% in the current. This proportion was 46.39% for critical stops and 19.29% for non-critical stops.

- The audio and video recordings of motor vehicle stops remain an issue in the current reporting period. In the current reporting period, OLEPS noted a number of issues pertaining to the availability of recordings and continues to note audio activation and completion issues in motor vehicle stops, resulting in incomplete recordings of motor vehicle stops.

- The average length of all motor vehicle stops in this reporting period was shorter than the previous reporting period. The average lengths of stops with RAS and Probable Cause consent requests were longer in the current compared to the previous reporting period. The RAS stops (critical) are required to be "brief." There was no evidence, however, that the length of stops resulted in a violation of an individuals' rights.

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

# OLEPS' FOURTEENTH OVERSIGHT REPORT OF THE NEW JERSEY STATE POLICE
## JANUARY 1, 2016 TO JUNE 30, 2016

## Introduction

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

OLEPS publishes two oversight reports a year covering two six-month reporting periods, from January 1 to June 30 and from July 1 to December 31. The second report includes a review of State Police training responsibilities (see Performance Standards 14 to 22) for the entire calendar year.

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

In this Fourteenth Oversight Report, which covers January 1, 2016 to June 30, 2016, OLEPS substantively reviewed the implementation of procedures relating to State Police motor vehicle stops and post-stop enforcement actions. Further, it reviewed supervision of patrol activites, and the conduct of investigations of alleged misconduct and other internal affairs matters.

The methodology OLEPS employed in developing this report and operational definitions of compliance are described in Part I of the report. Part II of the report describes the data and sample utilized for this reporting period. Part III, Assessment, includes the findings of OLEPS' oversight process. Specific examples of behavior observed during the oversight process are also noted. Within Part III, several chapters detail standards based on overall relevance to Field Operations, Supervisory Review, Management Awareness Personnel Performance System (MAPPS), the Office of Professional Standards (OPS), and Oversight and Public Information requirements. The Academy is not reviewed in this report but will be in the 15th Oversight Report, which will include the Academy Performance Standards for the entire 2016 calendar year. Accordingly, this report does not include Performance Standards 14 through 22.

The beginning of each section outlines the methodology used to assess performance standards. The summary provides an overall assessment of adherence to State Police policies and any applicable recommendations. Appendix One is a list of all previous monitoring/oversight reports OLEPS and the independent monitors published, their dates of publication, and the reporting periods covered. Appendix Two summarizes the types of errors each station made during the current reporting period. Appendix

Three presents additional analyses relevant to Part III. Appendix Four lists definitions for commonly used abbreviations in this report. Finally, Appendix Five contains a map of State Police troops and stations.

# PART I
# METHODOLOGY & PROCESS

Part I details the methodology used to assess State Police. This methodology applies to all standards within this report. Each standard details any supplemental methodologies specified as applicable. The bulk of the data utilized in this report relate to field operations and activities occurring during motor vehicle stops.

A review of State Police data and policies formed by an examination of records and documents prepared in the normal course of business are the bases of all of OLEPS' assessments of State Police. OLEPS accepted no special reports prepared as evidence of adherence to performance standards. Instead, OLEPS reviewed records created during the delivery or performance of tasks/activities.

## Standards for Assessment

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

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



OLEPS notes the errors caught during supervisory reviews that result in the trooper receiving an intervention - that is, the trooper received formal notification of the error. In order to correct actions or inactions, a supervisor should notify the trooper of the error. Supervisory review of a trooper's motor vehicle stop activities and recording of errors are essential to State Police recognizing and correcting conduct before patterns develop that may be contrary to its policies or procedures. Supervisory review further encourages the evolution of policies and procedures to promote best practices.

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

# PART II
# DATA & SAMPLE DESCRIPTION

OLEPS selected the data reviewed in this report based on specific parameters. Under no circumstances did OLEPS select data based on State Police's preferred selection of records. In every instance of the selection of samples, OLEPS provided State Police personnel lists requesting specific data or OLEPS collected data directly from State Police databases. OLEPS reviews State Police's policies and procedures, as outlined in the Act, prior to their implementation to ensure that they are appropriate and that they adequately incorporate any developments in constitutional law.

# Field Operations

OLEPS drew the motor vehicle stop data for this period, as with those for the previous report, exclusively from the universe of incidents that have post-stop activity. OLEPS' data requests are substantively similar to those that the independent monitors originally formulated.[1] OLEPS updates these requests to reflect any changes in State Police policies and procedures.

## Data Requests



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

- All reports, records checks, and recordings (audio and video) of stops.
- Logs of all trooper-initiated motor vehicle stop communication center call-ins for the stops selected, including time of completion of the stop and results of the stop.
- Copies of documentation, including supplemental reports created for consent search requests, canine deployments, and incidents involving uses of force that occurred during a motor vehicle stop.

State Police provided OLEPS with all requested information, unless otherwise noted.

## Types of Reviews

Each post-stop event consisting of law enforcement procedures of interest as set forth in the Decree,[2] and those selected for review, received a structured analysis using a form. OLEPS revises this form as needed to address any changes to State Police policies, procedures, and operations instructions. OLEPS

[1] For more information about the independent monitors, their standards, and reports, please visit: http://www.nj.gov/oag/decreehome.htm

[2] i.e., request for permission to search, conduct of a search, ordering occupants out of a vehicle, frisks of vehicle occupants, canine deployment, seizure of contraband, arrest of the occupants of the vehicle, or use of force.

noted errors in the motor vehicle stop and recorded them using this form. OLEPS shared these data and results with State Police. OLEPS requested and received clarification from State Police in instances in which there was doubt about the status of an event or supporting documentation. Each stop received at least one, but most frequently, two types of reviews: report and/or recording.

### *Report*

A report review involves examination of all available hard copy and electronic documentation of an event. For example, a review could consist of reviewing the motor vehicle stop report (MVSR), associated records in the patrol log, a supporting consent to search form, and associated summonses or arrest records. At a minimum, all stops received a report review to the extent these documents were available.

### *Recording*

A recording review consists of examining the associated audio and video recordings of a given motor vehicle stop in addition to the above-mentioned documentation. OLEPS compared the actions noted on the recording with the elements reported in the official documents related to the event. OLEPS attempted to review available audio and video recordings in addition to the abovementioned report documentation (stop reports, patrol charts, citations, arrest reports, DUI reports, etc.) for all of the stops selected for review, to the extent these recordings were available. In the event that recordings were unavailable, OLEPS conducted a report only review of the stop.

## Sample

As specified in the Consent Decree and codified in the Act, OLEPS shall review "appropriate samples of "consent to search" forms and reports, "non-consensual search" reports, drug-detection canine reports, motor vehicle stop reports and logs, and MVR tapes prepared in connection with a motor vehicle stop".

Accordingly, for the 14th Oversight Report, OLEPS selected a sample of incidents to review for this reporting period from all motor vehicle stops with post-stop activity State Police made from January 1, 2016 to June 30, 2016. Stops made by all troops and stations were eligible for selection. OLEPS initially selected 300 stops for review based on the following:

I. All stops identified in State Police databases as involving activity potentially deemed critical (112 stops)
   - All Reasonable Articulable Suspicion (RAS)[3] based consent searches
   - All canine deployments for drug detection purposes
   - All uses of force

II. A random sample of stops identified in State Police databases as involving a non-consensual search (188 stops)
   - OLEPS selected a random sample of stops with a non-consensual search for review. During the reporting period for the 13th Oversight Report, the Supreme Court decided State v. Witt, 223 N.J. 409 (2015), overturning its previous holding in State v. Pena-Flores.[4] As a

[3] RAS is defined as a suspicion (more than a hunch, but less than probable cause to believe) based on identifiable, specific, and particularized objective facts that, under the totality of the circumstances known to the member at the time, would cause a person of reasonable caution to suspect that a person is violating, is about to violate, or has violated the law Terry v. Ohio 292 U.S. 1(1986).

[4] State v. Peña-Flores, 198 N.J. 6 (2009), hereafter referred to as Peña-Flores, served to further define the exigent circumstances under which a search of a vehicle could be conducted without securing a search warrant under the automobile exception when

result, State Police amended its policies, no longer requiring a request for consent upon the detection of the odor of marijuana. OLEPS selected a random sample of 188 stops with non-consensual searches occurring between January 1, 2016 and June 30, 2016 (i.e., post Witt) to evaluate these searches. These stops may also contain other post-stop activities subject to review, but non-consensual searches are the focus of the secondary sample.

During review, OLEPS identified seven incidents that were not motor vehicle stops and two duplicate stops in the sample of 300 stops. As a result, OLEPS removed these incidents from OLEPS' sample, resulting in a total volume of 291 motor vehicle stops. Further, though State Police databases indicated that certain activities occurred in a stop, OLEPS did not observe all of these activities during the stop.[5] OLEPS' final sample of 291 stops involved 97 stops deemed critical, 98 stops with non-consensual searches, and 96 other stops, which OLEPS initially identified as involving a potentially critical activity or non-consensual search, but upon review, did not involve these activities.

Table One lists the activities involved in these motor vehicle stops. For this reporting period, OLEPS attempted to conduct recording and report reviews on all motor vehicle stops. As indicated previously, report only reviews occurred in the instances where a recording was not available for review. One motor vehicle stop received a report only review, while 290 stops received a review that included both reports and recordings.

**Table One: Incidents Reviewed**

14th OLEPS Reporting Period

| | Report Only Reviews | Recording & Report Reviews[6] |
|---|---|---|
| **Total Stops** | 1 | 290 |
| **Consent Search Requests (Probable Cause & RAS)** | 0 | 48 |
| **Canine Deployments** | 0 | 14 |
| **Use of Force** | 0 | 44 |
| **Probable Cause Searches of Vehicles** | 0 | 140 |
| **Probable Cause Searches of Persons** | 1 | 274 |

Table Two lists the number of incidents reviewed by station conducting the stop and the type of review received.[7] In the current reporting period, OLEPS reviewed 99 stops Troop A conducted and 91 stops

there was probable cause to believe that a crime had been (or will be) committed. Peña-Flores was recently overturned by the New Jersey Supreme Court in State v. Witt, 223 N.J. 409 (2015), hereafter referred to as Witt. Decided in September 2015, the Court in Witt held that the exigent circumstances test set forth in Peña-Flores no longer applied. Accordingly, the standard set in State v. Alston, 88 N.J. 211 (1981), hereafter referred to as Alston, for warrantless searches of automobiles based on Probable Cause has been reinstated as controlling law in New Jersey.

[5] OLEPS reviews activity that occurs only at the scene of the stop, not back at the station. It is possible that the activity indicated in State Police databases occurred back at the station, however, this is outside the scope of OLEPS' review.

[6] Recording and report reviews for each type of activity total more than 288 because most stops involved more than a single category of law enforcement activity.

[7] In January 2011, State Police combined Troops D and E to form Troop D Parkway and Troop D Turnpike. Technically then, Galloway, Bloomfield, and Holmdel stations are part of Troop D.

Troop B conducted. Troop C conducted 60 of the stops reviewed and Troop D conducted 41 of the stops reviewed.

**Table Two: Distribution of Events by Station**
14th OLEPS Reporting Period

| | Recording & Report Reviews | Report Only Reviews | Total Reviews |
|---|---|---|---|
| **A040- Bridgeton** | 19 | | **19** |
| **A050- Woodbine** | 9 | | **9** |
| **A090- Buena Vista** | 6 | | **6** |
| **A100- Port Norris** | 8 | | **8** |
| **A140- Woodstown** | 9 | | **9** |
| **A160- Atlantic City** | 15 | | **15** |
| **A310- Bellmawr** | 25 | | **25** |
| **Troop A Other** | 7 | 1 | **8** |
| **B020- Hope** | 6 | | **6** |
| **B050- Sussex** | 6 | | **6** |
| **B060- Totowa** | 23 | | **23** |
| **B080- Netcong** | 12 | | **12** |
| **B110- Perryville** | 16 | | **16** |
| **B130- Somerville** | 20 | | **20** |
| **B150- Washington** | 3 | | **3** |
| **Troop B Other** | 5 | | **5** |
| **C020- Bordentown** | 18 | | **18** |
| **C040- Kingwood** | 5 | | **5** |
| **C060- Hamilton** | 17 | | **17** |
| **C080- Red Lion** | 10 | | **10** |
| **C120- Tuckerton** | 6 | | **6** |
| **Troop C Other** | 4 | | **4** |
| **D010- Cranbury** | 8 | | **8** |
| **D020- Moorestown** | 2 | | **2** |
| **D030- Newark** | 6 | | **6** |
| **E030- Galloway** | 6 | | **6** |
| **E040- Bloomfield** | 7 | | **7** |
| **E050- Holmdel** | 6 | | **6** |
| **Troop D Other** | 6 | | **6** |
| **Total** | **290** | **1** | **291** |

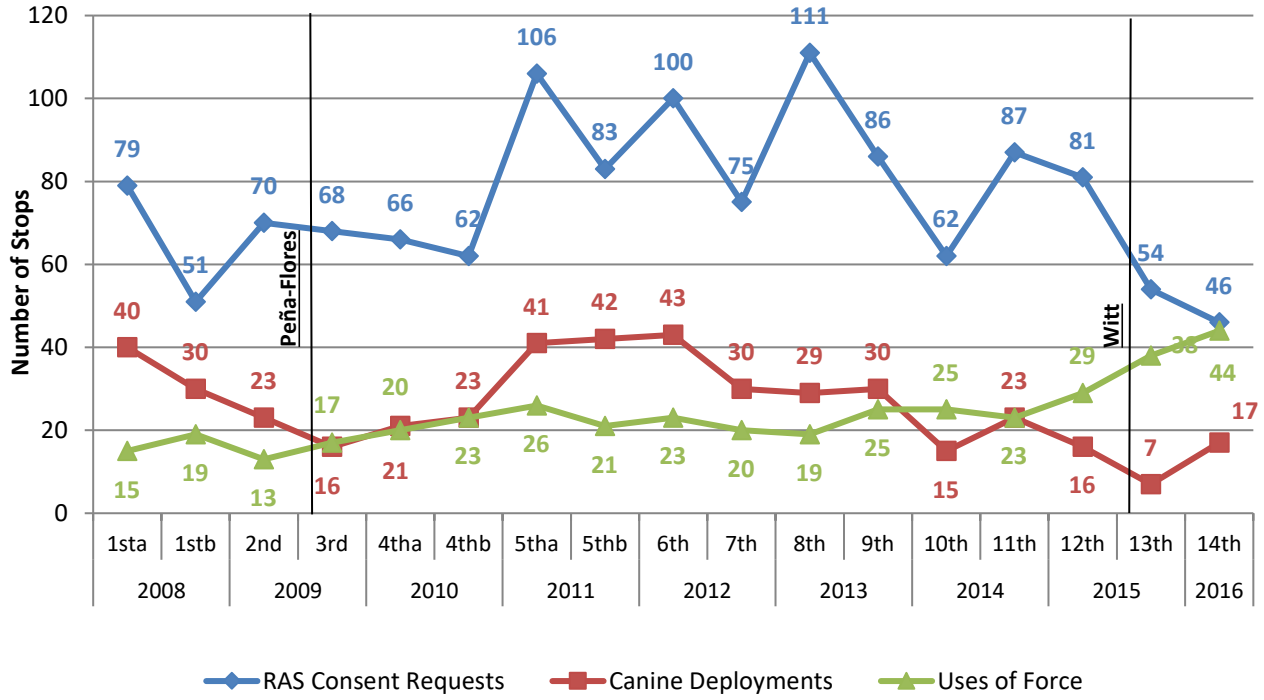
Historically, OLEPS has noted patterns in unavailable recordings. In some reporting periods, recordings have been unavailable for specific troops or stations more than other stations or troops. In the current reporting period, there was only one stop subject to a report only review because of complete unavailability of the recording. Because the total volume of report only review stops is so low, a systematic recording issue is unlikely the cause. However, OLEPS noted a number of stops where portions of the recording were unavailable or not able to be played (See Performance Standard 5).

## Trends[8]

OLEPS tracks trends of activity in the motor vehicle stops reviewed. Since OLEPS reviews all motor vehicle stops with RAS consent to search requests, drug detecting canine deployments, and/or uses of force, these numbers represent the actual volume of motor vehicle stops with these events.[9] Figure One depicts the trends in these events from January 2008 to June 2016. Since 2008, the number of stops with RAS consent requests is typically larger in the first half of the year (with some exceptions), just as the number of motor vehicle stops, generally, is larger in the first half of the year. However, since the previous reporting period, the number of stops with RAS consent requests decreased while the number of stops with uses of force increased in the current reporting period. The decrease in RAS consent requests is a reflection of changes to State Police activity post Witt.

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

January 2008- June 2016




In the second half of 2012, OLEPS noted a decline in the number of stops with canine deployments after several reporting periods of larger volumes of stops with these activities. Since this reporting period, the volume of stops with a canine deployment has fluctuated, but remains considerably less than the high volumes noted from 2011 to 2013. In the current period, the volume of stops with a drug detecting canine deployment increased to 17 stops.

The number of stops with a use of force remained consistent from 2008 to the end of 2014, with roughly 20 stops in each reporting period. Since then, however, the number of stops with uses of force has

[8] Stops in this section are categorized based on the activity noted in stops after OLEPS' reviews.

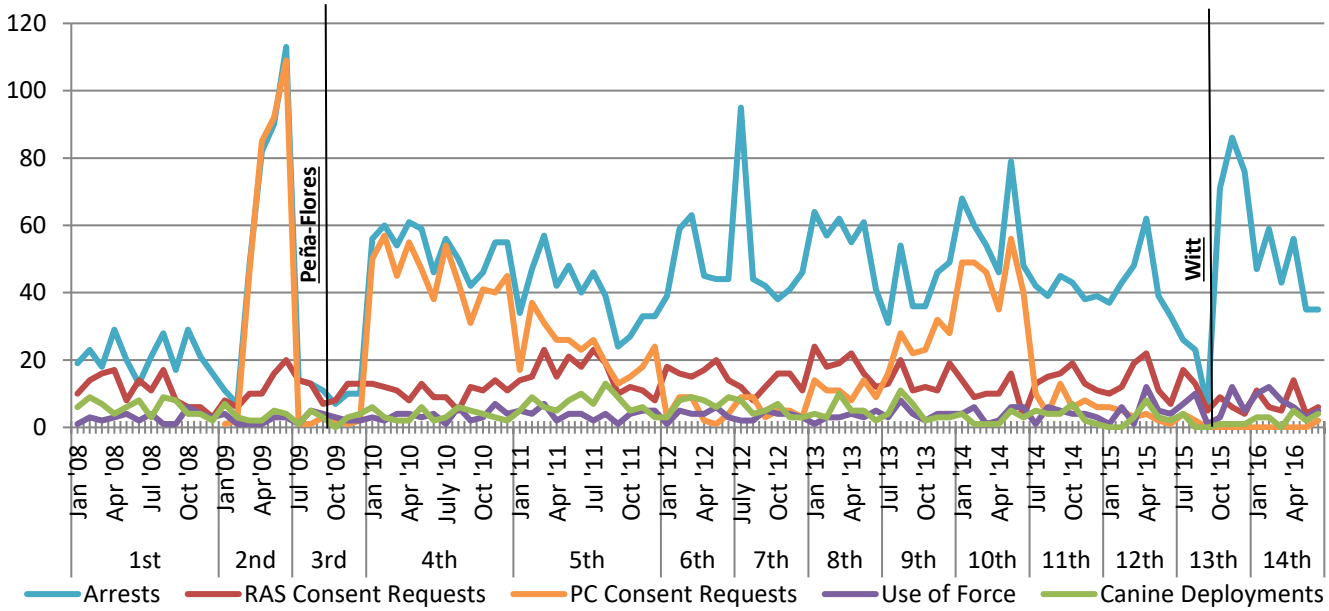
[9] OLEPS only reviews these events when they occur during a motor vehicle stop (i.e., time on the road only) prior to returning to the station. State Police conducts additional RAS consent to search requests, canine deployments, and uses of force, but these occur outside of motor vehicle stops or away from the initial scene of the stop.

consistently increased. The number of stops with a use of force in the current reporting period, 44, is the largest number since OLEPS began tracking these events in 2008. Performance Standard 4 sets forth further discussion of stops with uses of force.

The number of motor vehicle incidents occurring in the second half of the year is generally less than the number occurring in the first half of the year. As such, examination of monthly trends is important. Figure Two presents the number of stops with RAS consent requests, uses of force, canine deployments, Probable Cause consent requests, and arrests for January 2008 through June 2016 by month. These monthly trends allow OLEPS to determine changes in the volume of incidents in the period following key events (e.g., Peña-Flores, Witt). As seen in the graph, stops with RAS consent requests, uses of force, and canine deployments were relatively infrequent, especially when compared to the volume of stops with arrests and Probable Cause consent requests. Figure Two highlights the monthly variation in each activity.

**Figure Two: Monthly Variation in Stops with Arrests, Probable Cause Consent Requests, and Critical Activities**

January 2008 – June 2016




The bi-annual totals in Figure One suggest that RAS consent requests most recently peaked in the first half of 2013 but decreased since then. However, the trends were not as linear as suggested by Figure One; trends vary in each month of the year and across years (see Figure Two). The number of stops with RAS consent to search requests is inconsistent from month to month. Beginning in January 2012, there were discernable changes in these events in each month in 2012 and 2013, a decrease in the first half of 2014, an increase in the second half of 2014, followed by notable fluctuation since. The largest volume of stops with RAS consent requests per month occurred in January 2013, when there were 24 stops with an RAS consent request. The number reported in April 2015, 22 stops with RAS consent requests, is the largest volume of stops with RAS consent requests in any month since January 2015. In the first half of 2016, there were fewer than 20 stops with RAS consent requests in each month. The smallest volume of RAS consent requests in the current period occurred in May 2016, where there were only four stops with RAS consent requests.

For stops with canine deployments, no consistent trend appears other than inconsistency. The number of stops with canine deployments fluctuates each month. Stops with canine deployments increased until the first half of 2012 but generally decreased since then, despite an increase in the current reporting period. However, there were small spikes in March and August 2013 and April 2015. There were nearly twice as many stops with canine deployments in these months compared to all other months since August 2011. In the current reporting period, the largest volume of stops with official canine deployments for drug detection purposes occurred in April 2016, when there were five stops with such deployments.

The volume of stops with uses of force remained steady until the end of 2014, when they began steadily increasing to the high in the current reporting period. As noted previously, the volume of stops with uses of force in the current reporting period is historically the largest volume OLEPS noted. The volume of stops with uses of force reached a high of 12 stops in April 2015. Since then, this high matched in November 2015 and February 2016. From January 2008 through December 2014, there was an average of less than four stops with uses of force in each month. Since January 2015, the average is over six stops per month with a use of force. In the current period alone, there was an average of 7.3 stops with uses of force per month.

Two other enforcement activities historically appear frequently in the stops selected for OLEPS review: Probable Cause consent to search requests and arrests. Figure Two also depicts these trends. The numbers do not represent the total volume of stops with Probable Cause consent requests and arrests, but rather, only those stops selected for review in which these events occurred. The total number of stops with Probable Cause consent to search requests increased dramatically following Peña-Flores, decided in February 2009. After Witt, decided in September 2015, the volume of Probable Cause consent requests decreased considerably. Unlike previous reporting periods, OLEPS reviewed only two stops with Probable Cause consent searches in motor vehicle stops in the first half of 2016. A bi-annual graph, similar to Figure One, is not presented for stops with Probable Cause consent searches and arrests because the variation seen in these events is the result of the stops selected rather than variation in the actual use of such enforcement activities.

As previously noted, in February 2009, the New Jersey Supreme Court issued the Peña-Flores decision. This decision restricted the ability of law enforcement to conduct searches covered under the automobile exception. This decision resulted in State Police developing the practice of Probable Cause consent requests. Because the decision led to a change in the type of enforcement activities State Police engaged in, OLEPS altered its sample selection to include Probable Cause consent requests, beginning in OLEPS' Second Monitoring Report, which covered January 1, 2009 to June 30, 2009. The volume of Probable Cause consent requests depicted in Figure Two for each reporting period results from the sample selected for review each reporting period. OLEPS specifically sampled stops with Probable Cause consent requests in the fourth, fifth, ninth, and tenth reporting periods. In all other reporting periods, other criteria formed the basis of stops selected for review. Compared to these previous reporting periods, the number of stops with Probable Cause consent requests reviewed in the current reporting period (two) is much smaller. The Court's decision in Witt resulted in a dramatic reduction in the volume of Probable Cause consent requests (See Footnote 4 for further explanation). OLEPS selected a sample of stops with a non-consensual Probable Cause vehicle search for review in this report.

# OPS & Investigations

An audit of OPS investigations assesses OPS' adherence to State Police policies and procedures. In these bi-annual audits, OLEPS reviews a sample of misconduct cases and determines whether OPS handled cases in accordance with State Police's policies and procedures. Because the details of these cases represent privileged and confidential information, this report includes a summary of the audit, rather than specifics of the cases in the audit. OLEPS also publishes aggregate analyses of OPS' misconduct investigations in the Public Aggregate Misconduct Report, available at http://www.nj.gov/oag/oleps/aggregate-misconduct.html.

# Management Awareness & Personnel Performance System

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

# Oversight and Public Information

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

# PART III
# ASSESSMENT OF NEW JERSEY STATE POLICE

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

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

# Field Operations

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

## Assessment Process

OLEPS assesses Field Operations by reviewing a sample of motor vehicle stops. This review includes an examination of all reports and documentation of the stop. When available, OLEPS reviews audio and video recordings of stops. OLEPS' staff examines the facts and circumstances of the stop to determine whether State Police conformed to its policies and procedures during motor vehicle stops. For those stops that received a State Police supervisory review, OLEPS notes instances where troopers deviate from policy and whether State Police supervisory review noted the deviations from policy in its review. OLEPS records all information in OLEPS' Motor Vehicle Stop Assessment database. OLEPS reviews and revises this assessment, as needed, to account for the development of the law and changes to State Police policies and procedures.

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

## Standard

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

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

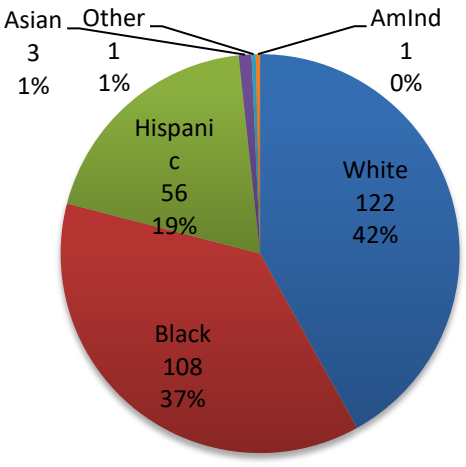
This standard also examines the potential effect of trooper discretion on racial/ethnic differences in stops and enforcement activities.

## Racial/Ethnic Differences

### *All Motor Vehicle Stops*

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

14th OLEPS Reporting Period




Total Stops: **291**

All 291 of the stops reviewed for this reporting period involved some form of a post-stop interaction (e.g., a frisk, a consent to search request, canine deployment, use of force, search, or arrest), but not all stops contained all post-stop activities. Figure Three presents the racial/ethnic breakdown of all stops in the current sample. These numbers do not reflect the racial/ethnic distribution of all drivers State Police stopped.[10] Rather, they reflect the racial/ethnic distribution of drivers involved in the stops selected for review.

In the stops selected for the current reporting period, there were more stops with White drivers than any other racial/ethnic group. There were 122 (42%) drivers in this sample identified as White, 108 (37%) identified as Black, 56 (19%) identified as Hispanic, three (1%) identified as Asian, one identified as

[10] For the total number of stops conducted involving drivers of each racial/ethnic group, see OLEPS' Aggregate Reports of Traffic Enforcement Activities of the New Jersey State Police available at: http://www.nj.gov/oag/oleps/aggregate-data.html

American Indian (less than 1%), and one (less than 1%) identified as Other.[11] The majority of trooper-citizen interactions in stops reviewed this reporting period involved White or Black drivers. The distribution in the current reporting period is similar to the distribution in the previous reporting period. In the stops reviewed in the previous reporting period, 42% of drivers were White, 38% of drivers were Black and 17% were Hispanic compared to 42%, 37% and 19% in the current reporting period, respectively.

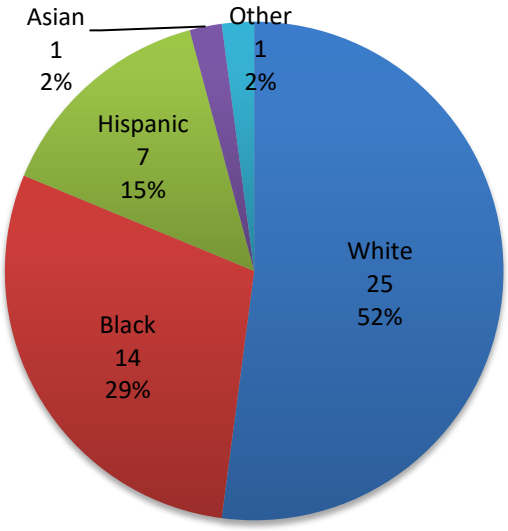
OLEPS compares this distribution to the racial/ethnic distribution of all other activities to determine each racial/ethnic group's potential of over or under representation among each activity. OLEPS does not conduct an in-depth review of every stop State Police conducted. Therefore, the potential for a skewed racial/ethnic distribution remains if the racial/ethnic distribution of all stops differs from that of stops with post-stop activities (e.g., any exit, frisk, search, use of force, or arrest). Though the stops reviewed here involved more White drivers than any other racial/ethnic group, the distribution is not similar to the racial/ethnic distribution of all stops. However, it is similar to the distribution of stops with post-stop activity. For the same reporting period, 59% of all of State Police's stops involved White drivers, 20% involved Black drivers, and 14% involved Hispanic drivers. Compared to the distribution of stops with post-stop activity, the stops reviewed in this report are more similar. For January 1, 2016 to June 30, 2016, 40% of stops with post-stop activity involved White drivers, 39% involved Black drivers, and 17% involved Hispanic drivers. Thus, the racial/ethnic distribution of the sample of stops reviewed for this oversight report is consistent with that of stops with post-stop activity during the current reporting period.

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

## *Consent Requests*

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

14th OLEPS Reporting Period




Total Stops: **48**

Figure Four depicts the number of stops reviewed, where State Police requested consent to search by race/ethnicity of driver. This Figure represents all selected stops with consent requests: Probable Cause-based; RAS-based; those that a motorist granted; and those that a motorist denied. In 48 motor vehicle stops, 17% of the sample, State Police requested consent to search. In 25 stops, 52%, with a consent request, the driver was White. In 14 stops with consent requests, 29%, the driver was Black. State Police asked Hispanic drivers for consent to search in seven stops or 15% of stops with requests. There was one stop each with a consent request for both Asian and Other drivers.

The volume of consent requests in the current reporting period, 48 stops, is smaller than the volume in the previous reporting period, 60 stops, and considerably smaller than the volume of consent requests reviewed typically. This change is the result of the Supreme Court's ruling in Witt in September 2015, which reversed its previous holding in Peña-Flores. Because of this decision, law enforcement officers may search a vehicle based on the standards reinstated in Witt (see Footnote 5). The impact of this decision, discussed in OLEPS 13th Oversight Report and in detail later in this report, had the practical effect of eliminating the need for a Probable Cause consent request. As such, the overall volume of consent requests decreased. Despite this decrease, the racial/ethnic distribution of stops with consent requests remains consistent with the distribution noted in previous reporting periods.

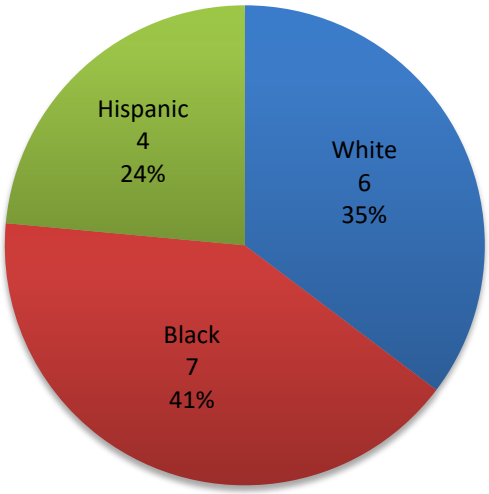
OLEPS conducted Chi-square analysis (Appendix Three, Table One) to determine whether there were significant differences in the racial/ethnic distribution of stops with consent to search requests. The analysis used stops involving only White, Black, and Hispanic drivers, as inclusion of the two stops with consent requests of Asian and Other drivers rendered the result invalid. The analysis yielded a Chi-square ($x^2$) value of 3.029 with a $p$-value of 0.22. The difference in the number of stops with consent to search requests asked of White, Black, or Hispanic drivers fails to meet statistical significance.[12]

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

## *Canine Deployments*

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

14th OLEPS Reporting Period




Total Stops: **17**

In the current reporting period, State Police conducted 17 stops involving canine deployments for drug detection purposes. The volume of stops with canine deployments reviewed in this reporting period is a seven-stop increase from the previous reporting period. Figure Five depicts the number and percentage of stops with canine deployments by race/ethnicity of the driver. The largest portion of motor vehicle stops with canine deployments involved Black drivers. In total, seven deployments (41%) occurred in motor vehicle stops with Black drivers. Six canine deployments (35%) occurred in stops with a White driver, and four canine deployments (24%) occurred in stops with Hispanic drivers. Asian and Other drivers were not involved in any stops with a drug detecting canine deployment.

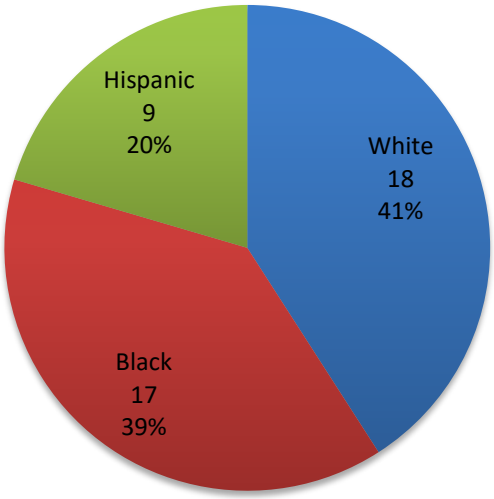
The racial/ethnic distribution of stops with a canine deployment is generally consistent with the pattern noted in the previous reporting period. However, due to the low volume of stops with a canine deployment, the distribution is highly susceptible to change; the addition of even one stop with a canine deployment for any racial/ethnic group could change the distribution considerably. Overall, the volume of stops with a canine deployment increased for all racial/ethnic groups. However, the increase was greatest for White and Black drivers. There was a four-stop increase for both White and Black drivers each and a two-stop increase for Hispanic drivers. Despite these increases, the racial/ethnic distribution of stops with canine deployments is not substantially different from the previous reporting period. In the previous reporting period, 43% of stops with a canine deployment involved Black drivers and 29% of these stops each involved White and Hispanic drivers. Performance Standard 3 further discusses the volume of stops with canine deployments.

OLEPS conducted Chi-square analysis (Appendix Three, Table Two) to determine whether there were significant differences in the racial/ethnic distribution of stops with canine deployments. The analysis grouped stops into White or Non-White drivers as other categorizations rendered the results invalid. The analysis yielded a Chi-square ($x^2$) value of 0.326, which was not significant. The difference in the number of canine deployments in stops of White or Non-White drivers fails to meet statistical significance.

*Uses of Force*

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

14th OLEPS Reporting Period




Total Stops: **44**

Figure Six presents the racial/ethnic distribution of stops with a use of force in the first half of 2016. In total, 44 stops involved a use of force, more than the number in any reporting period since OLEPS began reviews of State Police stops. Of the stops with a use of force in the first half of 2016, 18 (41%) involved White drivers, 17 (39%) involved Black drivers, and nine (20%) involved Hispanic drivers. Unlike the previous reporting period, White drivers were involved in the largest proportion of stops with force in the first half of 2016. However, the difference between the number of stops involving White and Black drivers is only one stop. As previously indicated, OLEPS reviews all stops with uses of force. Thus, any disproportionality revealed is not attributable to sample selection.

Since only a small number of stops involve a use of force in a given reporting period, the potential for skewness in the distribution exists. However, as noted previously, the volume of stops with a use of force is the largest it has been in any reporting period since OLEPS first began reporting. Compared to the previous reporting period, there were four more stops with a use of force involving White drivers, two fewer stops with a use of force involving Black drivers, and four more stops with a use of force involving Hispanic drivers in the current period as compared to the previous period.

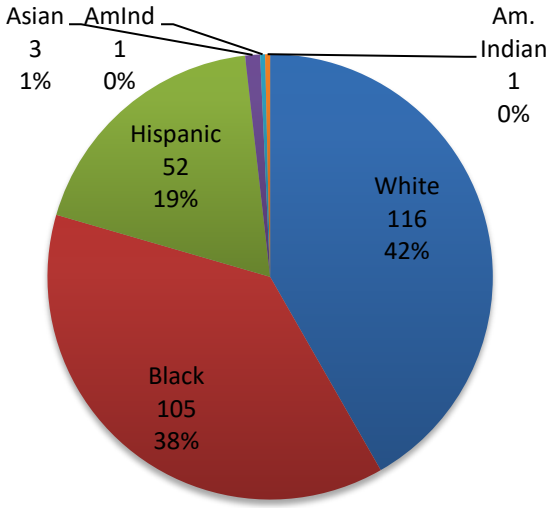
Chi-square analysis indicates a $x^2$ value of 0.073 and a *p-value* of 0.964; thus, this distribution was not statistically significant. Any differences in the racial/ethnic distribution noted may result from chance. The analysis compared the volume of stops with uses of force involving White, Black, and Hispanic drivers as the use of each racial/ethnic category separately rendered the results invalid. Thus, OLEPS cannot state that the number of stops with force incidents with White drivers is significantly greater than the number of incidents for other drivers. The lack of significance is likely a product of low volume. Though the volume of stops with a use of force is the largest in any reporting period, only 44 stops involved a use of force, and attaining statistical significance is difficult in samples with low volumes.

For several reporting periods, OLEPS noted increases in the number of stops with a use of force. The number of stops involving force in this reporting period is the largest since 2008. OLEPS is cognizant that the number of stops with post-stop activity may fluctuate as the number of overall motor vehicle stops changes, however, this explanation does not seem likely in this instance. Performance Standard 4 discusses the continued increase in the volume of stops with uses of force. As in previous reports, OLEPS recommends continued examination of the racial/ethnic distribution of uses of force, as this distribution changes each reporting period.

*Arrests*

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

14th OLEPS Reporting Period




Total Stops: **278**

Figure Seven depicts the racial/ethnic distribution of motor vehicle stops with an arrest. OLEPS selected the sample for the current reporting period based on whether a non-consensual search occurred in the motor vehicle stop. In all of these stops, probable cause existed, thus, the potential for an arrest also exists. The majority of stops reviewed, 278 stops or about 96%, involved an arrest.[13] The proportion of stops with an arrest is identical to the proportion of stops with an arrest in the previous reporting period. Since an arrest occurred in the majority of stops, the racial/ethnic distribution of stops with an arrest is similar to the overall distribution of stops. White drivers were the largest proportion of stops with arrests, 42% (116 stops). One hundred-five stops with arrests (38%) involved Black drivers. Fifty-two stops with arrests (19%) involved Hispanic drivers, and three stops (1%) involved Asian drivers. American Indian and Other drivers were each arrested in one stop (less than 1%) reviewed in this reporting period.

While 96% of all stops resulted in an arrest, this proportion is consistent across racial/ethnic groups. For White drivers, 95% of stops resulted in an arrest, for Black drivers 97% of stops resulted in an arrest, for Asian, American Indian, and Other drivers 100% of stops resulted in an arrest. However, for Hispanic drivers, only 93% of stops resulted in an arrest. Thus, the likelihood of arrest is largest for Asian, American Indian, and Other drivers, likely due to the very small number of stops of drivers of these racial/ethnic groups.

OLEPS conducted Chi-square analysis to determine whether any significant differences exist in the racial/ethnic distribution of stops with arrests. The analysis presents arrest versus no arrest for stops of White and non-White drivers and yielded a $x^2$ value of 0.10, which is not significant.

The discretion section of this standard explores this racial/ethnic distribution to determine whether the circumstances surrounding the arrest (discretionary v. non-discretionary) vary across racial/ethnic groups.

## The Role of Discretion

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

[13] This proportion includes those stops where an individual was unarrested and released from the scene.

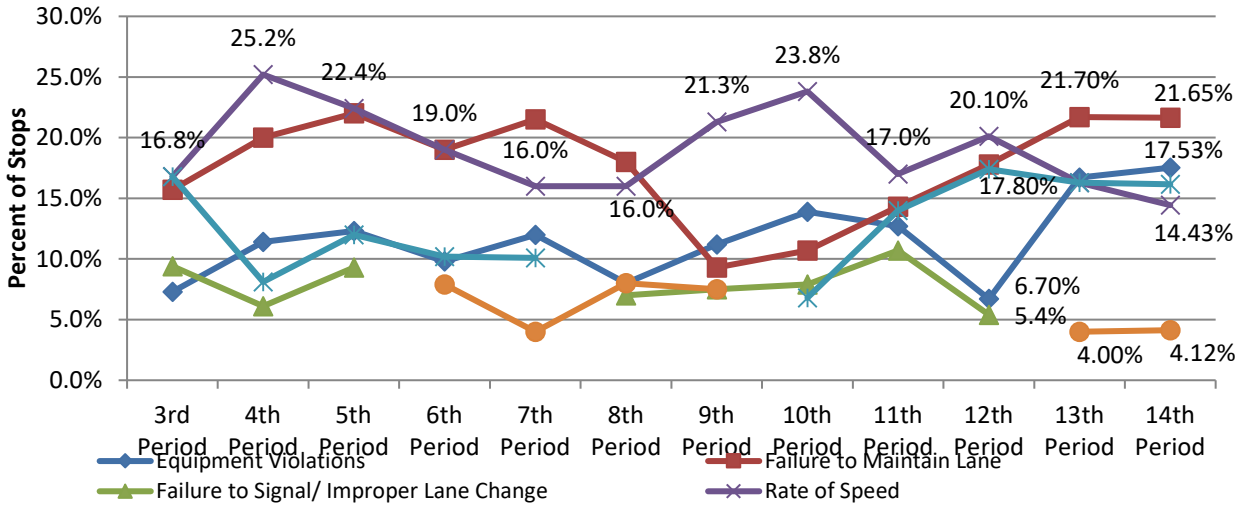
Historically, OLEPS examined how discretion impacts the racial/ethnic distribution of motor vehicle stops. This section presents a discussion of racial/ethnic differences in the most common stop reasons.

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

Figure Eight presents the five most common reasons for motor vehicle stops in the current and past eleven reporting periods. The most common reasons rarely change dramatically. The most common reasons were some combination of rate of speed, failure to maintain lane, equipment violations, and two other reasons. These other reasons typically include: safety violations, seat belts, or failure to signal/improper lane change. Generally, the top five reasons for motor vehicle stops account for over half of all the stops; in the current reporting period these reasons account for nearly 74% of stops examined.

**Figure Eight: Top Reasons for Trooper Initiated Motor Vehicle Stops**

3rd- 14th Reporting Periods[14]




Like the previous reporting period, failure to maintain lane is the most commonly cited reason for a motor vehicle stop. Equipment violations, safety violations, rate of speed, and seat belt violations are among the top reasons for motor vehicle stops. Unlike earlier reporting periods, violations for improper lane change were not a top reason in this reporting period.[15]

[14] If a data point does not appear for a particular reporting period, it indicates that that particular stop reason was not among the most common reasons for that reporting period.

[15] In the previous reporting period, OLEPS revised its stop assessment form. Historically, OLEPS chose from a series of pre-populated violation names. Beginning in the previous period, OLEPS entered the specific statute recorded by the trooper. This

Generally, Motorist Aids/Motorist Accidents were a common occurrence, more so than some reasons listed in Figure Eight. In the current reporting period, 38 stops or 13.06% of all stops began as Motorist Aids/Accidents. These instances do not represent a trooper's decision to stop a vehicle, and as such, are not included in the Figure. Instead, aids and accidents represent a trooper's public service requirement to assist motorists.

### *All Motor Vehicle Stops*

Table Three depicts the most common stop reasons by driver race/ethnicity for the current reporting period.[16] Like the previous reporting period, Black drivers make up the largest number of stops for rate of speed, equipment violations, and safety violation. White drivers make up the largest number of stops for all other top reasons. The most frequently cited stop reason for White drivers is failure to maintain lane. For Black drivers, the most frequently cited reason is equipment violations. Failure to maintain lane was the most frequently cited stop reason for Hispanic drivers. Failure to maintain lane, rate of speed, and safety violations accounted for all reasons for stops of Asian drivers (three) in the current reporting period.

**Table Three: All Stops by Race/Ethnicity of Driver and Level of Discretion**
14th OLEPS Reporting Period

| | White (% of Total) | Black (% of Total) | Hispanic (% of Total) | Asian (% of Total) |
|---|---|---|---|---|
| **Failure to Maintain Lane** | 33<br>37.93% | 17<br>19.77% | 12<br>28.57% | 1<br>33.33% |
| **Rate of Speed** | 12<br>13.79% | 21<br>24.42% | 7<br>16.67% | 1<br>33.33% |
| **Equipment Violations** | 16<br>18.39% | 24<br>27.91% | 11<br>26.19% | 0<br>0.00% |
| **Seat Belts** | 8<br>9.20% | 3<br>3.49% | 1<br>2.38% | 0<br>0.00% |
| **Safety Violation** | 18<br>20.69% | 16<br>19.75% | 11<br>26.19% | 1<br>33.33% |
| **Total** | **87** | **81** | **42** | **3** |

OLEPS conducted Chi-square analysis to determine whether any significant differences exist in the racial/ethnic distribution of the most common stop reasons. Due to the extremely low volume of stops with certain stop reasons, Chi-square analysis resulted in low expected frequencies, rendering results invalid. OLEPS cannot make a statement regarding whether there were significant differences in stop reasons across racial/ethnic groups.

mirrors the specific statute State Police documented. It is possible that this change impacted the frequency of stop reasons reported in Figure Eight.

[16] The top five reasons for stops were cited in 213 of 291 motor vehicle stops. Table Three only presents the stops where the most common reasons were cited for White, Black, Hispanic, and Asian drivers, not all stops. For example, the total listed for White drivers is 87, which represents the number of stops with White drivers where one of these reasons was cited, not the total number of stops with White drivers (which is 122 stops). Additionally, one stop each of a driver of an "Other" race and an American Indian driver are not depicted in this table. Thus, the table displays 211 of the 213 stops citing the top five stop reasons.

## *Consent Search Requests*

OLEPS also examined discretion in post-stop activities. RAS, as a legal standard, is less strict than Probable Cause, which suggests that the potential for individual trooper discretion exists in RAS more than in Probable Cause. Since post-stop enforcements arise out of the circumstances and facts that occur after stopping a vehicle, it is inappropriate to examine how discretion in the reason for a stop relates to a post-stop enforcement. Instead, OLEPS explores differences among the Probable Cause and RAS legal standards for consent requests and canine deployments.

Table Four presents the racial/ethnic distribution of types of consent to search requests in motor vehicle stops- RAS or Probable Cause.[17] The table presents the number of drivers of each race/ethnicity that received the outcome of interest based on the legal standard that used. The mean column indicates the arithmetic average of the stops for each racial/ethnic group. Since the standard involving a lower level of discretion, Probable Cause, has a value of two, larger scores actually indicate the use of less discretion. RAS consents/deployments have a value of one. A mean closer to one indicates that, on average, enforcements result from a more discretionary standard for that racial/ethnic group. Using the mean in conjunction with the Chi-square statistics, which shows whether the differences were due to chance, can indicate the existence of and direction of potential bias.

**Table Four: Consent Requests by Race/Ethnicity of Driver and Legal Standard**

14th OLEPS Reporting Period

| Race/Ethnicity | Reasonable Articulable Suspicion (1) | Probable Cause (2) | Mean |
|---|---|---|---|
| **White** | 24 | 1 | 1.04 |
| **Black** | 13 | 1 | 1.07 |
| **Hispanic** | 7 | 0 | 1.00 |
| **Asian** | 1 | 0 | 1.00 |
| **Other** | 1 | 0 | 1.00 |
| **Total** | **46** | **2** | **1.04** |

The majority of stops with consent requests reviewed in the current sample resulted from RAS, as seen in Table Four. Forty-six (46) stops involved an RAS consent request, while only two stops contained a Probable Cause consent request. Accordingly, because there were so many RAS consent requests, the majority of consent requests for each race/ethnicity were RAS-based.

OLEPS conducted Chi-square analysis to determine whether there were any significant differences in the racial/ethnic distribution of the legal standards used in consent requests. Due to the extremely low volume of stops with a Probable Cause consent request, Chi-square analysis resulted in low expected

[17] In the previous reporting period, the Supreme Court in Witt overturned its prior holding in Peña-Flores. Witt reverted the legal standard governing vehicle searches back to the standard set forth in Alston (see Footnote 6). As a result, consent is no longer required to search a vehicle when probable cause is established; troopers may search the vehicle based on the automobile exemption. Accordingly, the volume of probable cause based consent searches declined considerably within the current reporting period.

frequencies, rendering results invalid. OLEPS cannot make a statement regarding whether the differences in the reason for consent requests across racial/ethnic groups were significant.

The mean values in Table Four indicate the direction of consent requests, either Probable Cause or RAS. For White drivers, the mean value is 1.04, closer to the value of one, indicating RAS, than it is to the value for Probable Cause. This means that White drivers were more often receiving consent requests based on RAS than Probable Cause in the current reporting period. For Black drivers, the mean value is 1.07, also closer to one, which indicates that Black drivers were more frequently receiving RAS searches than Probable Cause in this sample. In the current reporting period, Hispanic, Asian, and Other drivers received RAS consent requests only. All drivers in the current reporting period were involved in a larger proportion of stops with RAS than Probable Cause, likely due to the changes resulting from the Supreme Court's decision in Witt. Overall, as indicated by the individual group means and the overall mean, the direction of the distribution is toward RAS rather than Probable Cause consent requests; the majority of consent requests in the sample were based on RAS.

### *Variation Among RAS Consent Requests*

RAS is a legal standard that is less than Probable Cause but more than an unparticularized suspicion or a hunch. It must be based on "specific and articulable facts," taken together with rational inference from those facts (See Terry v. Ohio, 392 U.S. 1 (1968)). In our analysis, OLEPS lists the factors that the trooper articulated to develop RAS.

In the current reporting period, there were 46 stops with an RAS consent request. The number of RAS factors cited in each consent request varied from one to seven. On average, the 46 stops with an RAS consent request utilized four RAS factors. Table Five depicts the frequency of each RAS factor cited in the current reporting period by race/ethnicity of driver.

The most frequently cited reason was criminal history, cited in 35 RAS consent requests. Nervousness, itinerary, conflicting statements, and evasiveness were the remaining reasons in the top five RAS factors. Across racial/ethnic groups, the distributions of reasons were fairly consistent. White drivers were involved in the largest number of stops with RAS consent requests in this reporting period. Accordingly, it is expected that White drivers constitute the largest proportion of each RAS factor. This is accurate for all reasons except criminal neighborhood, sweating, vehicle pursuit, the use of boost cell phones, modification to vehicles, and the odor of raw marijuana. Though Black or Hispanic drivers were involved in a larger (or the same as White drivers) proportion of these reasons for RAS, these reasons were relatively rare in the current reporting period, cited in four or fewer RAS consent requests. Criminal history was the most frequently cited reason for both White and Black drivers. For Hispanic drivers, conflicting statements was the most frequently cited RAS reason.

Performance Standard 8 will use this distribution of RAS factors to examine whether stops involving certain reasons were lengthier than stops with other reasons to identify whether evidence indicates unnecessary lengthening of stops to bolster RAS.

**Table Five: Reason for RAS Consent Requests by Race/Ethnicity of Driver**
14th OLEPS Reporting Period

| Race/Ethnicity | White | Black | Hispanic | Asian | Other | Total |
|---|---|---|---|---|---|---|
| **Criminal History** | 20 | 10 | 5 | | | 35 |
| **Nervousness** | 16 | 5 | 5 | 1 | 1 | 28 |
| **Itinerary** | 15 | 6 | 5 | 1 | 1 | 28 |
| **Conflicting Statements** | 11 | 5 | 6 | | | 22 |
| **Evasiveness** | 6 | 5 | 2 | 1 | 1 | 15 |
| **Other** | 6 | 4 | 2 | 1 | 1 | 14 |
| **Admission** | 8 | 4 | 1 | | | 13 |
| **Failure to Make Contact** | 4 | 3 | 2 | | | 9 |
| **Paraphernalia** | 5 | 1 | | | | 6 |
| **Plain View** | 4 | 1 | | | | 5 |
| **No ID/Registration** | 3 | 1 | 1 | | | 5 |
| **Furtive Movements** | 4 | 1 | | | | 5 |
| **Crime Neighborhood** | 2 | 2 | | | | 4 |
| **Sweating** | 1 | | 2 | | | 3 |
| **Pursuit** | 1 | 1 | | | | 2 |
| **Boost** | | 1 | 1 | | | 2 |
| **Air Fresheners** | 1 | | | | | 1 |
| **Modification** | | | 1 | | | 1 |
| **Odor Raw** | | 1 | | | | 1 |
| **BOLO** | | | | | | 0 |
| **Odor of Burnt Marijuana** | | | | | | 0 |
| **Threatening Gestures** | | | | | | 0 |
| **Anonymous Tip** | | | | | | 0 |
| **Gang** | | | | | | 0 |
| **Passing Objects** | | | | | | 0 |
| **Odor of Narcotics** | | | | | | 0 |
| **Total** | **107** | **51** | **33** | **4** | **4** | **199** |

*Canine Deployments*

OLEPS also examined the racial/ethnic variation among the legal standard used to deploy canines in motor vehicle stops. Table Six reveals that the majority of the 17 stops with drug detection canine deployments resulted from RAS rather than Probable Cause. This is expected given the impact of the Court's decision in Witt on Probable Cause searches. Black drivers were involved in the largest volume of stops with canine deployments in the current reporting period, seven deployments; four resulted from RAS and three resulted from Probable Cause.

OLEPS could not conduct Chi-square analysis to determine if the racial/ethnic differences in reasons for canine deployments were statistically significant due to low expected counts. The majority of canine deployments were based on RAS rather than Probable Cause, but the statistical significance of the racial/ethnic distribution of these legal standards cannot be evaluated.

**Table Six: Canine Deployments by Race/Ethnicity of Driver and Legal Standard**
14th OLEPS Reporting Period

| Race/Ethnicity | Reasonable Articulable Suspicion (1) | Probable Cause (2) | Mean |
|---|---|---|---|
| **White** | 5 | 1 | **1.16** |
| **Black** | 4 | 3 | **1.43** |
| **Hispanic** | 3 | 1 | **1.25** |
| **Asian** | 0 | 0 | **-** |
| **Total** | **12** | **5** | **1.29** |

The mean indicates the direction (RAS vs. Probable Cause) of deployments for each racial/ethnic group. Means of one would indicate RAS and means of two would indicate Probable Cause. Overall, there were more RAS than Probable Cause canine deployments in the current reporting period. The mean for White drivers is the lowest, 1.16, followed by Hispanic drivers at 1.25. For both of these racial/ethnic groups the mean is closer to one than two, indicating RAS rather than Probable Cause. For Black drivers, the mean is 1.43, indicating an almost even split between RAS and PC. Though there were observable differences in these mean values, OLEPS cannot state that these differences were statistically significant given the low volume of these activities in general and per racial/ethnic group.

## *Arrests*

There are instances where troopers have little discretion to arrest. For example, troopers are required to arrest when motorists have outstanding warrants. Other incidents may be rooted in Probable Cause, such as a plain view observance of contraband, which involves more discretion than a warrant, but still limits the use of trooper discretion. The racial/ethnic distribution of arrests across these limited reasons appears in this section. In the current reporting period, arrests occurred in 278 motor vehicle stops. Table Seven presents the racial/ethnic distribution of stops with arrests and reasons for arrests.

The majority of stops with arrests resulted from Probable Cause alone (without a warrant): 156 stops had an arrest listed as Probable Cause. Seventy-six stops with arrests were warrant-based and 45 resulted from a combination of Probable Cause and warrants. In instances where Probable Cause dissipates, an individual may be "unarrested."[18] In this reporting period, an individual was unarrested in 18 motor vehicle stops. Overall, these data suggest that in the first half of 2016, arrests of sampled stops more frequently resulted from Probable Cause, not on warrants, and if arrested on Probable Cause, to have charges filed.

Of the arrests made in stops with White drivers, 28 (24.14%) were warrant-based, 65 (56.03%) were Probable Cause-based, and 23 (20%) resulted from a combination of both warrant(s) and Probable Cause. As noted in the previous reporting period, the majority of arrests in stops with White drivers resulted from Probable Cause. However, this proportion was larger in the previous reporting period (59.35%) compared to the current reporting period.

[18] This term indicates instances in which a trooper arrests an individual based on Probable Cause at the scene of the stop. However, due to a lack of evidence or an admission, the Probable Cause dissipates and the trooper releases the individual from the scene, or "unarrests."

**Table Seven: Reason for Arrest by Race/Ethnicity of Driver**
14th OLEPS Reporting Period

| Race/Ethnicity | Stops with Arrests | Warrant Arrests (% of arrests) | Probable Cause Arrests (% of arrests) | Warrant & Probable Cause (% of arrests) |
|---|---|---|---|---|
| **White** | 116 | 28<br>24.14% | 65<br>56.03% | 23<br>19.83% |
| **Black** | 105 | 37<br>35.24% | 51<br>48.57% | 16<br>15.24% |
| **Hispanic** | 52 | 10<br>19.23% | 36<br>69.23% | 6<br>11.54% |
| **Asian** | 3 | 1<br>33% | 2<br>67% | 0<br>0% |
| **Am. Indian** | 1 | 0<br>0% | 1<br>100% | 0<br>0% |
| **Other** | 1 | 0<br>0% | 1<br>100% | 0<br>0% |
| **Total** | **278** | **76** | **156** | **45** |

Of the arrests made in stops with Black drivers, more arrests resulted from Probable Cause than warrants alone or warrants and Probable Cause. During this reporting period, an arrest resulting from an outstanding warrant occurred in 37 stops (35.24%) with a Black driver and an arrest resulting from Probable Cause occurred in 51 stops (48.57%) with a Black driver. There were 16 stops (15.24%) of Black drivers involving arrests based on a combination of warrants and Probable Cause. While Probable Cause arrests were still the most common type of arrest in stops with Black drivers, in the current reporting period, the largest proportion of arrests based on warrants occurred in stops with Black drivers. Further, the difference between the number of stops with warrant arrest(s) and those with Probable Cause arrest(s) is 14 stops for stops of Black drivers. For White drivers, this difference was considerably larger, 37 stops with arrests.

The pattern noted for Hispanic drivers was similar to that of White drivers. Overall, 10 stops (19.23%) of Hispanic drivers involved arrests resulting from warrants alone, 36 (69.23%) resulted from Probable Cause alone, and six (11.54%) resulted from a combination of warrants and Probable Cause. This is consistent with the previous reporting period where the majority of arrests in stops with Hispanic drivers were Probable Cause-based.

Asian, American Indian, and Other drivers combined were involved in only five reviewed stops with arrests in the current reporting period. With the exception of one stop with a warrant-based arrest, all other stops with arrests resulted from Probable Cause alone.

In incidents where a search resulted in no evidence, Probable Cause then dissipated and State Police filed no charges, the vehicle occupants were unarrested and able to leave the scene. Instances in which no charges were filed were those where an individual was released either at the scene of the stop or at the station. There were 18 stops where an individual was unarrested during a motor vehicle stop in the

current reporting period. This number is much larger than the four stops with an unarrest reported in the previous reporting period. The volume of stops with an unarrest has historically been low.

Further examination of Probable Cause arrests can indicate whether the potential for disparity exists. There were 45 stops with arrests made based on Probable Cause and at least one outstanding warrant, smaller than the number in the previous reporting period (58). Although Probable Cause was a reason for the arrest, the overarching reason was an outstanding warrant, which drastically limits a trooper's discretion. Of incidents with Probable Cause and a warrant, 23 drivers identified as White, 16 identified as Black, and six identified as Hispanic. This pattern is not consistent with the previous reporting period, in which the largest proportion of these incidents involved stops with drivers identified as Black.

The number of stops with warrant-only arrests made during the current reporting period is also larger than the proportion noted in the previous reporting period. The proportion of stops with warrant only arrests in the current reporting period was 27.64% of all stops with arrests compared to 22.92% in the previous reporting period. In total, roughly 56% of stops with arrests resulted from Probable Cause alone while 44% resulted from an outstanding warrant (either alone or in conjunction with Probable Cause).

OLEPS conducted Chi-square analysis to determine the statistical significance of the racial/ethnic differences in reasons for arrests across White, Black, and Hispanic drivers. The results indicate a Chi-square value of 8.383 ($p$=0.079). The difference in the volume of arrest reasons among White, Black, and Hispanic drivers is not significant. However, this difference approaches statistical significance. Thus, the results indicate only that the variation in arrest reasons across racial/ethnic groups approaches significance, and that no volume is statistically greater than the other.

### *Additional Analyses: Time of Day*

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

Table Eight indicates that, like the previous reporting period, there were more motor vehicle stops made at night[19] (162) than during the day (129) among the stops reviewed. There were more stops during the night for White, Black, Hispanic, and American Indian drivers and more during the day for Asian and Other drivers. The largest difference between the numbers of day and night stops was for White drivers; there were 14 more stops during the nighttime than daytime for this racial/ethnic group.

[19] OLEPS defined day and night according to sunrise and sunset. For example, a stop occurring after the official time of sunset for the Eastern Time Zone (New York City) on that date occurred at night.

**Table Eight: Racial/Ethnic Distribution of Day & Night Stops**
14th OLEPS Reporting Period

| Race/Ethnicity | Day | Night | Total |
|---|---|---|---|
| **White** | 54 | 68 | **122** |
| **Black** | 48 | 60 | **108** |
| **Hispanic** | 24 | 32 | **56** |
| **Asian** | 2 | 1 | **3** |
| **Am. Indian** | 0 | 1 | **1** |
| **Other** | 1 | 0 | **1** |
| **Total** | **129** | **162** | **288** |

OLEPS used Chi-square analysis to determine the statistical significance of the observed differences in Table Eight. The analysis revealed a $x^2$ value of 0.041 and was not significant. Though there were more stops made at night than during the day, this difference is not statistically significant.

## Summary of Standard 1

In the current reporting period, analyses indicated that the difference in the volume of arrest reasons across racial/ethnic groups was not statistically significant, but approached statistical significance. Overall, White drivers were the largest proportion of all stops reviewed, those with consent requests, those with force, and those with arrests. Black drivers were the largest proportion of stops reviewed with drug detection canine deployments. Further, minority drivers remain overrepresented among the stops selected for review in this report. Stops with consent requests typically resulted from RAS rather than Probable Cause, and in this reporting period, canine deployments more frequently resulted from RAS than Probable Cause. The reasons for stops were fairly consistent across racial/ethnic groups; failure to maintain lane was the most frequently cited reason for White and Hispanic drivers, while equipment violations were the most frequently cited reason for Black drivers. OLEPS noted that a larger proportion of stops of White, Black, Hispanic, and American Indian drivers occur at night than during the day, while more stops of Asian and Other drivers occur during the day than at night. As in all Oversight Reports, OLEPS examined the appropriateness of all actions taken during motor vehicle stops reviewed, as discussed further in the remainder of this report.

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

# Performance Standard 2: Consent Search Requests

## Standards

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

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

## Assessment

In the current reporting period, OLEPS reviewed 48 motor vehicle stops where a consent to search request (either RAS or Probable Cause) was made of a motorist. The motorist may grant or deny the request to search. In the stops reviewed in the current reporting period, motorists granted the majority of all consent requests; motorists granted 36 consent requests and denied 12.

In this reporting period, OLEPS reviewed all stops with RAS consent requests and a sample of stops based on whether a non-consensual search occurred in the stop. Unlike past reporting periods, OLEPS did not intentionally select a sample of stops with Probable Cause consent requests in the current reporting period. Following the Supreme Court's decision in Witt, the volume of stops with Probable Cause consent to search requests decreased dramatically. As a result, the majority of stops selected with consent requests, 46, resulted from RAS; only two stops with consent requests resulted from both RAS and Probable Cause.

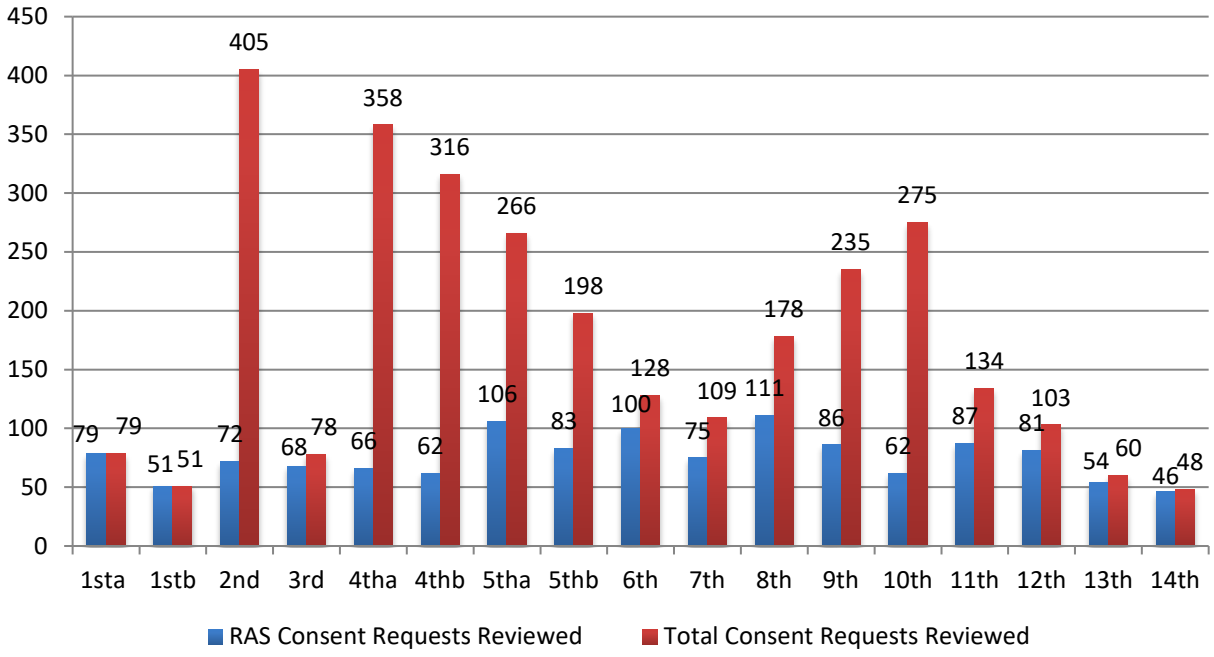
Figure Nine depicts the number of stops with RAS consent requests in each reporting period dating back to OLEPS' first reporting period. The number of stops with RAS consent requests peaked in the eighth reporting period. In subsequent reporting periods, stops with RAS consent requests decreased to 62 in the tenth reporting period. The number of stops with RAS consent requests increased in the eleventh reporting period to 87 and decreased since then. The number of stops with RAS consent requests in the current reporting period, 46, is the lowest volume of all reporting periods depicted here.

The total consent requests column only became relevant in 2009 (second reporting period) following the Supreme Court decision in Peña-Flores in February 2009. This ruling led State Police to increase reliance on Probable Cause consent requests, dramatically increasing the volume of stops with consent requests. However, since the Court's decision in Witt in September 2015 (thirteenth reporting period), the volume

of all consent requests, but especially Probable Cause consent requests, decreased considerably. Only two stops reviewed in the current reporting period involved a Probable Cause consent request.

**Figure Nine: Stops with Consent Requests Reviewed**

January 2008-June 2016




## *RAS & Probable Cause*

Although all 48 stops with consent requests resulted from RAS in the current reporting period, two of these 48 also resulted from Probable Cause. OLEPS examined the circumstances and activities in the two stops with Probable Cause separately from the 48 stops with only RAS consent requests throughout this section.

## Table Nine: Errors on Legal Standard of Consent Requests

14th OLEPS Reporting Period

| | All Consent Requests | RAS Consents Requests | Probable Cause Consent Requests |
|---|---|---|---|
| **Met Legal Standard** | 46 | 44 | 2 |
| **Unknown** | - | - | - |
| **Did not meet Legal Standard** | 2 | 2 | 0 |
| **Errors Caught** | 2 | 2 | 0 |
| **Interventions** | 1 | 1 | 0 |
| **Errors Not Caught** | 0 | 0 | 0 |
| **Errors Non-Reviewed** | 0 | 0 | 0 |

Generally, the facts and circumstances surrounding the motor vehicle stop meet the respective standards for consent in the current reporting period. Table Nine depicts the errors in meeting each legal standard. In two stops, the facts and circumstances surrounding the RAS consent request failed to meet the appropriate legal standard to request consent. State Police caught this error in both stops and issued an intervention for one stop. In both stops with a Probable Cause consent request, the facts and circumstances surrounding the consent request met the legal standard to request consent based on Probable Cause.

For the past few reporting periods, the number of stops where a legal standard was not met has been low, evidence of State Police's continued supervision and review of motor vehicle stops. Likely due to the smaller overall volume of consent requests, the volume of incidents where the trooper failed to meet the legal standards is less than that of previous reporting periods. OLEPS encourages State Police to continue its vigilance and improvement in both the appropriate use of legal standards and effective documentation of errors and interventions.

Though there were two stops with consent requests where the legal standard was not met, OLEPS noted four additional instances where the trooper's language, wording, inaccurate descriptions of the RAS consent process and repeated requests could be viewed as pressure on the driver for consent to search the vehicle. State Police reviewed all of these stops. State Police noted that such repeated questioning, language, and wording could compromise the voluntariness of the individual's granting of consent to search in all of these stops. However, State Police issued an intervention for only one of these stops.

### *Consent Forms*

State Police must complete a consent to search form for all requests for consent to search. This form provides documentation of the consent request and accompanying search including the location(s) searched (vehicle or personal belonging), the individual(s) involved, the location of the stop, the rights of the individual(s) involved in the consent request, whether consent is granted or denied, and a log of any evidence recovered in the search. As such, it is important that State Police complete these forms properly.

**Table Ten: Consent Form Errors**
14th OLEPS Reporting Period

| | Consents Requests | RAS | Probable Cause |
|---|---|---|---|
| **Form Correct** | 18 | 18 | 0 |
| **Form Missing** | 2 | 2 | 0 |
| **Not Correct** | 28 | 26 | 2 |
| **Errors Caught** | 28 | 26 | 2 |
| **Interventions** | 4 | 4 | 0 |
| **Errors Not Caught** | 2 | 2 | 0 |
| **Errors Non-Reviewed** | 0 | 0 | 0 |

Of the 48 stops with consent to search requests, OLEPS confirmed State Police completed forms without errors in 18 stops. In two stops with a consent to search request, OLEPS noted the consent to search form as missing. In 28 stops, the consent form contained errors. Of these 30 stops in total with form errors (not correct or missing), State Police supervisory review caught 28 errors, but only issued an intervention for four of these instances. Historically, form errors most often relate to blank fields on the form resulting an in incomplete record of the consent request and/or accompanying search. For example, many forms lack a mark indicating whether the motorist granted or denied consent, lack requisite signatures, or lack complete responses to all fields.

In previous reporting periods, OLEPS noted a specific issue regarding the proper completion of consent forms that impacted OLEPS' ability to locate forms. Consent forms require a trooper to write the CAD incident number on the form. OLEPS noted that consent to search forms were initially unable to be located. Once State Police provided the forms, OLEPS noted the missing CAD incident numbers. Accordingly, due to the missing CAD incident number State Police could not appropriately file the forms within RMS and scan it into the records of the stop. In recent reporting periods, the volume of missing consent to search forms remained low. There were only two missing forms in the current reporting period. The lower volume of missing forms may be attributable to State Police's continued improvement in record keeping. OLEPS continues to recommend that State Police appropriately file, record, and store all paperwork.

In 38% of all stops with consent requests, State Police completed consent request forms without error. State Police caught consent form errors in all but two stops, which is 93% of all stops with consent request errors. OLEPS commends State Police on the improvements made regarding consent to search forms and its diligence in ensuring that forms are appropriately filed and stored in State Police databases. OLEPS continues to recommend that State Police stress the importance of appropriately filed consent forms and proper documentation of consent form errors via an intervention.

### *Rights*

Consent to search forms must be read in their entirety to the individual whose vehicle, items, or person is being searched so that s/he clearly understands his/her rights. Such rights include the right to refuse the search and the right to be present during the search. In three motor vehicle stops, a trooper did not appropriately notify the driver of either the right to refuse or the right to be present during the consent search. State Police caught all of these errors, but did not issue an intervention for any of them. OLEPS could not determine whether the trooper read the consent form in its entirety in an additional two stops due to recording issues in these stops.

## Table Eleven: Reading Consent Form Errors

14th OLEPS Reporting Period

| | Consents Requests | RAS | Probable Cause |
|---|---|---|---|
| **Read Correctly** | 43 | 41 | 2 |
| **Unknown if Read** | 2 | 2 | 0 |
| **Not Read Correctly** | 3 | 3 | 0 |
| **Errors Caught** | 3 | 3 | 0 |
| **Interventions** | 0 | 0 | 0 |
| **Errors Not Caught** | 0 | 0 | 0 |
| **Errors Non-Reviewed** | 0 | 0 | 0 |

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

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

### *Accountability & Safety*

Troopers must meet several requirements during a consent search request. These requirements protect both the troopers and the individuals involved in the search. For example, a supervisor (not involved in the stop) must provide permission for a trooper to request consent of the motorist. This ensures that the trooper's request for consent to search results from articulable facts and circumstances that meet the appropriate standards of RAS or Probable Cause. In all stops with a consent request in the current reporting period, the trooper properly notified the supervisor of the facts and circumstances giving rise to RAS or Probable Cause prior to requesting consent to search from the motorist. In the majority of stops with consent requests, 33, notification of the facts and circumstances to the supervisor occurred via radio. In 12 stops, the supervisory notification occurred at the scene of the stop. In three stops, the supervisory notification occurred via phone.

## Table Twelve: Request for Supervisory Approval to Request Consent Errors

14th OLEPS Reporting Period

| | Consents Requests | RAS | Probable Cause |
|---|---|---|---|
| **Radio** | 33 | 32 | 1 |
| **Scene** | 12 | 12 | 0 |
| **Phone** | 3 | 2 | 1 |
| **Unknown** | 0 | 0 | 0 |
| **Not Notified** | 0 | 0 | 0 |
| **Errors Caught** | 0 | 0 | 0 |
| **Interventions** | 0 | 0 | 0 |
| **Errors Not Caught** | 0 | 0 | 0 |
| **Errors Non-Reviewed** | 0 | 0 | 0 |

Troopers are also required to read the consent form (including the rights to be present and to refuse) while recording the stop. This provides supplemental evidence that troopers notified motorists of their rights. Troopers recorded the request for consent to search in 46 stops and did not record the request in two stops. State Police supervisory review caught these two errors, however, did not issue an intervention for this error.

## Table Thirteen: Consent Request Recording Errors

14th OLEPS Reporting Period

| | Consents Requests | RAS | Probable Cause |
|---|---|---|---|
| **Recorded** | 46 | 44 | 2 |
| **Unknown** | 0 | 0 | 0 |
| **Not Recorded** | 2 | 2 | 0 |
| **Errors Caught** | 2 | 2 | 0 |
| **Interventions** | 0 | 0 | 0 |
| **Errors Not Caught** | 0 | 0 | 0 |
| **Errors Non-Reviewed** | 0 | 0 | 0 |

After a supervisor approves the request to ask for consent to search, and the motorist grants consent, troopers may commence the search after notification to State Police communication that the search is beginning. In 35 of the 36 stops with granted consent requests, troopers made the requisite notification to communication prior to conducting the consent. In one stop, a trooper failed to notify communication of the beginning of the consent search. State Police caught this error, however, did not issue an intervention for the error.

## Table Fourteen: Consent Search Communication Errors

14th OLEPS Reporting Period

| | Consents Requests | RAS | Probable Cause |
|---|---|---|---|
| **Notified** | 35 | 33 | 2 |
| **Unknown** | 0 | 0 | 0 |
| **Not Notified** | 1 | 1 | 0 |
| **Errors Caught** | 1 | 1 | 0 |
| **Interventions** | 0 | 0 | 0 |
| **Errors Not Caught** | 0 | 0 | 0 |
| **Errors Non-Reviewed** | 0 | 0 | 0 |

According to State Police policy, troopers must also record the actual search. As noted previously, OLEPS can only confirm trooper adherence to this requirement for stops where recordings are available for review. In 33 stops, State Police properly recorded the execution of the consent search. In two stops, only the audio portion of the consent search was recorded, and in one stop, only the video portion of the consent search was recorded. Unlike the previous reporting period, OLEPS noted no stops with consent search recording errors.

## Table Fifteen: Consent Search Recording Errors

14th OLEPS Reporting Period

| | Consents Requests | RAS | Probable Cause |
|---|---|---|---|
| **All Recorded** | 33 | 31 | 2 |
| **Audio Only** | 2 | 2 | 0 |
| **Video Only** | 1 | 1 | 0 |
| **Unknown** | 0 | 0 | 0 |
| **Not Applicable** | 0 | 0 | 0 |
| **Not Recorded** | 0 | 0 | 0 |
| **Errors Caught** | 0 | 0 | 0 |
| **Interventions** | 0 | 0 | 0 |
| **Errors Not Caught** | 0 | 0 | 0 |
| **Errors Non-Reviewed** | 0 | 0 | 0 |

As noted above, the consent to search form specifically identifies the parts of a motor vehicle a trooper may search per supervisory approval and motorist consent. Troopers may not deviate from this scope. OLEPS noted that in most stops, 32, troopers appropriately heeded the scope requirements of the search. There were four motor vehicle stops with a consent search where troopers went beyond the scope requirements. State Police caught all of these errors during supervisory review, and issued an intervention for three of these errors.

## Table Sixteen: Consent Search Scope Errors

14th OLEPS Reporting Period

| | Consents Requests | RAS | Probable Cause |
|---|---|---|---|
| **Followed Scope** | 32 | 30 | 2 |
| **Unknown** | 0 | 0 | 0 |
| **Did not Follow Scope** | 4 | 4 | 0 |
| **Errors Caught** | 4 | 4 | 0 |
| **Interventions** | 3 | 3 | 0 |
| **Errors Not Caught** | 0 | 0 | 0 |
| **Errors Non-Reviewed** | 0 | 0 | 0 |

A motorist retains the right to withdraw his/her consent to the search at any time during the search. Troopers must immediately terminate a search upon withdrawal of consent. Generally, withdrawal of consent is rare, typically occurring in fewer than five stops each reporting period. In this reporting period, OLEPS noted no instances in which the motorist withdrew consent.

*The Odor of Marijuana*

After the Supreme Court's decision in Peña-Flores, which severely limited a trooper's ability to search a vehicle based on exigency, if the trooper smelled the odor of marijuana, the trooper was required to arrest. In September 2014, after the passage of the Compassionate Use Medical Marijuana Act (CUMMA), State Police issued policies detailing how State Police should proceed in encounters where troopers detect the odor of marijuana. These guidelines require that troopers ensure that the driver and/or occupant are not CUMMA patients prior to engaging in any law enforcement activity, including an arrest based on the odor of marijuana. Once arrested, the trooper could request consent to search the vehicle or request a search warrant to search the vehicle. After the Supreme Court overturned Peña-Flores in 2015, State Police issued new guidelines allowing troopers to conduct a warrantless, Probable Cause search of the interior of the vehicle. However, troopers must still determine the CUMMA status of the driver and/or occupants prior to this search.

OLEPS ensures that, when applicable, State Police determine whether drivers and/or occupants are CUMMA patients prior to engaging in law enforcement activity. In the current reporting period, it was applicable to inquire about a motorist's CUMMA status in 21 stops. In two stops, it was unknown whether a trooper made a CUMMA inquiry. In 17 stops, State Police asked whether the driver was a medical marijuana patient. There were two stops where the trooper failed to inquire about CUMMA. State Police caught both of these errors, and issued an intervention for one of these errors.

Troopers should inquire into a driver's medical marijuana status prior to taking any law enforcement action. In nine stops, troopers determined CUMMA status as instructed. In five stops, troopers failed to inquire about a driver's potential CUMMA status prior to taking law enforcement action. These errors frequently occur because the trooper arrested the driver prior to ascertaining whether s/he was a CUMMA patient. State Police caught three of these errors, and issued an intervention for two of these errors. Both of the errors not caught occurred in stops State Police did not review.

## Summary of Standard 2

Overall, State Police adhered to policies and procedures governing consent search requests. OLEPS noted two instances in the current reporting period where the facts and circumstances surrounding a consent to search request did not meet the minimum standard of RAS. State Police caught these errors and issued an intervention for one of these errors. OLEPS noted two missing or unavailable consent forms in the current period and that errors on the forms continue. However, State Police noted the majority of these errors. Overall, 33 out of 48 stops with a consent request contained an error relating to the consent request and/or search. State Police caught errors in 31 of these stops. OLEPS commends State Police on the improvements made regarding consent to search forms and its diligence in ensuring that troopers appropriately complete and store consent to search forms in State Police databases. OLEPS continues to recommend that State Police stress the importance of filling out these forms completely and correctly, and appropriately cataloging these forms. In the current reporting period, there was one stop with an RAS consent request, a critical incident requiring supervisory review, which did not receive the requisite review. OLEPS reminds State Police of its requirement to review all stops with critical activities and to do so in an appropriate and timely manner. Detailed discussion of the stops without supervisory review appears in Performance Standard 9. Further discussion of the recording issues noted in this standard appear in Performance Standard 5.

# Performance Standard 3: Deployment of Drug Detection Canines

## Standards

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

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

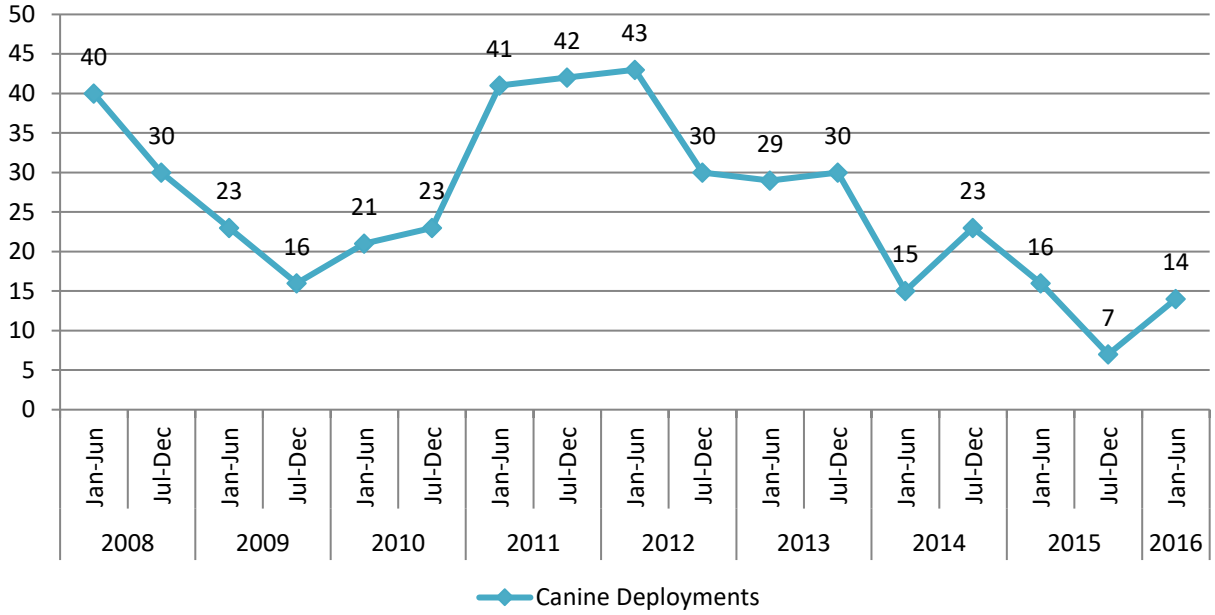
## Assessment

As indicated in State Police policies and procedures, all canine deployments must be requested of and authorized by a supervisor not involved in the requesting trooper's motor vehicle stop. These deployments are referred to as official deployments. Unofficial deployments are those that occur when a canine handler serves as a "back-up" to the primary trooper and utilizes the canine without prior supervisory approval.

In the current reporting period, 14 stops involved an official drug detection canine deployment at the scene of the stop. In addition to these 14 critical canine deployments, there were three unofficial canine deployments at the scene of the motor vehicle stop. Figure Ten depicts the trend of canine deployments at the scene of motor vehicle stops from 2008 to the current reporting period. The volume of stops with official canine deployments increased seven stops since the previous reporting period. In addition to these 14 official deployments at the scene, six official canine deployments occurred to track a fleeing suspect or evidence, and four official canine deployments occurred at the station. However, because these ten deployments do not met the definition of a critical activity, no discussion of them appears in this standard.

**Figure Ten: Stops with Canine Deployments**

January 2008- June 2016




Of the 14 stops with official canine deployments, 12 resulted from RAS and two resulted from Probable Cause. The facts and circumstances surrounding one of the RAS canine deployments did not meet the legal standard of RAS. State Police caught this error but did not issue an intervention for it. For the two stops with a canine deployment based on Probable Cause, the facts and circumstances surrounding the deployment met the legal standard of Probable Cause.

**Table Seventeen: Canine Deployment Legal Standard Errors**

14th OLEPS Reporting Period

| | Canine Deployments | RAS Deployments | Probable Cause Deployments |
|---|---|---|---|
| **Met Legal Standard** | 13 | 11 | 2 |
| **Did not meet Legal Standard** | 1 | 1 | 0 |
| **Errors Caught** | 1 | 1 | 0 |
| **Interventions** | 0 | 0 | 0 |
| **Errors Not Caught** | 0 | 0 | 0 |
| **Errors Non-Reviewed** | 0 | 0 | 0 |

State Police policies and procedures require the recording of canine deployments. In the current reporting period, State Police appropriately recorded 13 canine deployments. In one stop in the current reporting period, the canine deployment was not properly recorded. State Police supervisory review did not catch this error.

**Table Eighteen: Canine Deployment Recording Errors**
14th OLEPS Reporting Period

| | Canine Deployments | RAS Deployments | Probable Cause Deployments |
|---|---|---|---|
| **Recorded** | 13 | 11 | 2 |
| **Unknown** | 0 | 0 | 0 |
| **Not Recorded** | 1 | 1 | 0 |
| **Errors Caught** | 0 | 0 | 0 |
| **Interventions** | 0 | 0 | 0 |
| **Errors Not Caught** | 1 | 1 | 0 |
| **Errors Non-Reviewed** | 0 | 0 | 0 |

## Summary of Standard 3

The number of motor vehicle stops involving canine deployments in the current reporting period increased since the historical low noted in the previous reporting period. In the current reporting period, all stops with canine deployments based on Probable Cause met the legal standard of Probable Cause. However, one stop with a canine deployment based on RAS did not meet the legal standard of RAS. State Police caught this error, but did not issue an intervention. Additionally, there was one stop with a canine deployment in the current reporting period not recorded, as required. State Police did not catch this error, despite reviewing the stop. In total, OLEPS noted that two of the 14 stops with canine deployments in the current reporting period did not receive State Police supervisory review, despite the mandatory requirement to review these critical stops. OLEPS reminds State Police of the requirement to review all stops with canine deployments, ensuring that all deployments meet the appropriate legal standards, and that the activities within these stops are recorded appropriately.

# Performance Standard 4: Use of Force

## Standards

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

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

## Assessment

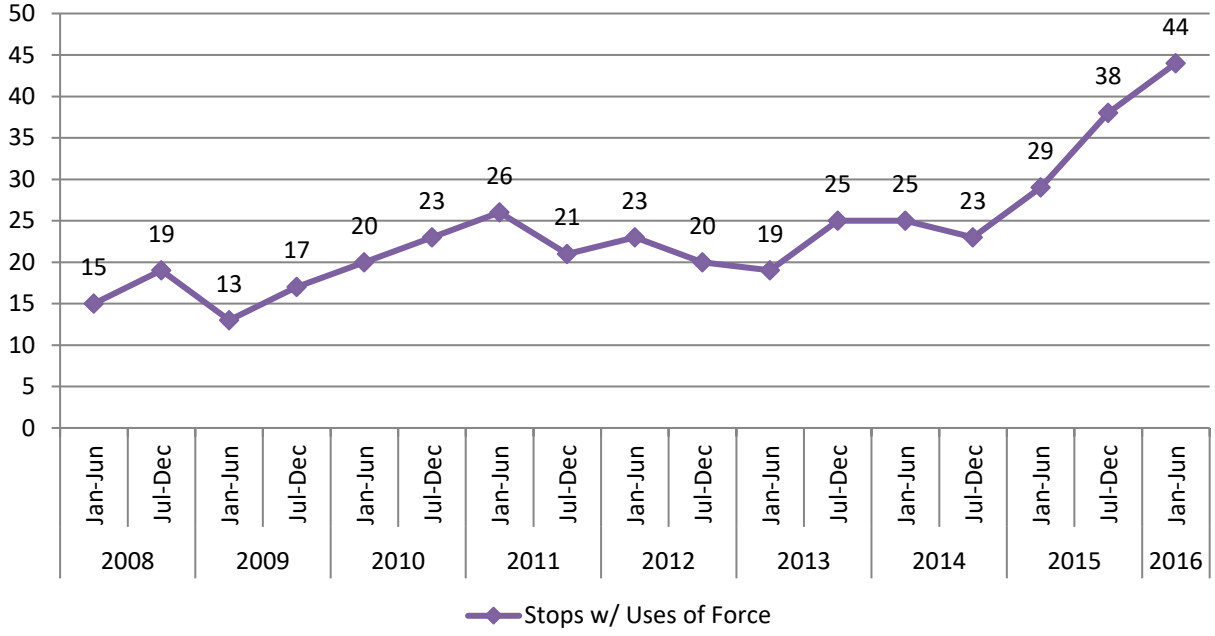
There were 44 stops involving use of force in the current reporting period, a 16% increase since the previous reporting period and the largest volume of stops involving uses of force since 2008. For the third consecutive reporting period, the volume of stops with a use of force reached a new historical high. Table Nineteen presents the types of force used in the current reporting period. As is generally the case, physical force is the most frequently used type of force. In 37 stops, troopers used physical force. In two stops, troopers used mechanical force. In five stops, troopers used a combination of mechanical and physical force.

**Table Nineteen: Uses of Force by Type of Force**[20]
14th OLEPS Reporting Period

| Type of Force | Number of Stops |
|---|---|
| **Physical** | 37 |
| **Mechanical** | 2 |
| **Enhanced Mechanical** | 0 |
| **Physical & Mechanical** | 5 |
| **Physical & Enhanced Mechanical** | 0 |
| **Total** | **44** |

OLEPS reviews all uses of force in connection with motor vehicle stops. In the current reporting period, there was an increase in the number of stops with uses of force. Figure Eleven depicts the trend in the number of stops with uses of force from 2008 to the current reporting period. As previously indicated, there were 44 stops with uses of force in the current period. This is the largest number of stops with a use of force since 2008.

**Figure Eleven: Stops with Use of Force**
January 2008-June 2016




In 36 stops, troopers used force against the driver. In five stops, troopers used force against passenger 1, and in three stops, troopers used force against passenger 2.

[20] Physical Force: Bodily contact with a subject, not otherwise submitting or cooperating, to effect an arrest or other law enforcement objective.
Mechanical Force: The use of some device, which employs less than deadly force, such as a baton (PR24, expandable baton, etc.); police canine; chemical or natural irritating agent, etc.
Enhanced Mechanical Force: An intermediate force option between mechanical force and deadly force, requiring a greater level of justification than that pertaining to physical or mechanical force, but a lower level of justification than that required for the uses of deadly force (e.g., conducted energy devices and less-lethal ammunition).

OLEPS assesses whether uses of force occurring in motor vehicle stops were appropriate and necessary. In 32 instances, OLEPS deemed the use of force necessary and appropriate. In this reporting period, OLEPS was unable to determine whether the force was appropriate in 12 instances. Eleven of these instances involved the driver, and one involved passenger 2. In these 12 instances, either the use of force occurred partially or fully off camera or recordings were unavailable or incomplete. There were no stops where OLEPS observed a use of force that deviated from applicable standards.

## Table Twenty: Uses of Force Errors

14th OLEPS Reporting Period

| | Driver | P1 | P2 |
|---|---|---|---|
| **Necessary** | 25 | 5 | 2 |
| **Unknown** | 11 | 0 | 1 |
| **Not necessary** | 0 | 0 | 0 |
| **Errors Caught** | 0 | 0 | 0 |
| **Interventions** | 0 | 0 | 0 |
| **Errors Not Caught** | 0 | 0 | 0 |
| **Errors Non-Reviewed** | 0 | 0 | 0 |

Given the larger volume of stops with uses of force during this reporting period, OLEPS examined the specific circumstances in each stop to determine whether there were any patterns of behavior that elicited uses of force. OLEPS noted what actions a citizen did or did not take in a stop that led to the use of force. Most commonly, citizens refused to comply or resisted arrest. Specifically, the following precipitated a use of force:[21]

- In 37 stops with a use of force, a citizen physically resisted when the trooper placed handcuffs on them.
- In 35 stops, motorists refused to comply with trooper commands.
- In 15 stops, citizens refused to exit the vehicle.
- In 15 stops, individuals exhibited erratic behavior.
- In six stops, individuals fled the scene of the motor vehicle stop.
- In five stops, individuals verbally threatened and/or physically attacked the trooper(s).

Troopers must complete use of force reports in all instances of force for each citizen involved. All use of force reports involving the driver, passenger 1, or passenger 2 were filed and available for review.

## Table Twenty-One: Uses of Force Reports

14th OLEPS Reporting Period

| | Driver | P1 | P2 |
|---|---|---|---|
| **Report Filed** | 36 | 5 | 3 |
| **Missing** | 0 | 0 | 0 |
| **Errors Caught** | 0 | 0 | 0 |
| **Interventions** | 0 | 0 | 0 |
| **Errors Not Caught** | 0 | 0 | 0 |
| **Errors Non-Reviewed** | 0 | 0 | 0 |

[21] Stops may be represented more than once since the totality of the circumstances is what leads to a use of force and because these actions may have occurred simultaneously.

Additionally, OLEPS reviews use of force reports for completion and correctness. In seven stops involving uses of force against the driver, trooper did not complete the use of force reports properly. For example, a use of force form indicated physical force only, whereas the incident involved both physical and mechanical force (i.e., OC spray). Of these seven errors in total, State Police caught errors in six stops, but issued an intervention in only one stop. The remaining error was not caught because State Police did not review the stop.[22] OLEPS noted improperly completed use of force reports in two stops with force used against passenger 1. State Police caught both of these errors and issued an intervention for one. In one stop with force used against passenger 2, trooper did not complete the use of force report properly. State Police caught this error, however, did not issue an intervention.

**Table Twenty-Two: Uses of Force Report Errors**

14th OLEPS Reporting Period

| | Driver | P1 | P2 |
|---|---|---|---|
| **Report Correct** | 29 | 3 | 2 |
| **Missing** | 0 | 0 | 0 |
| **Report Not Correct** | 7 | 2 | 1 |
| **Errors Caught** | 6 | 2 | 1 |
| **Interventions** | 1 | 1 | 0 |
| **Errors Not Caught** | 0 | 0 | 0 |
| **Errors Non-Reviewed** | 1 | 0 | 0 |

## Summary of Standard 4

OLEPS concluded that despite the historic high number of incidents with uses of force in the current reporting period, troopers conducted the observable uses of force in accordance with State Police requirements and the law. The issues pertaining to incomplete or incorrect use of force reports underscores the importance of OLEPS' recommendations for appropriate documentation and cataloging of State Police enforcement activities. The Act mandates that OLEPS review all critical stops, which includes uses of force. However, there were instances in the current reporting period in which unavailable or incomplete recordings prevented OLEPS from reviewing the stop. OLEPS reiterates concerns regarding complete recording and appropriate storage management of motor vehicle stop recordings. In addition to the aforementioned stop with force that did not receive State Police supervisory review, OLEPS noted one additional stop with force that also did not receive State Police supervisory review[23] though no errors pertaining to the force occurred. OLEPS recommends that State Police ensure that all stops involving force- and any critical activity–are properly reviewed, as mandated.

[22] OLEPS reviewed this stop, as mandated, as the trooper involved determined that this incident involved physical force and completed a use of force form for this incident. State Police ultimately did not consider the actions within this stop to rise to the level of force, and thus, did not conduct a supervisory review of this stop.

[23] State Police Office of Quality Assurance does not consider this incident a motor vehicle stop. However, OLEPS' review indicates that this incident becomes a motor vehicle stop, and thus, required a State Police supervisory review.

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

## Standards

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

State Police policies and procedures require that specific instances and information be noted in the records of the incident. They include the following:

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

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

OLEPS reviews all documentation of motor vehicle stops in addition to recordings. This includes all supervisory reviews of the motor vehicle stop. In instances where OLEPS cannot access or locate a recording of a motor vehicle stop, OLEPS examines these reviews to determine whether State Police recorded the stop.

## Assessment

### *Recording*

In the current reporting period, OLEPS reviewed 291 motor vehicle stops. State Police policy requires the recording of all motor vehicle stops, beginning when a trooper signals a car to stop (i.e., turns on lights and sirens). State Police use a system that integrates audio and video recordings and is designed to activate the audio and video recordings simultaneously. However, the microphone and video camera are separate mechanisms that can and do function independently. In the past reporting periods, OLEPS has noted many instances where the audio and video did not record simultaneously. For example, in some cases there may be a video recording, but no audio or vice versa. Because of this, OLEPS now assesses video and audio activations separately.

Of the 291 motor vehicle stops OLEPS reviewed, troopers appropriately activated video recordings in 271 stops (93%). In 13 stops (5%) OLEPS was unable to determine whether the trooper activated the video recording. For nine of these stops all recordings of the primary vehicle were unavailable for review. In the remaining four stops, the beginning of the stop or first clip of the recording were unavailable for review. In several previous reporting periods, OLEPS noted instances where the first clip of a motor vehicle stop was unavailable on State Police DIVR system because it was not catalogued with the appropriate incident number. However, in the current reporting period, OLEPS noted fewer missing first clips of stops than unavailable recordings of the entire stop in the current reporting period. In these 13 instances, OLEPS completed reviews using recordings from other troop cars involved in the stop, if available. OLEPS recommends that State Police examine the issue of missing clips of motor vehicle stops to ensure that all recordings are stored and catalogued appropriately.

In three stops (1%), video activation was not applicable, because of the circumstances of the stop, e.g., lack of camera in the car. In total, there were four stops (1%) where the video was not activated appropriately when the trooper signaled the stop. In two stops, State Police caught this error. However, State Police did not issue an intervention for either of these errors. State Police did not catch the remaining two errors because the stops did not undergo supervisory review.

**Table Twenty-Three: Recording Activation Errors**

14th OLEPS Reporting Period

| | Video Activation | Audio Activation |
|---|---|---|
| **Activated** | 268 | 247 |
| **Unknown** | 13 | 14 |
| **Not Applicable** | 3 | 3 |
| **Not Activated** | 4 | 27 |
| **Errors Caught** | 2 | 11 |
| **Interventions** | 0 | 0 |
| **Errors Not Caught** | 0 | 1 |
| **Errors Non-Reviewed** | 2 | 15 |

Audio recording activation occurred at the beginning of 247 motor vehicle stops (85%) this reporting period. There were three stops (1%) where it was not applicable for audio activation to occur at the beginning of the stop, because of the circumstances of the stop. In the current reporting period, OLEPS was unable to determine whether the trooper activated the audio recording at the beginning of 14 motor vehicle stops (5%).[24] In nine of these stops, OLEPS reviewed backup car recordings only.

In total, there were 27 stops (9%), in which the audio was not activated appropriately at the beginning of the stop. Of these 27 stops with audio activation errors, State Police caught errors in 11 stops, however, none resulted in an intervention. Despite reviewing one stop with an audio activation error, State Police did not catch this error. State Police did not review the remaining 15 stops with an audio activation error, and thus, did not catch these errors.

As with the activation of audio and video, OLEPS also assesses whether audio and video recordings continue to the completion of a stop, separately. There were 271 stops (93%) in the current reporting

[24]The number of instances where the video and audio activation were unknown were not identical in this reporting period. In one stop, there was no audio for the duration of the stop, however, all pre-operational tests and signals on the recording indicate that the audio was functioning during the incident.

period where the video recording continued to the completion of the stop. There were eight stops (3%) where OLEPS was unable to determine whether the video recording continued to the completion of the stop. In these stops, OLEPS had no indication that the primary recordings continued to the end of the stop because the recordings were unavailable. OLEPS based the majority of these reviews (five) on recordings from backup cars involved in the stop. Additionally, there were three stops (1%) where it was not applicable for the recording to continue to the completion of the stop. In total, there were nine stops (3%) where the video recording did not continue to the completion of the stop. State Police caught five of these instances, but did not issue an intervention for these errors. State Police did not review the stops with the four remaining errors. Thus, State Police caught all video completion errors in stops with a review, but issued no interventions.

**Table Twenty-Four: Recording Completion Errors**

14th OLEPS Reporting Period

| | Video Completion | Audio Completion |
|---|---|---|
| **Completion Recorded** | 271 | 246 |
| **Unknown** | 8 | 9 |
| **Not Applicable** | 3 | 3 |
| **Completion Not Recorded** | 9 | 33 |
| **Errors Caught** | 5 | 18 |
| **Interventions** | 0 | 2 |
| **Errors Not Caught** | 0 | 0 |
| **Errors Non-Reviewed** | 4 | 15 |

In 246 stops (85%), the audio recording continued to the completion of the stop. There were nine stops (3%) where OLEPS was unable to determine whether the audio recording continued to completion.[25] In five of these stops, OLEPS reviewed back up car recordings only. There were three stops (1%) where OLEPS determined it was not applicable for the audio to continue to the completion of the stop. There were 33 stops (11%) where the audio recording did not continue to the completion of the stop. Of these stops with audio completion errors, State Police caught errors in 18 in its reviews, however, only two resulted in an intervention. There were zero stops with errors not caught, thus State Police caught all audio completion errors in stops with a review. There were 15 errors not caught occurring in stops without State Police review.

For several reporting periods, OLEPS has assessed the quality of audio and video recordings. While a DIVR may be recording, the audio may be unintelligible or the camera may not be aimed at the stopped vehicle. In these instances, OLEPS noted whether any audio or video interference made it difficult to determine trooper actions. There were 50 stops (17%) where some sort of audio interference made it challenging to determine trooper actions, greater than the proportion noted in the previous reporting period (12%). These interferences often result from the noise of traffic passing or other external factors. There were 22 stops (8%) where OLEPS noted a malfunction in the audio, less than the proportion noted in the previous reporting period (12%). Malfunctions may result from microphones dying or fading in and out throughout the stop. OLEPS could not determine whether there were any audio difficulties in one stop (less than 1%) because the audio was not active at any point during the stop. There was also one

[25] The number of instances in which it was unknown whether the video and audio continued to completion were not identical in this reporting period. In one stop, there was no audio for the duration of the stop, however, all pre-operational tests and signals on the recording indicate that the audio was functioning during the incident.

stop (less than 1%) in which audio difficulties or a malfunction was not applicable because there was no DIVR in the troop car.

**Table Twenty-Five: Recording Difficulties**
14th OLEPS Reporting Period

| | Audio Difficulties | Video Difficulties |
|---|---|---|
| **None** | 217 | 248 |
| **Difficulties** | 50 | 38 |
| **Malfunction** | 22 | 4 |
| **Not Applicable** | 1 | 1 |
| **Unknown** | 1 | 0 |

Issues with the video recording were noted in 38 stops (13%), making it difficult to determine trooper actions. This is greater than the previous reporting period (9%). The video interferences may result from the camera positioned away from the stopped vehicle or because of environmental conditions (e.g., darkness, precipitation, etc.). While not ideal for review purposes, the direction of a camera may be less of a concern for a trooper during a motor vehicle stop because a trooper's priorities are trooper and motorist safety. In addition to video difficulty, there were four stops (1%) where OLEPS noted a video malfunction, less than the previous reporting period (4%).

In the previous reporting period, 23% of all stops reviewed had either issues with audio recordings or a malfunction, while 13% had a video malfunction or issues with the recording. In the current reporting period, 25% of stops had issues with audio recordings or a malfunction, while 14% had a video malfunction or recording issues. In each reporting period, large volumes of stops continue to have technological issues affecting the ability to review stops.

OLEPS continuously notes issues pertaining to the recording and cataloging of motor vehicle stop recordings. In this reporting period, a number of issues arose regarding the cataloging of stops. During the reviews, recordings were missing or were incomplete. In these instances, videos captured only a portion of the stop, may have captured another incident, or were missing in their entirety. In previous reporting periods, State Police informed OLEPS that recordings are available for all stops. However, due to a lack of appropriate cataloguing of these recordings in databases, some recordings do not appear using traditional search tactics. OLEPS must browse these "unmatched" recordings individually to determine whether they capture the incidents under review. This process can be time consuming. Further, when a stop is not appropriately catalogued with an incident number, it may not be saved appropriately according to State Police's records retention schedule. In the current reporting period, OLEPS conducted four paper reviews due to unavailable or missing recordings, an increase from one stop in the previous reporting period. Given this inefficient, time-consuming process, OLEPS recommends that State Police work to improve the cataloging and storage of all video and audio recordings to ensure these records are easily accessible and obtainable.

OLEPS has historically noted issues pertaining to the recording of motor vehicle stops. OLEPS anticipated the remedy of these issues when State Police transition to DIVR. However, the issues persist. While overall, there has been improvement in the quality of recordings, nearly a quarter of stops have malfunctions or recording difficulties. In addition, OLEPS continues to note missing or incomplete recordings of stops. OLEPS continues to recommend that State Police ensure that troopers properly record motor vehicle stops, keep recording equipment in working order, and ensure proper storage of all recordings.

## *Communication Call-Ins*

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

Upon stopping a vehicle and prior to approaching the vehicle, troopers are required to call-in: 1) the location of the stop; 2) a vehicle description; 3) the number of occupants; 4) the perceived race/ethnicity of the occupants; and 5) the reason for the stop.[26] In the majority of stops, troopers called in the appropriate information to communication. In the current reporting period, OLEPS noted four stops in which a trooper failed to notify communication of the location of the motor vehicle stop. State Police supervisory review caught three of these errors and issued an intervention for one error. Because the remaining error occurred in a stop State Police did not review, the error could not be caught. In three stops, the trooper did not notify communication of the number of occupants in the vehicle, the description of the vehicle, the description of the occupants, or the stop reason. Across these four categories, State Police caught all three errors, however, issued one intervention each.

[26] The specifications for communication call-ins vary slightly for events that do not begin as a trooper-initiated motor vehicle stop, based on the specific circumstances and feasibility of call-ins in these events.

## Table Twenty-Six: Communication Call-in Errors

14th OLEPS Reporting Period

| | Location | # of Occup. | Descript. of Vehicle | Descript. of Occup. | Reason | Complt. | Action |
|---|---|---|---|---|---|---|---|
| **Called In** | 254 | 252 | 255 | 252 | 252 | 274 | 272 |
| **Unknown** | 33 | 36 | 33 | 36 | 36 | 13 | 13 |
| **Not Applicable** | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| **Not Called In** | 4 | 3 | 3 | 3 | 3 | 4 | 6 |
| **Errors Caught** | 3 | 3 | 3 | 3 | 3 | 1 | 3 |
| **Interventions** | 1 | 1 | 1 | 1 | 1 | 0 | 0 |
| **Errors Not Caught** | 0 | 0 | 0 | 0 | 0 | 2 | 2 |
| **Errors Non-Reviewed** | 1 | 0 | 0 | 0 | 0 | 1 | 1 |

Upon completion of the stop, troopers must notify communication of completion of the stop and the actions taken during the stop (e.g., summons, warning, towing the vehicle). OLEPS noted four stops where the trooper did not notify communication of the completion of the stop. State Police caught one of these errors. However, it did not issue an intervention. State Police did not catch two errors, despite reviewing these stops. One error remained not caught, as State Police did not review the stop. In six stops, the trooper did not notify communication of actions taken during the stop. State Police caught three of these errors but did not issue an intervention for any of these errors. Despite reviewing two of the stops with these errors, State Police failed to catch these errors. The remaining error was not caught because State Police did not review the stop. Despite these communication errors, State Police performed the majority of the required call-ins for motor vehicle stops and continued to improve the number of stops with all requisite call-ins prior to approach and at the completion of the stop.

As depicted in Table Twenty-Six, in roughly 35 stops it was unknown whether troopers conducted the communication call-ins required at the beginning of a stop due to missing recordings and recording difficulties/malfunctions. In 13 stops, call-ins pertaining to the completion of the stop and action taken during the stop were unknown. In the current reporting period, State Police issued one intervention in each communication call-in category pertaining to errors in the beginning of the motor vehicle stop. State Police issued no interventions for communication errors pertaining to the completion of the motor vehicle stop.

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

### *Reporting*

Motor vehicle stop reports detail the timeline of the stop, the individuals involved, and all enforcements/activities that occurred. State Police supervisors review and approve these reports. OLEPS then reviews these reports to ensure consistency with the events of the stop depicted on recordings.

In the 291 stops reviewed, there were 65 stops (22%) with stop reports containing at least one error, a decrease in the proportion of stops with these errors from the previous reporting period (26%). An error on a motor vehicle stop report consists of any incomplete, missing, or inaccurate information on the

report (e.g., incorrect license plate number, missing notation of a frisk). Of these errors, State Police supervisory review caught 38 (58%) and issued an intervention for five (13%) errors. State Police did not catch six stops with errors on stop reports despite supervisory review, and did not review 21 stops with errors.

**Table Twenty-Seven: Report Errors**
14th OLEPS Reporting Period

| | Stop Report | Investigation Report |
|---|---|---|
| **Correct** | 226 | 120 |
| **Unknown** | 0 | 1 |
| **Not Applicable** | 0 | 156 |
| **Not Correct** | 65 | 14 |
| **Errors Caught** | 38 | 8 |
| **Interventions** | 5 | 2 |
| **Errors Not Caught** | 6 | 3 |
| **Errors Non-Reviewed** | 21 | 3 |

State Police must complete investigation reports only for stops involving investigative activities. In the current reporting period, 135 stops required investigation reports. Of these stops, 120 or 89% were error free, a slight decrease from the proportion noted in the previous reporting period (91%). There were 14 investigation reports (10%) that contained at least one error. Of these errors, State Police supervisory review caught eight (57%) and two (25%) resulted in an intervention. State Police supervisory review did not catch errors in three stops. An additional three errors were not caught, as they occurred in stops State Police did not review. In one stop the investigation report was missing, thus it is unknown whether troopers completed the report correctly.

As in previous reporting periods, troopers completed the majority of investigation reports appropriately. Motor vehicle stop reports tend to contain more errors than the investigation reports. These errors usually resulted from missing or inaccurate information recorded in the report, for example, listing a different reason for the stop, or not indicating that an action occurred. These errors were generally minor and do not necessarily reflect any specific patterns requiring a tailored focus. OLEPS' review reveals an overall improvement in reporting, especially among motor vehicle stop reports.

## Summary of Standard 5

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

Additionally, OLEPS noted a number of issues pertaining to the availability of video recordings. State Police should examine methods to improve recordings and determine why recordings do not appear as required in the recordings database. OLEPS continues to note audio activation and completion issues in motor vehicle stops. Though the video is recording, there is no audio in a number of stops. Further, OLEPS also noted a high number of stops where audio recordings do not continue to the end of the stop.

Unlike previous reporting periods, throughout the entirety of the current reporting period, OLEPS had access to videos recorded on State Police's new software.

In the current reporting period, State Police caught a slightly larger number of recording and reporting errors than it failed to catch. Unlike the previous two reporting periods, State Police reviewed less than half of all stops (44%). However, the reviews in the current period remain detailed and thorough. Despite the increased detail in State Police reviews, interventions remain an infrequent response to errors, especially those pertaining to recording and reporting of stops. OLEPS explores this further in Performance Standard 9.

OLEPS commends State Police on the continued vigilance on communication call-ins. In this reporting period, OLEPS found consistent evidence that State Police conducted these call-ins as required. However, there was a large volume of stops where OLEPS was unable to determine whether troopers conducted communication call-ins due to missing, incomplete, or unavailable recordings.

# Performance Standard 6: Exits & Frisks

## Standards

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

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

In addition, pursuant to New Jersey law,[27] a driver may be asked to exit a vehicle for any reason.

## Assessment

### *Exits*

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

In the current reporting period, State Police asked the driver and/or occupant to exit in 261 (of the 291 total stops) stops. Of the stops with exits, 255 involved a driver exit. Eighty-six of these driver exit requests were for sobriety.

In 93 stops, State Police asked the passenger labeled "passenger 1" to exit the vehicle. In 70 of these stops, the exit resulted from heightened caution, and in 23 stops, the reason for the passenger's exit was DTT. In eight stops, passenger 1 was already out of the car when the trooper arrived. Like the previous reporting period, all requests for passenger 1 to exit met the standard of heightened caution.

In 29 stops, State Police asked the passenger labeled "passenger 2" to exit the vehicle, 24 of which resulted from heightened caution and five from DTT. There were three stops in which passenger 2 was already out of the car when the trooper arrived. Like the previous reporting period, all requests for passenger 2 to exit met the standard of heightened caution.



[27] State v. Smith, 134 N.J. 599, 611 (1994) (describes the right of an officer to remove a driver from a lawfully stopped vehicle as "established precedent").

**Table Twenty-Eight: Vehicle Exit Errors**
14th OLEPS Reporting Period

| | P1 | P2 |
|---|---|---|
| **DTT** | 23 | 5 |
| **Heightened Caution** | 70 | 24 |
| **Unknown** | 0 | 0 |
| **Did not meet heightened caution** | 0 | 0 |
| **Errors Caught** | 0 | 0 |
| **Interventions** | 0 | 0 |
| **Errors Not Caught** | 0 | 0 |
| **Errors Non-Reviewed** | 0 | 0 |

*Frisks*

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

**Table Twenty-Nine: Frisk Legal Standard Errors**
14th OLEPS Reporting Period

| | Driver | P1 | P2 |
|---|---|---|---|
| **Met Legal Standard** | 17 | 10 | 3 |
| **Unknown** | 0 | 1 | 0 |
| **Did Not Meet Legal Standard** | 6 | 3 | 1 |
| **Errors Caught** | 4 | 2 | 0 |
| **Interventions** | 1 | 0 | 0 |
| **Errors Not Caught** | 0 | 0 | 0 |
| **Errors Non-Reviewed** | 2 | 1 | 1 |

In the current reporting period, 61 stops involved a frisk(s) of the driver and/or passengers. In total, State Police frisked 28 drivers. Five frisks of the driver were based on DTT, and 23 were based on RAS. Unlike the previous reporting period, six stops with a driver frisk did not meet the standard of RAS in the current reporting period.[28] State Police caught four of these errors, however, only issued an intervention for one error. State Police did not review two stops with a frisk error thus, did not catch these errors.

In 41 motor vehicle stops, State Police frisked at least one passenger. Thirty-nine stops involved a frisk of passenger 1. Of these frisks, 25 were based on DTT, and 14 were based on RAS. In three stops, the frisk of passenger 1 did not meet the standard of RAS in the current reporting period. State Police caught two of these errors, however, did not issue an intervention for either error. State Police did not review

[28] That more errors in stops with frisks were found in the current reporting period should be interpreted in light of sample differences across reporting periods. The current sample of stops with frisks (60 stops) is markedly larger than those in the previous reporting period (28 stops).

the remaining stop; thus, did not catch the error. Additionally, in one stop OLEPS was unable to determine if the frisk of passenger 1 met the appropriate legal standard due to a lack of video and accurate documentation of the incident.

There were nine motor vehicle stops where troopers frisked passenger 2. Of these, five were based on DTT, and four were based on RAS. In one stop, the frisk of passenger 2 did not meet the legal standard of RAS. Since State Police did not review this stop, the error was not caught. There were no stops with frisks of passenger 2 where the legal standard of the frisk was unknown.

**Table Thirty: Frisk Mechanics Errors**

14th OLEPS Reporting Period

| | Driver | P1 | P2 |
|---|---|---|---|
| **Correct** | 20 | 19 | 5 |
| **Unknown** | 8 | 19 | 4 |
| **Incorrect** | 0 | 1 | 0 |
| **Errors Caught** | 0 | 1 | 0 |
| **Interventions** | 0 | 0 | 0 |
| **Errors Not Caught** | 0 | 0 | 0 |
| **Errors Non-Reviewed** | 0 | 0 | 0 |

OLEPS also reviews the mechanics of the frisk to ensure that it does not extend beyond appropriate boundaries, converting the frisk into an illegal search. In this reporting period, OLEPS deemed the mechanics of the frisk of the driver appropriate in 20 stops. OLEPS was unable to note the mechanics of a driver frisk in eight stops because the frisk occurred outside the view of the camera or because portions of the recording were missing. OLEPS noted no frisks of the driver that extended beyond a pat down.

OLEPS determined the mechanics of 19 frisks of passenger 1 appropriate in the current reporting period. In an additional 19 frisks of passenger 1, it was unknown whether the mechanics of the frisk were appropriate because the frisk occurred off camera or because the recording was unavailable. In the current reporting period, one frisk of passenger 1 extended beyond a pat down. State Police caught this error through supervisory review, however, did not issue an intervention for this error.

OLEPS determined the mechanics of five frisks of passenger 2 appropriate in the current reporting period. In four frisks of passenger 2, OLEPS was unable to note the mechanics of the frisk because the frisk occurred outside the view of the camera and/or because portions of the recording were missing. OLEPS noted no frisks of passenger 2 that extended beyond a pat down.

It is important to note that of the 76 instances of driver and passenger frisks, OLEPS was unable to note the mechanics of the frisk in 30 instances (41%), less than the 53% in the previous reporting period.

## Summary of Standard 6

OLEPS noted frisk legal standard and mechanics errors in the current reporting period. It is important to note that OLEPS was unable to observe slightly less than half (41%) of all frisks because they occurred out of view of the camera or because recordings were not available. While troopers' safety is paramount, and out of view frisks do not contradict State Police policies and procedures, OLEPS is unable to conduct a full assessment of some frisks selected for review.

Having noted this, OLEPS' review found that all exits and the majority of frisks observed occurred in accordance with State Police policies and procedures.

# Performance Standard 7: Non-Consensual Searches/Seizures

## Standards

State Police policies and procedures provide the circumstances under which non-consensual searches/seizures are permitted. All searches/seizures should be based on Probable Cause, incident to arrest, or based on a search warrant and all should be called into communication prior to execution.

## Assessment



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

There were 142 stops with non-consensual vehicle searches/seizures in the current reporting period, slightly more than the 132 examined in the previous reporting period. This similarity in volume is attributable to sample selection; OLEPS selected a random sample of stops with non-consensual searches for review after the Court's decision in Witt for both the previous and current reporting periods. Of the 142 stops with vehicle searches/seizures, 133 involved Probable Cause searches/seizures, 19 were identified as plain view searches/seizures, four were credential or ownership searches, and ten were identified as "other."[29] The stops involving searches categorized as "other" referenced trooper errors, e.g., a lack of probable cause to conduct the search or no documented reason for the search. There were no searches in the current reporting period executed based on a search warrant.

**Table Thirty-One: Search of Vehicle Errors**
14th OLEPS Reporting Period

| | Vehicle Search |
|---|---|
| **Correct Vehicle Search** | 135 |
| **Unknown** | 0 |
| **Vehicle Search Error** | 7 |
| **Errors Caught** | 3 |
| **Interventions** | 2 |
| **Errors Not Caught** | 3 |
| **Errors Non-Reviewed** | 1 |

OLEPS noted that errors in vehicle searches in seven stops. State Police noted three of these errors and issued an intervention for two vehicle search errors. State Police did not catch vehicle search errors in three stops. State Police did not review one stop with a vehicle search error, thus the error remained not caught.

[29] For some searches, several reasons were identified.

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

In the current reporting period, 278 stops involved a search of a person. Per State Police policy, these searches should be incident to arrest. There were 261 searches of a driver incident to arrest and three searches that were not incident to arrest. State Police caught two of these errors and issued an intervention for one error. The other error was not caught despite receiving a State Police supervisory review. One search of a driver was based on a warrant in the current reporting period. For one stop, OLEPS was unable to determine whether the search of a driver was incident to arrest due to the angle of the recording.

In 58 stops, troopers searched passenger 1 incident to arrest and one stop where the search was not incident to arrest. State Police supervisory review noted this error, but failed to issue an intervention. For one stop, OLEPS could not determine whether the search of passenger 1 was incident to arrest due to the angle of the recording. There were no stops with searches of passenger 1 based on warrants in the current reporting period.

Finally, all 21 searches of passenger 2 were conducted incident to arrest.

**Table Thirty-Two: Search of Person Errors**
14th OLEPS Reporting Period

| | Driver | P1 | P2 |
|---|---|---|---|
| **ITA** | 261 | 58 | 21 |
| **Warrant** | 1 | 0 | 0 |
| **Unknown** | 1 | 1 | 0 |
| **Not ITA** | 3 | 1 | 0 |
| **Errors Caught** | 2 | 1 | 0 |
| **Interventions** | 1 | 0 | 0 |
| **Errors Not Caught** | 1 | 0 | 0 |
| **Errors Non-Reviewed** | 0 | 0 | 0 |

## Summary of Standard 7

OLEPS' review of non-consensual searches/seizures found the majority to be in accordance with State Police policies and procedures. Although the number of stops with non-consensual vehicle searches/seizures increased slightly from the previous reporting period, OLEPS noted slightly fewer errors in these stops in the current reporting period. The number of errors found in stops with a search of person is similar to the previous reporting period. The rate of interventions issued across both procedures is consistent with the previous reporting period. OLEPS recommends that State Police increase its use of interventions so that troopers who make such errors have the ability to modify, as needed, future behavior.

# Performance Standard 8: Length of Stops

## Standards

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

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

## Assessment

The average length of all motor vehicle stops reviewed during this reporting period was 41.01 minutes, and the standard deviation of this distribution was 31.16 minutes. Thus, stops greater than 72.17 minutes or less than 9.85 minutes were more than one standard deviation from the mean. There were 44 stops that were one standard deviation or more above the mean, and 44 stops that were one standard deviation or more below the mean.

The average length of motor vehicle stops in this reporting period is shorter than the previous reporting period, 41.01 minutes here and 43.17 minutes in the previous reporting period. The standard deviation in the current period, 31.16 minutes, is smaller than that of the previous period, 42.30. This indicates that the stops were slightly shorter in the current reporting period, and that there is less dispersion in the stops. That is, the lengths of stops were more similar to each other in the current period than the previous.

The parameters used to select the secondary sample for the previous and current reporting periods were generally the same (i.e., stops with non-consensual searches).[30] The differences in the average stop lengths and standard deviations from the previous to the current reporting period were likely the result of individual stop differences. In the previous reporting period, there were more stops that were different from all other stops in terms of stop length than there were in the current reporting period.

[30] Slight differences include historical context and interval of time. For the previous reporting period, the secondary sample of stops with non-consensual searches was selected from all stops with non-consensual searches that occurred between October 1, 2015 and December 31, 2015 (i.e., immediately after the Court's decision in Witt in September 2015). The current reporting period is the first full reporting period after the Witt decision. The secondary sample of stops with non-consensual searches for the current reporting period was selected from all stops with non-consensual searches that occurred from January 1, 2016 to June 30, 2016.

In the current reporting period, OLEPS selected stops based on whether a non-consensual search occurred. As such, the average stop length in the current reporting period may be the result of sample selection. After Witt there was no longer a requirement for a trooper to request consent to conduct a Probable Cause search from a supervisor and then the motorist. Thus, troopers can conduct the search more quickly. However, the majority of stops with vehicle searches, 55%, resulted in seizure of evidence, while 11% of stops with searches of persons resulted in evidence. Accordingly, the length of the stop may have been impacted by the seizure of evidence and resulting arrest.

### *Duration of Stops*

Table Thirty-Three displays the average length of the motor vehicle stops sampled in this reporting period. The first row in the table presents the average length of all stops in the sample, 41.01 minutes.

**Table Thirty-Three: Average Length (Minutes) of Motor Vehicle Stops**
14th OLEPS Reporting Period

| | Average Stop Length |
|---|---|
| **All Stops** | 41.01 |
| **All Stops with Consent Requests** | 78.17 |
| **RAS Consent Requests** | 77.83 |
| **Probable Cause Consent Requests** | 86.00 |
| **Consent Granted** | 76.69 |
| **Consent Denied** | 82.58 |
| **Canine Deployment** | 108.36 |
| **Consent Requests & Canine Deployments** | 106.67 |
| **Consent Granted & Canine Deployed** | 109.00 |
| **Consent Denied & Canine Deployed** | 104.33 |

The average length of stops with consent requests is 78.17 minutes, lengthier than the average noted in the previous reporting period, 68.3 minutes. Only a small proportion of stops, 17%, involved a consent to search request. Historically, stops with a Probable Cause consent request have been shorter than those with an RAS consent request. This is likely due to the time it may take to accumulate RAS, whereas Probable Cause is either present or not. However, the opposite pattern appeared in the current reporting period: RAS stops average 77.83 minutes, whereas Probable Cause stops average 86 minutes. This anomalous pattern is likely the result of the small sample size of stops involving Probable Cause. In the current reporting period, there were only two stops involving Probable Cause consent requests, one was 56 minutes and the other was substantially longer, 116 minutes. Previous reporting periods involved considerably more stops with Probable Cause consent requests, which may have normalized the average.

Overall, the average lengths of stops with RAS and Probable Cause consent requests were longer in the current compared to the previous reporting period. In the previous reporting period, the average for stops with RAS consent requests was 69.91 minutes and the average for stops with Probable Cause consent requests was much shorter, 53.83 minutes.

There is also a difference in the average length of stops where motorists granted consent compared to those where motorists denied consent. Stops with granted consent searches have an average stop length of 76.69 minutes while those with denied consent searches have an average stop length of 82.58 minutes.

OLEPS conducted an independent samples *t*-test to determine whether this difference between the lengths of stops with granted or denied consent requests was indeed statistically significant. The results indicate that there is not a significant difference between the length of stops with a granted consent request (M=76.69, s=29.78) and with a denied consent request (M=82.58, s=42.47), $t(46)=-0.531$, $p=0.598$, $\alpha=.05$ (two-tailed). The test results indicate that we cannot state that the average length of stops with granted consent to search requests is significantly different or longer than the average length of stops with denied consent to search requests.

The average length of a motor vehicle stop with a canine deployment is 108.36 minutes, longer than the average length for all other stops. An independent samples *t*-test revealed a significant difference in stop length for those stops with a canine deployment (M=102.706, s=33.56) and without a canine deployment (M=37.19, s=26.71), $t(289)=9.66$, $p<.001$ $\alpha=.05$ (two-tailed). Due to the large significance (*p*-value), a one-tailed test would also be significant, indicating that stops with canine deployments were significantly longer than those without canine deployments, $\alpha=.01$.

As motor vehicle stops involve more enforcement activities, the length of the stop increases. Thus, it is expected that a stop with a consent request and a canine deployment would be longer than a stop with only a consent request. Motor vehicle stops with consent requests and canine deployments have an average stop length of 106.67 minutes, more than the average length for stops with consent requests alone. Breaking this down by granted and denied consent requests indicates that stops with a granted consent search and a canine deployment had an average length of 109 minutes while those stops with a denied request and a canine deployment had an average length of 104.33 minutes. Results of an independent samples *t*-test did not result in a statistically significant difference between stops with a canine deployment and a granted consent request (M=109, s=21.09) and those with a canine deployment and denied consent request (M=104.85, s=41.19), $t(11)=0.22$, $p=0.829$, $\alpha=.05$ (two-tailed). These results indicate that we cannot state that the length of stops with a canine deployment and a granted consent request is significantly different or longer than the length of stops with a canine deployment and a denied consent request.

While the results depicted indicate variation in stop length based on the specific activities within each stop, these differences were not typically statistically significant. Significant results were found only for stops with canine deployments; stops with a canine deployment were significantly lengthier than stops without a canine deployment in the current reporting period.

### *Variation in Stop Length by RAS Reasons*

To ensure that the standard of RAS is met in accordance with the brevity requirement stated in State Police policies, OLEPS examined whether variation across specific RAS reasons exists. The length of stops with the most frequently cited RAS reasons- criminal history, nervousness, itinerary, conflicting statements, evasiveness, admission, and failure to make eye contact- were examined to determine whether they were statistically significantly longer than RAS stops without those reasons.

OLEPS used significance testing to determine whether the presence of certain factors were associated with lengthier stops. An independent samples *t*-test was conducted to examine if there is a statistically significant difference between the average stop length in stops where nervousness was cited (M=85.07, s=35.93) and not cited (M=66.56, s=25.03), $t(44)=1.906$, $p=0.063$. These results ($p<.10$) indicate that the average length of stops where a trooper indicated nervousness was present and those where a trooper did not indicate that it was present were not statistically significant, however, this difference approaches statistical significance.[31]

An additional independent samples *t*-test was conducted to examine if there was a significant difference between the average stop length in stops where individuals' failure to make eye contact was cited (M=102.44, s=43.05) and not cited (M= 71.84, s=27.72), $t(9.674)=2.033$, $p=0.07$. These results ($p<.10$) indicate that the average stop length where a trooper indicated failure to make eye contact was present and those where a trooper did not indicate that this was present were not statistically significant, however, this difference approaches statistical significance.

The presence of any other RAS factor was not significantly associated with lengthier stops. OLEPS conducted a one-way analysis of variance (ANOVA)[32] to examine if there were statistically significant differences in the average stop length in stops grouped by the total number of reasons cited by troopers for RAS consent. For this analysis, there were seven categories of RAS reasons cited by troopers, ranging from one to seven reasons cited. ANOVA results indicate that there is not a statistically significant difference in the average length of stops across RAS categories examined ($F(6,39)=1.222$), $p=0.316$. These results indicate that average stop length was not significantly related to the number of RAS reasons cited in stops in the current reporting period.

Together, these results indicate that variation in stop length generally is not related to the specific RAS reasons cited during a stop. Stops citing nervousness and failure to make eye contact have average stop lengths different from stops with an RAS consent request where these reasons were not cited; these differences approach statistical significance, however, ultimately fail to achieve statistical significance. OLEPS recommends State Police continue to examine the appropriateness of RAS in all stops where this legal standard is used.

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

OLEPS also explores the racial/ethnic differences in the length of motor vehicle stops. As noted above, the average length of all stops is 40.34 minutes and the standard deviation was 30.13 minutes. Figure Twelve plots the length of stops for all drivers based on each racial/ethnic group. The mean of this distribution (40.34 minutes) is depicted with a dark black line, whereas one standard deviation below the mean (10.21 minutes) and one standard deviation above the mean (70.47 minutes) are depicted with gray lines. Overall, the distributions of stop lengths were fairly consistent across racial/ethnic

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

[32] A *t*-test is incapable of testing for statistically significant differences in means across more than two groups. ANOVA, which can be viewed an as extension of the *t*-test, enables the researcher to test for significant mean differences across two or more groups. The ANOVA here tests for significant differences in average stop length across seven groups.

groups. Unlike the previous reporting period, there is greater uniformity in the dispersion of stops noted for each racial/ethnic group.

**Figure Twelve: Length of All Stops**

14th OLEPS Reporting Period

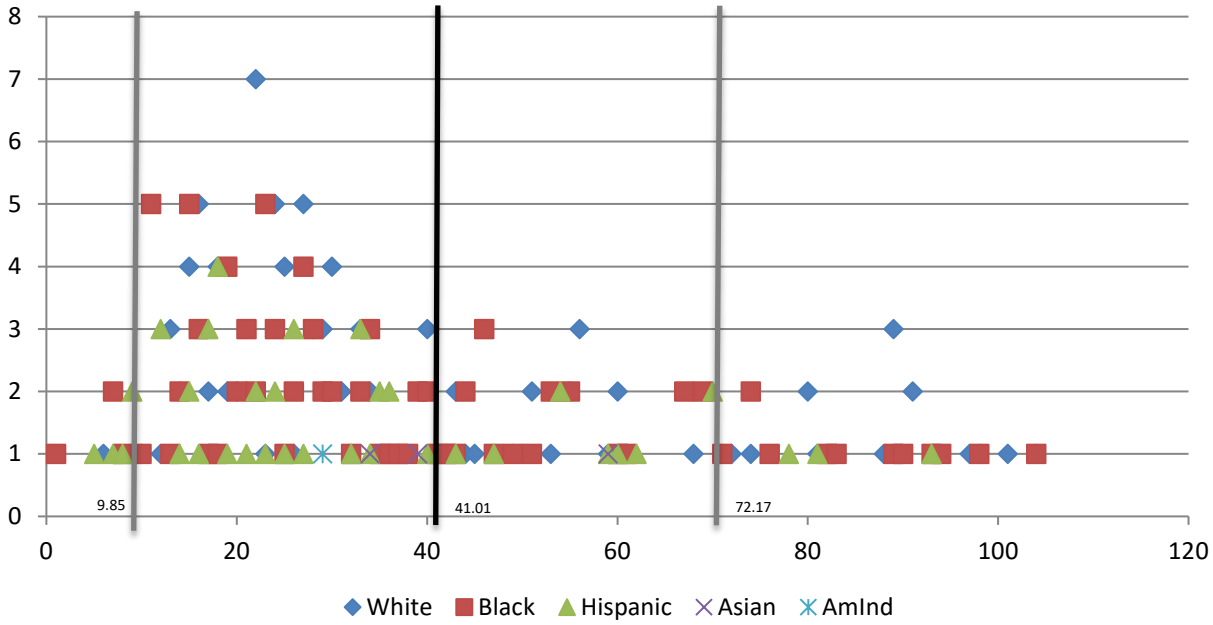
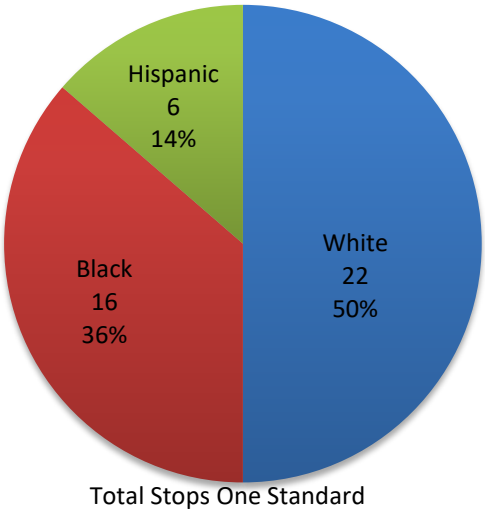



**Figure Thirteen: Racial/Ethnic Distribution of Stop Length Above the Mean**

14th OLEPS Reporting Period

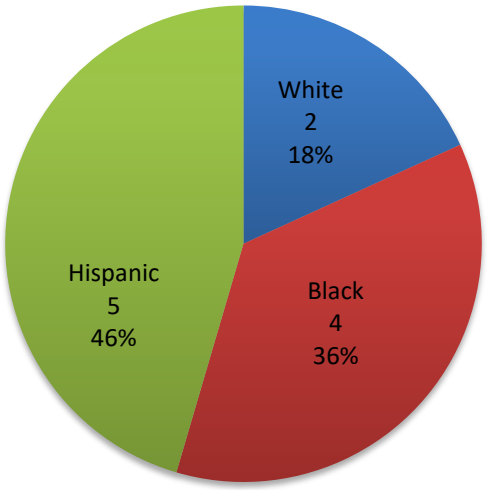



Total Stops One Standard Deviation Above Mean: **44**

Figure Thirteen depicts the racial/ethnic distribution of stops one standard deviation or more above the mean. As previously indicated, there were 44 stops one standard deviation or more above the mean. As seen in previous reporting periods, White drivers were involved in the largest proportion of this distribution, 50% (22 stops). Black drivers were involved in 16 stops, 36% of all stops one standard deviation or more above the mean. Hispanic drivers were involved in six stops, 14% of stops depicted here. There were no stops of other racial/ethnic groups represented in this distribution in the current reporting period.

## Figure Fourteen: Racial/Ethnic Distribution of Stop Length Below the Mean

14th OLEPS Reporting Period




Total Stops One Standard Deviation Below Mean: **11**

Figure Fourteen depicts the racial/ethnic distribution of stops one standard deviation or more below the mean. Ten stops were one standard deviation or more below the mean in the current reporting period. Hispanic drivers were involved in five stops (46%), Black drivers were involved in three stops (36%), and White drivers were involved in two stops (18%) that were one standard deviation or more below the mean. There were no stops of other racial/ethnic groups represented in this distribution in the current reporting period.

To explore this further, Table Thirty-Four identifies the average length of all motor vehicle stops reviewed in the current and previous reporting periods by driver race/ethnicity for all stops and those with consent requests, separated by legal standard used to request consent. Further illustrating the distributions, Figures Fifteen through Twenty plot the length of stops for each racial/ethnic group. In each graph, the dark black line indicates the mean of all stops reviewed in the current period and the grey lines indicate one standard deviation above and below that mean. The dark blue line indicates the mean for that racial/ethnic group and the light blue lines indicate one standard deviation above and below the racial/ethnic group mean.

## Table Thirty-Four: Average Length (Minutes) of Motor Vehicle Stops by Race/Ethnicity[33]

14th OLEPS Reporting Period

**Part A**

| | All Stops | Consents | RAS Consents | Probable Cause Consents[34] |
|---|---|---|---|---|
| **White** | 43.25 | 74.76 | 75.54 | --- |
| **Black** | 40.94 | 82.86 | 80.31 | --- |
| **Hispanic** | 36.14 | 90.29 | 90.29 | --- |
| **Asian** | 44.00 | 39.00 | 39.00 | --- |
| **Other** | --- | --- | --- | --- |

13th OLEPS Reporting Period

**Part B**

| | All Stops | Consents | RAS Consents | Probable Cause Consents |
|---|---|---|---|---|
| **White** | 39.00 | 70.97 | 71.71 | 50.00 |
| **Black** | 51.41 | 59.52 | 63.21 | 42.00 |
| **Hispanic** | 38.23 | 83.88 | 80.86 | 105.00 |
| **Asian** | 25.00 | --- | --- | --- |
| **Other** | 18.50 | --- | --- | --- |

*All Stops*

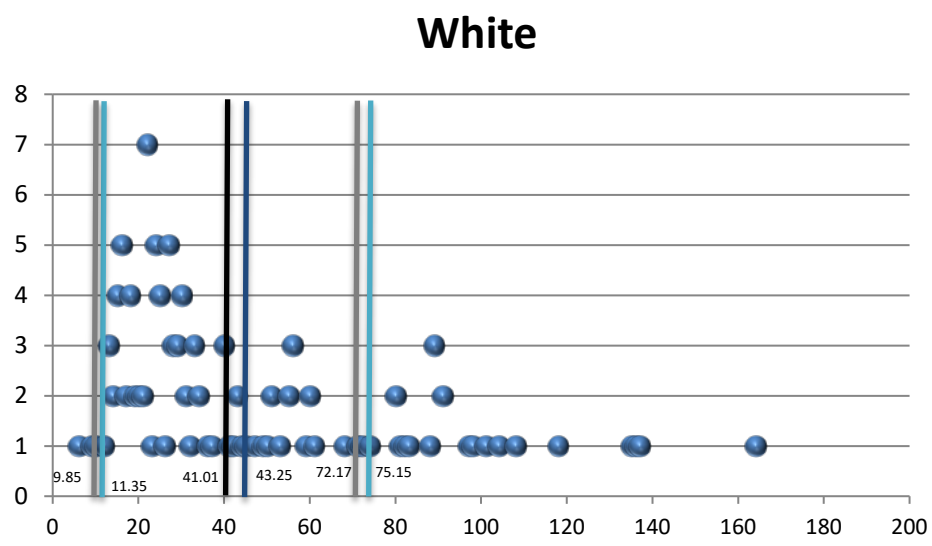
In the current reporting period, White drivers had an average stop length of 43.25 minutes, while Black drivers have an average of 40.94 minutes, Hispanic drivers have an average of 36.14 minutes, and Asian drivers have an average of 44.00 minutes. A series of *t*-tests were conducted to test for significant differences in mean stop length between each racial/ethnic group (e.g., between White and Black drivers, Hispanic and Asian drivers, etc.). Although in the previous reporting period, *t*-tests revealed a statistically significant difference between the average length of stops of White drivers and Black drivers, there were no statistically significant differences found between any racial/ethnic groups in the current reporting period. Thus, it OLEPS cannot state whether the average length of stops for any racial/ethnic group is statistically different or longer than any other racial/ethnic group in the current reporting period.

[33] For any cells missing data, averages could not be taken, given one or no incidents for the given category.

[34] There were only two stops with Probable Cause consent requests in the current reporting period, one involving a White driver and the other involving a Black driver. Given this low volume, averages could not be taken, and were thus not displayed for any racial/ethnic group.

## Figure Fifteen: Length of All Stops of White Drivers

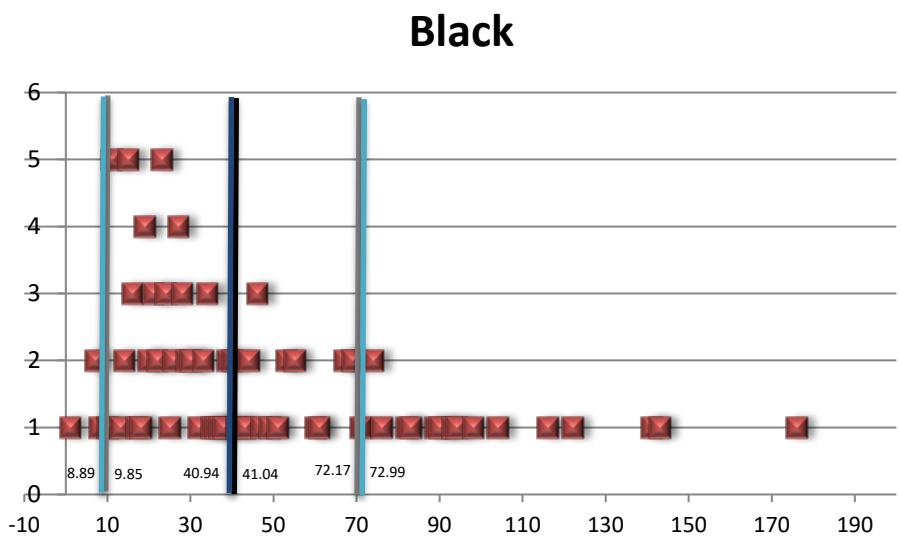
14th OLEPS Reporting Period




As seen in previous reporting periods, the mean for White drivers is close to the mean for all drivers in the current reporting period. For White drivers alone, the average stop length is 43.25 minutes, slightly greater than the mean for all drivers, and the standard deviation is 31.9 minutes, slightly more than the standard deviation for all drivers. The similarity between the mean and standard deviation of all stops and those involving White drivers is largely a reflection of the White drivers' involvement in 42% of all stops reviewed in the current reporting period. Three stops (2.46%) of White drivers were more than one standard deviation below the mean for White drivers and 21 stops (17.21%) were more than one standard deviation above the mean for White drivers in the current reporting period.

## Figure Sixteen: Length of All Stops of Black Drivers

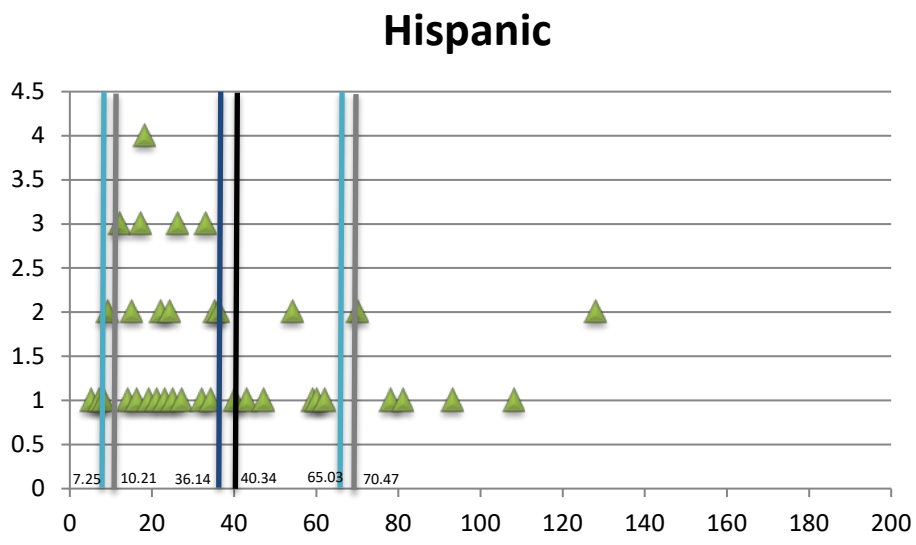
14th OLEPS Reporting Period




For Black drivers, the racial/ethnic group mean is even closer to the overall mean than for White drivers. Stops involving Black drivers were, on average, 40.94 minutes, much less than the average of 51.41 minutes noted in the previous reporting period and nearly identical to the average for all stops in this period. The standard deviation for stops of Black drivers was 32.05 minutes, slightly larger than the standard deviation noted for all stops. The standard deviation for Black drivers is much less than the 60.04 minutes noted for Black drivers in the previous reporting period, indicating less dispersion in stops of Black drivers in the current compared to the previous reporting period. Of stops of Black drivers, four stops, 3.70%, were more than one standard deviation below the mean, and 16 stops, 14.81%, were more than one standard deviation above the mean for Black drivers. Three of the stops that were more than one standard deviation above the mean were considerably longer than any other stops of Black drivers reviewed. One of these stops was 141 minutes, one was 143 minutes, and the other stop was 176 minutes. In two of these stops, an individual in the stop fled the scene. The other stop involved a denied RAS consent request and a canine deployment. In one of these stops, State Police noted numerous delays in the consent process.

## Figure Seventeen: Length of All Stops of Hispanic Drivers

14th OLEPS Reporting Period




Hispanic drivers were involved in a much smaller proportion of stops (20%) than White or Black drivers. The average length of stops of Hispanic drivers is less than that of all drivers, and the same is true for the standard deviation for Hispanic drivers. The mean stop length for Hispanic drivers is 36.14 minutes, and the standard deviation is 28.89 minutes. This smaller standard deviation indicates less dispersion in stops of Hispanic drivers

than in stops of White, Black, and all drivers combined in the current reporting period. For Hispanic drivers, two stops (3.57%) were more than one standard deviation below the mean for Hispanic drivers, and eight stops (14.29%) were more than one standard deviation above the mean for Hispanic drivers.

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

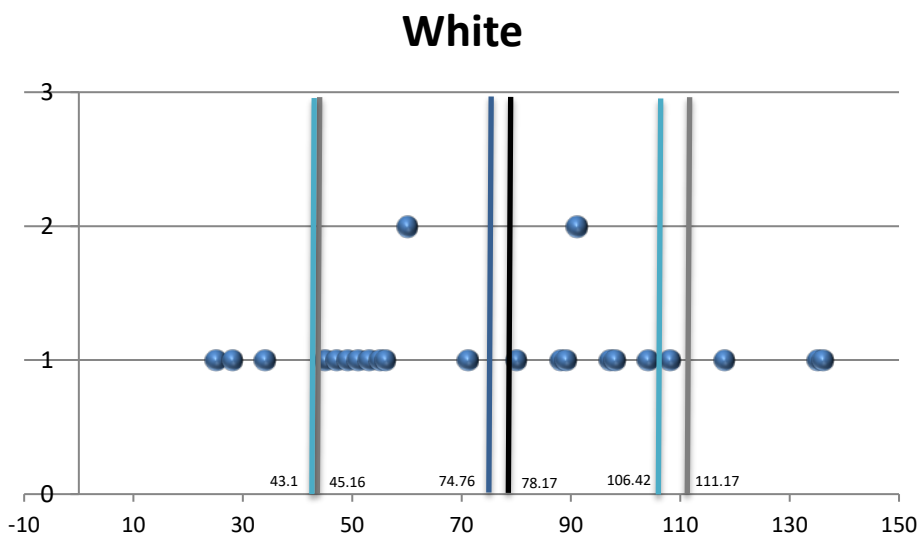
*Consent Requests*

In the current reporting period, the average length of the 48 motor vehicle stops with a consent to search request[35] was 78.17 minutes. The average length of motor vehicle stops with consent to search requests increased for White drivers, from 70.97 minutes to 74.76 minutes; increased for Hispanic drivers, from 83.88 minutes to 90.29 minutes; and increased much more markedly for Black drivers, from 59.52 minutes to 82.86 minutes.[36]

A series of *t*-tests were conducted to examine if there were statistically significant differences in the average stop length in stops with consent to search requests between any racial/ethnic group (e.g., between White and Black drivers, Hispanic and Black drivers, etc.). In the previous reporting period, the average length of stops of Black drivers with consent requests and those of Hispanic drivers with consent requests were statistically significantly different. In the current reporting period, *t*-tests revealed no statistically significant differences in the average length of stops with consent requests between any racial/ethnic groups.

**Figure Eighteen: Length of Stops with Consent Requests of White Drivers**

14th OLEPS Reporting Period




As noted above, the average length of stops with consent requests involving White drivers was 74.76 minutes, and the standard deviation was 31.66 minutes. As shown in Figure Eighteen, the majority of stops were within one standard deviation below or above the mean. There were three stops with a consent request involving White drivers that were more than one standard deviation below the mean for White drivers and four stops that were more than one standard deviation above the mean for White drivers. The mean for White drivers in stops with consent requests (dark blue line) is less than that for

[35] This assessment includes both denied and granted consent to search requests.

[36] There was only one stop with a consent request involving an Asian driver; this stop was 39 minutes in length. Additionally, there was only one stop with a consent request involving a driver of a race/ethnicity categorized as "Other"; this stop was 52 minutes in length.

all drivers (black line), suggesting that stops with a consent request involving White drivers were slightly shorter than the average noted for all drivers.

### Figure Nineteen: Length of Stops with Consent Requests of Black Drivers

14th OLEPS Reporting Period

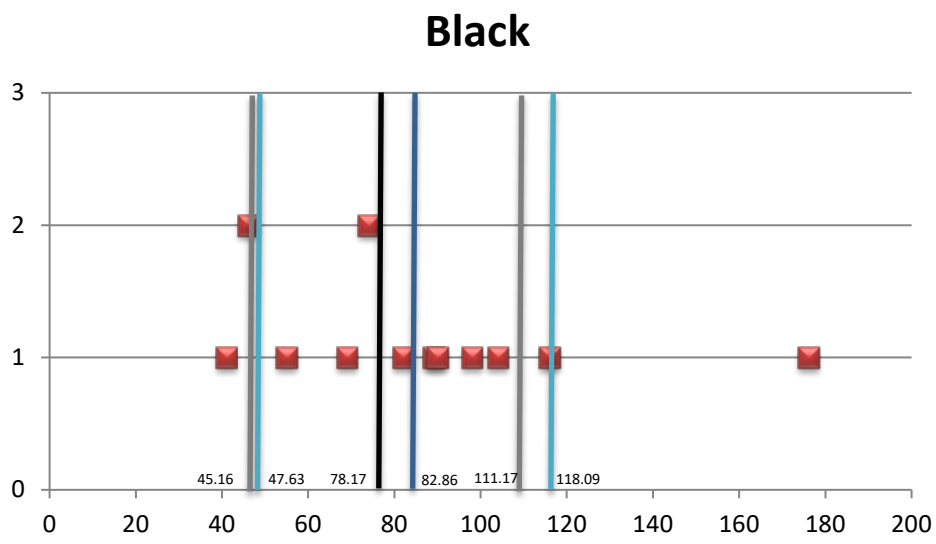



Figure Nineteen depicts the distribution of stops with a consent request involving Black drivers. As shown, the mean for Black drivers is greater than that of all drivers. On average, stops with consent requests involving Black drivers were 82.86 minutes, greater than the 59.52 minutes noted in the previous reporting period. The standard deviation was 35.23 minutes, greater than the 22.47 minutes noted in the previous reporting period. Thus, in the current reporting period, stops of Black drivers with consent to search requests were, on average, lengthier and had greater dispersion in the current reporting period compared to the previous reporting period. Few stops of Black drivers with a consent request were outside of one standard deviation from the mean; three stops were more than one standard deviation below the mean, and one stop was more than one standard deviation above the mean for Black drivers.

### Figure Twenty: Length of Stops with Consent Requests of Hispanic Drivers

14th OLEPS Reporting Period

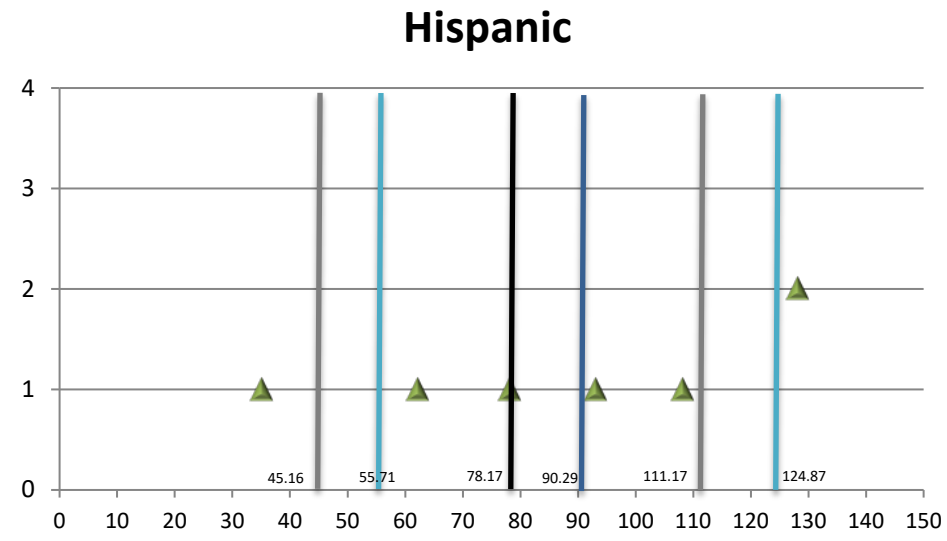



Figure Twenty depicts the distribution of the length of stops with consent requests involving Hispanic drivers. As shown, the average length for Hispanic drivers, 90.29 minutes, is more than the average noted for all drivers with consent requests. The standard deviation is 34.58 minutes, similar to that of all drivers with consent requests. There was one stop that was more than one standard deviation below the mean for Hispanic drivers and two stops that were more than one standard deviation above the mean for Hispanic drivers.

*RAS Consent Requests*

The average length of stops with RAS consent requests (46 stops) is 77.83 minutes in the current reporting period, very similar to that of all stops with consent to search requests, 78.17. This is likely because 46 of the 48 stops with consent to search requests were based on RAS, while only two were based on both RAS and Probable Cause in the current reporting period. Because nearly all consent requested were RAS-based, OLEPS did not make stop length comparisons to all stops with consent requests in the current reporting period separately for RAS and Probable Cause-based consent requests. However, compared to the previous reporting period, the average length of stops of White drivers with RAS consent requests was 75.54 minutes, slightly more than the 71.71 minutes noted for White drivers in the previous reporting period. This average for Black drivers was 80.31 minutes, greater than the 63.21 minutes noted for Black drivers in the previous reporting period. The average length of stops of Hispanic drivers with RAS consent requests was 90.29, also greater than the 80.86 minutes noted for Hispanic drivers in the previous reporting period. Thus, the average length of stops with RAS consent to search requests increased for White, Black, and Hispanic drivers in the current reporting period.

An independent samples *t*-test revealed no significant differences between the average length of stops with RAS consent requests for any combination of racial/ethnic groups (e.g., between White and Hispanic, Black and White, etc.) for the current reporting period. The average length of a stop with a consent request for White, Black, or Hispanic drivers is not significantly different from each other. The lack of significance may be due to the limited number of stops with RAS consent to search requests for each racial/ethnic group. There were only 46 stops with an RAS consent request: 24 stops of White drivers, 13 of Black drivers, seven of Hispanic drivers, one of an Asian driver, and one stop of a driver of a race/ethnicity categorized as "Other."

*Probable Cause Consent Requests*

As previously indicated, there were only two stops in the current reporting period involving Probable Cause consent to search requests. One of these stops involved a White driver, and the other stop involved a Black driver. The average of these two stops together was 86 minutes. Due to the small number of stops with a Probable Cause consent request, averages of these stops by racial/ethnic group were not calculated. As such, these numbers are not displayed in Table Thirty-Four. Further, comparisons of averages by race/ethnicity to all stops, stops involving RAS consent to search requests, or to the previous reporting period were not made.

## Summary of Standard 8

Overall, stops are, on average, similar, but slightly shorter in length than in the previous reporting period. Further, the dispersion of the stop length distributions in the current reporting period remains small; very few stops were outliers in terms of length. OLEPS continues to recommend that State Police supervisors continue routine reviews of motor vehicle stop length.

# Supervisory Review

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

### Standards

According to State Police policies and procedures, State Police supervisory personnel must review motor vehicle stops. Specifically, review is required for all critical incidents (i.e., any stop involving a drug-detection canine deployment, RAS consent to search request, and/or use of force). Non-critical stops, however, are not all reviewed. Rather, State Police reviews a selection of non-critical stops. Additionally, supervisors may review motor vehicle activity in the course of assessing a trooper's performance relative to his/her peers or as part of an investigation of a complaint. These reviews are detailed, requiring the supervisor to assess adherence to policies, procedures, and applicable legal standards (RAS or Probable Cause).

This performance standard refers to errors troopers made in connection with any aspect of a motor vehicle stop (from appropriate levels of RAS or Probable Cause to reporting and recording requirements). Because this standard assesses supervisory review, a deviation from policy made by a trooper is an error. Errors are further delineated by whether it is found by OLEPS and not noted in a previous State Police supervisory review (errors not caught), or OLEPS noted an error in a stop that did not receive a supervisory review (errors non-reviewed). This standard refers to ALL errors made during a motor vehicle stop.



### Assessment

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

OLEPS determines whether State Police caught an error based on State Police supervisory review completed of the motor vehicle stop. OLEPS pulled all documentation of stops, including reviews of stops in September 2016. At this time, OLEPS noted State Police supervisory reviews for 128 stops of the 291 stops selected for OLEPS' review. State Police did not review 163 stops that OLEPS reviewed.

It is possible that State Police reviews a stop after OLEPS pulled the records for the stop. In total, there were three stops reviewed after OLEPS pulled motor vehicle stop records for this reporting period. While OLEPS conducted motor vehicle stop reviews this reporting period, State Police endeavored to simultaneously review all stops selected by OLEPS. Because State Police did not complete these reviews

prior to OLEPS' review, OLEPS does not consider any errors State Police noted as caught for this report. However, these reviews allow State Police to address errors that may have been previously unknown, given its review schedule.

During subsequent review periods, OLEPS noted inconsistencies in our determinations of an error pertaining to communication call-ins and recordings of stops. To remedy this, OLEPS re-reviewed these stops in December 2017 and March 2018 to ensure all determinations were consistent. As a result, there was a decrease in the volume of stops with errors, errors caught, errors not caught, and errors non-reviewed. Discussion of trends will be limited as this decrease is not a reflection of any change in State Police activity, but rather a reflection of a correction to auditing practices.

### *All Errors*

In the current reporting period, 130 stops contained errors (44.67% of all stops reviewed), less than the number of stops with errors found in the previous reporting period. Figure Twenty-One depicts trends in the total number of stops with errors since the second reporting period. In the second half of 2009, there was a considerable decrease in the volume of stops with errors (third reporting period). Since then, the volume of stops with errors had fluctuated, but remained higher than this low. Following a spike in the first half of 2011 (5$^{th}$a reporting period) and until the spike in the first half of 2014 (10$^{th}$ reporting period), the volume of errors remained steady and low. Since the first half of 2014, the volume of errors declined through the current reporting period. As noted previously, OLEPS noted inconsistency in determinations pertaining to communication and recording errors. OLEPS re-reviewed stops to ensure that all stops were assessed appropriately. This decreased the total volume of stops with errors. Thus, the decrease noted from the previous to current reporting period is not solely a reflection of change in State Police activity.

In total, there were 161 motor vehicle stops (55.3%) State Police conducted that did not contain any errors in the current reporting period. The total number of stops without errors (161) is larger than in the previous period (151), and the proportion of stops without errors (55.9%) is larger than the 50% in the previous reporting period. Again, this decrease is largely the result of OLEPS' correction of review inconsistencies. Without the re-reviews, the volume and proportion of errors would likely have been consistent with that in the previous reporting period.

Of the 128 stops with errors, 76 stops contained errors State Police caught and 63 stops contained errors not caught by supervisory review. That is, 21.64% (63 of 291) of all motor vehicle stops contained an error State Police supervisors failed to catch. This is nearly identical to the percentage of stops with errors not caught in the previous reporting period, 21.33%. As noted in previous reports, beginning in July 2011, State Police revised its motor vehicle stop review policy. This policy retained the required reviews of critical stops, but non-critical stops would undergo a selection process rather than a review of all stops. The current reporting period contains a portion of stops that would not typically be subject to the review process- motor vehicle stops with non-consensual searches. State Police did not review 47 stops with uncaught errors. Thus, only 16 stops contained errors State Police did not catch despite reviewing the stop.

**Figure Twenty-One: Total Stops with Errors, by Reporting Period**[37]

2nd through 14th OLEPS Reporting Periods

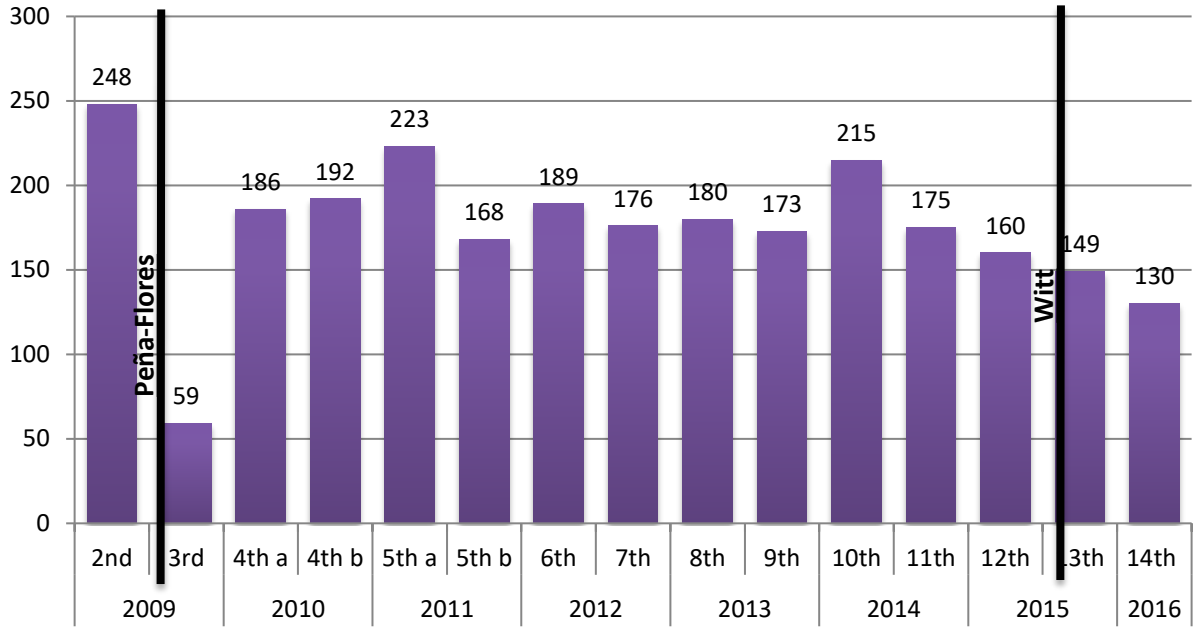
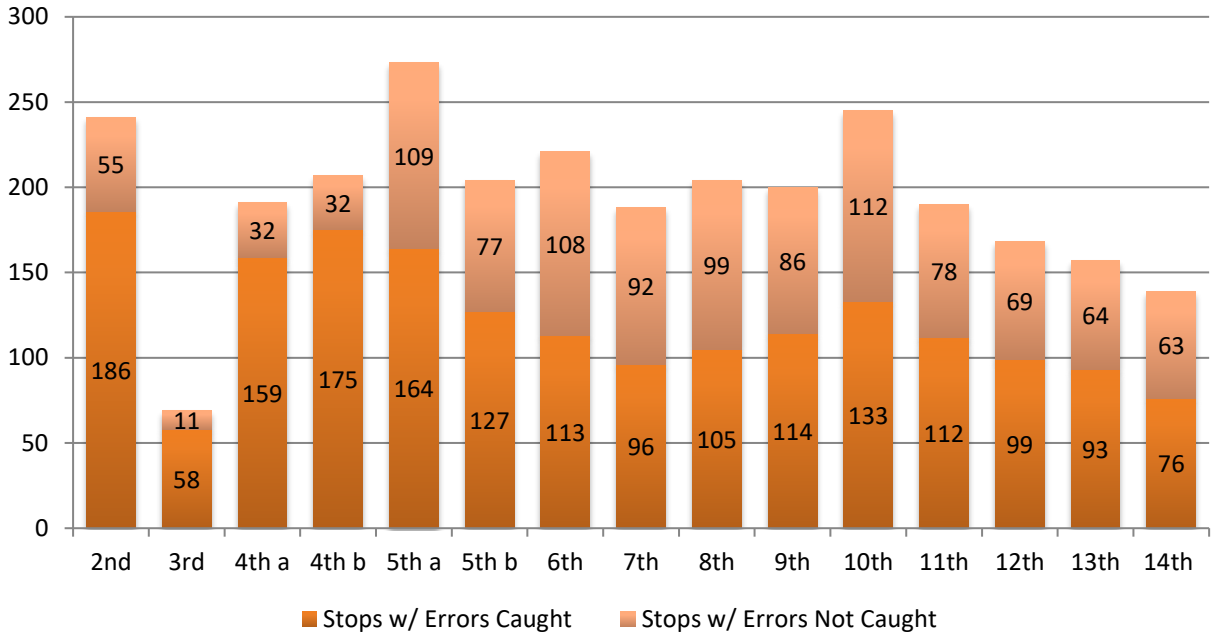



**Figure Twenty-Two: Stops with Errors Caught v. Stops with Errors Not Caught**

2nd through 14th OLEPS Reporting Periods




OLEPS has noted for several reporting periods that State Police catch the majority of errors made in stops. Figure Twenty-Two compares the number of stops where State Police caught errors to the number of stops where State Police did not catch errors. Within the same stop, State Police may catch some

[37] The high number of errors noted in the second reporting period were generally procedural in nature and stem from policy changes that resulted following Peña-Flores.

errors and not others. Thus, each stop can appear as either a stop with errors caught, a stop with errors not caught, or both. As shown in Figure Twenty-Two, across reporting periods, the proportion of stops with errors caught compared to stops with errors not caught varies. However, the number of stops where State Police caught errors is consistently larger than the number of stops where State Police did not catch errors. In the current reporting period, the same holds true, as there were more stops with an error caught than stops with an error not caught. Since State Police's review schedule does not mandate a review of all stops, OLEPS' reviews include a sample of stops not routinely subject to State Police review. Accordingly, the fluctuation of the ratio of stops with errors caught and not caught may be the result of the review schedule and sample selection. Because of this, it is necessary to examine the number of errors not caught in stops with and without State Police reviews.

As noted, there were 63 stops with an error not caught in the current reporting period. However, State Police did not review the majority of these stops. As noted earlier, in 2011, State Police adopted a modified review schedule, reviewing all critical stops and a selection of non-critical stops. Because of this review schedule, there is an increased likelihood that OLEPS will review a stop that State Police has not reviewed. As such, OLEPS compared the number of stops with errors caught, not caught, and those with errors that were not reviewed. Figure Twenty-Three depicts the number of stops with errors caught, with errors not caught in stops with a State Police review, and with errors in stops without State Police review. As shown in the figure, the number of stops with an uncaught error State Police reviewed is similar to the previous two reporting periods. State Police reviewed 25% (16 of 63 stops) of the stops where OLEPS noted an uncaught error. Thus, State Police did not review 75% (47 of 63 stops) of all stops identified with an uncaught error.

**Figure Twenty-Three: Stops with Errors Caught, Not Caught, and Non-Reviewed**

2nd through 14th OLEPS Reporting Periods

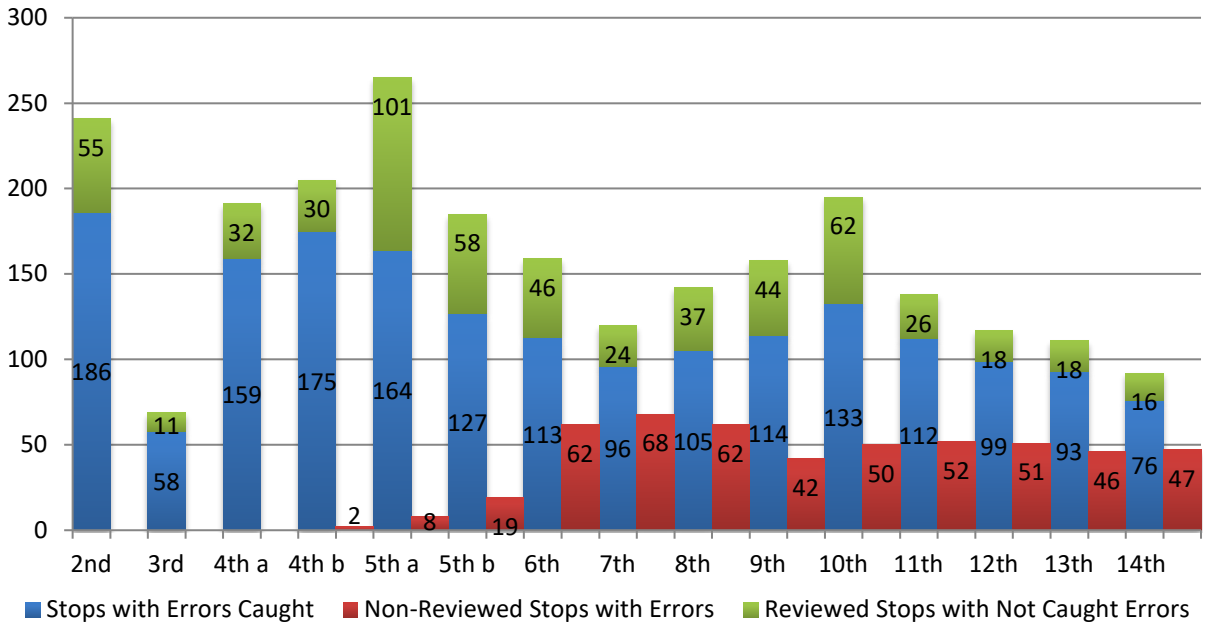
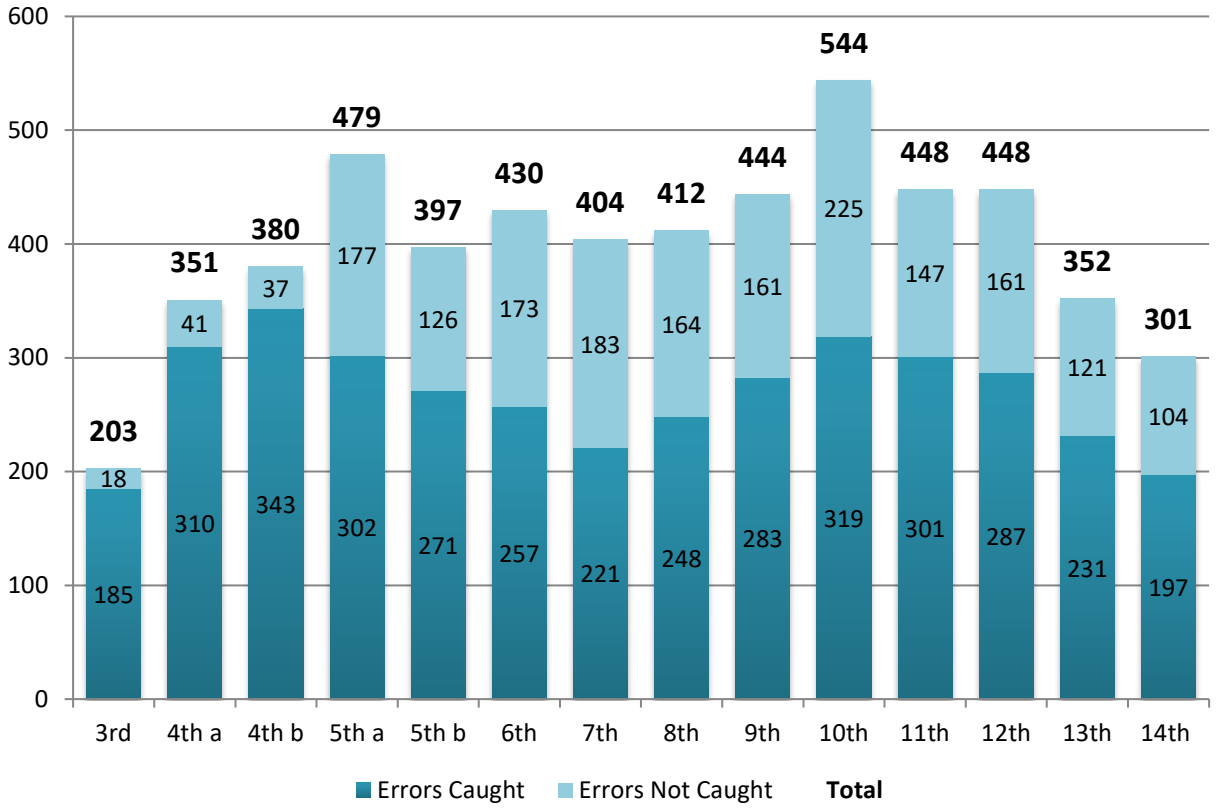


**Figure Twenty-Four: Errors Caught v. Errors Not Caught**
2nd through 14th OLEPS Reporting Periods




In the current reporting period, while there were only 130 motor vehicle stops with errors, there were 301 errors in those 130 stops. The total number of errors has historically been much larger than the total number of stops with an error. Because each stop may include both errors caught and errors not caught, Figure Twenty-Four presents the total number of errors that State Police caught and the total number of errors that State Police did not catch. As shown in Figure Twenty-Four, of those stops State Police reviewed, State Police consistently caught more errors than it did not catch. The number of errors not caught decreased in the previous and current reporting periods. The number of errors not caught is smaller than the number of errors caught. In the current reporting period, State Police noted 197 errors in 76 stops, while OLEPS noted an additional 104 errors in 63 stops. As noted previously, the volume of errors in the current period is not necessarily comparable to previous periods as OLEPS noted inconsistencies in its own reviews, which resulted in a decrease of errors.

As noted above, State Police only reviewed about 25% of stops with an error not caught. Figure Twenty-Five identifies the 301 errors as caught, not caught, or non-reviewed by State Police. As shown, more than half of the errors were caught, 197 (65%). Of the 104 errors identified in Figure Twenty-Four as not caught, 26 (25%) errors occurred in a stop with State Police review. The majority of the not-caught errors from Figure Twenty-Four, 78 (75%) occurred in stops that State Police did not review. That is, State Police was unaware that these errors occurred until OLEPS shared the results of this review.

**Figure Twenty-Five: Errors Caught, Not Caught, and Non-Reviewed**
2nd through 14th OLEPS Reporting Periods

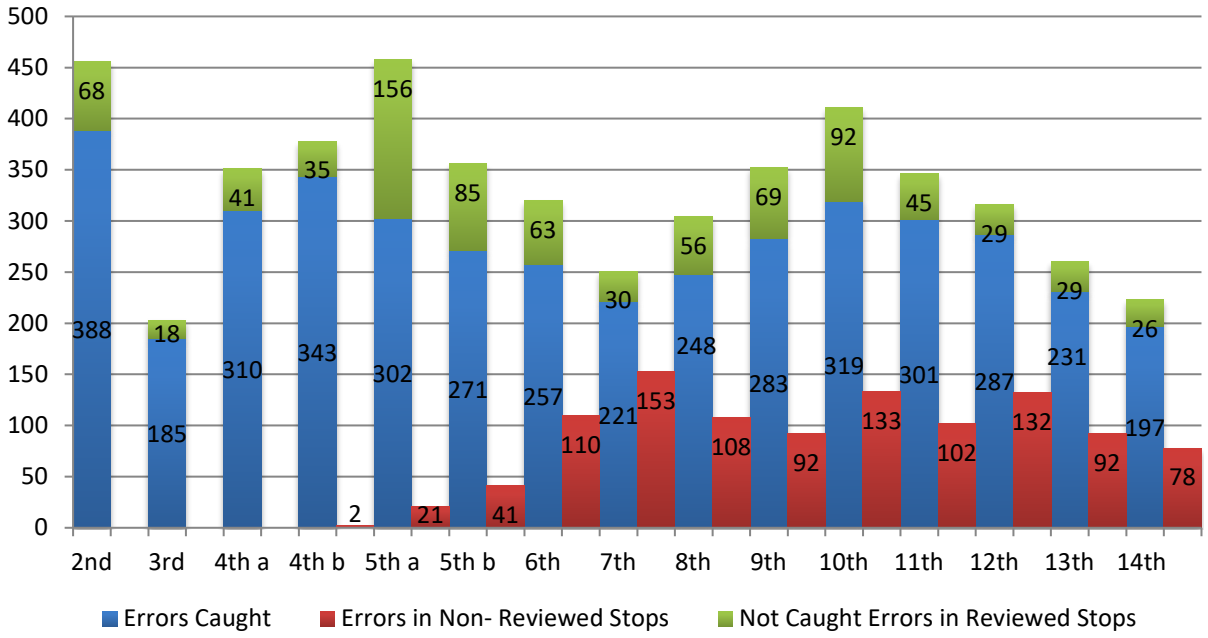
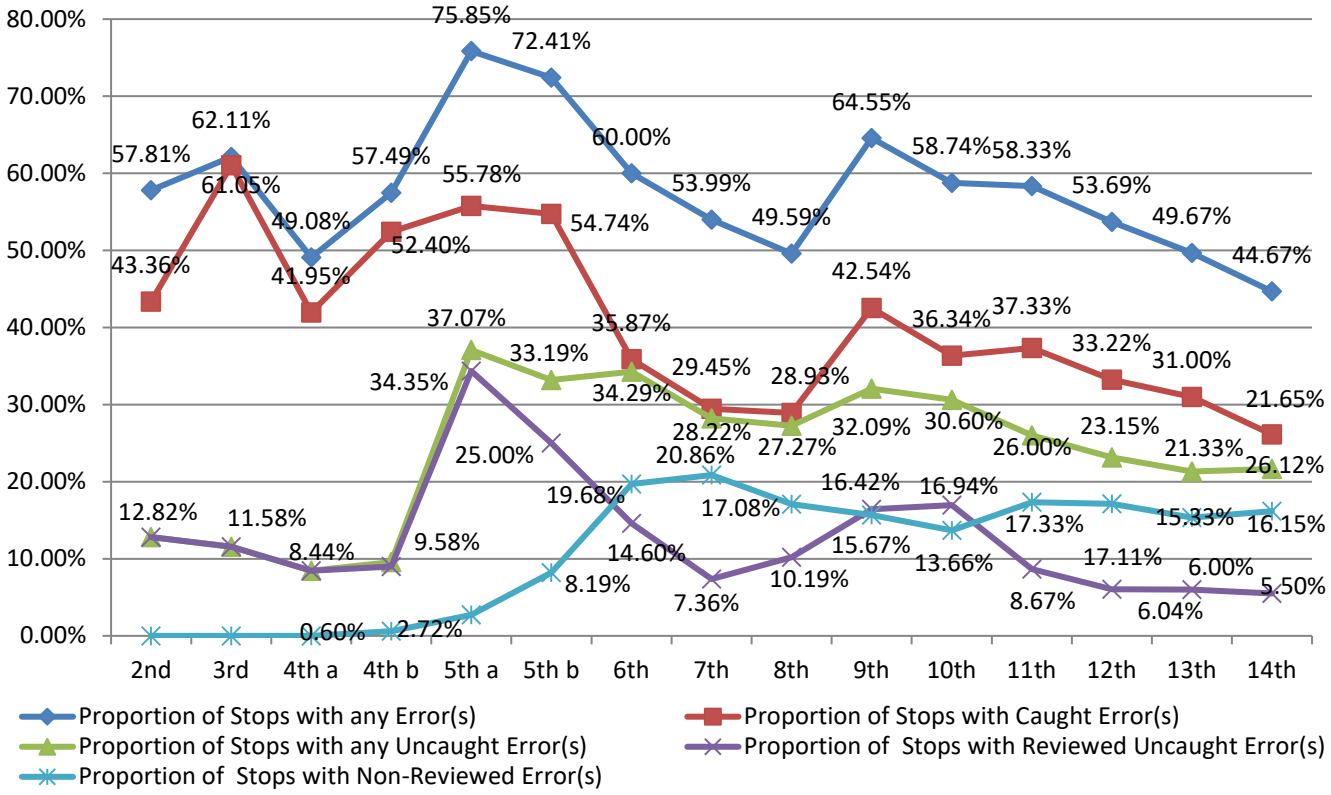



Figure Twenty-Six depicts the proportion of stops with any error, any error(s) caught, any error(s) not caught, and any error in a non-reviewed stop for the second through current reporting periods. As shown, the largest proportion is that of stops with any error for all reporting periods. The proportion of stops with an error caught is smaller than the proportion of all stops with any error, and has consistently been larger than the proportion of stops with any error(s) not caught.[38] Nearly 45% percent of all stops OLEPS selected for review contained at least one error (caught or uncaught). This proportion is smaller than the 50% noted in the previous reporting period and less than the average proportion (59%) between the second and thirteenth periods. Nearly 26% of all stops contained an error caught in the current reporting period. This proportion is smaller than that noted in the previous reporting period, 31%, and continues the decrease noted since the eleventh reporting period. The proportion of stops with any uncaught error(s) is consistently smaller than the proportions of stops with any errors and stops with caught errors. The proportion of stops with non-reviewed errors is similar in the previous and current reporting period (16% here and 15% in the previous); the same is true for the proportion of stops reviewed with uncaught errors (roughly 6% in the current and previous reporting periods).

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

**Figure Twenty-Six: Proportion of Stops with any Error, Errors Caught, & Errors Not Caught**

2nd to 14th OLEPS Reporting Periods




*Types of Errors*

Errors can further be classified based upon the type of error. OLEPS classified errors into several categories based on the nature of the error.

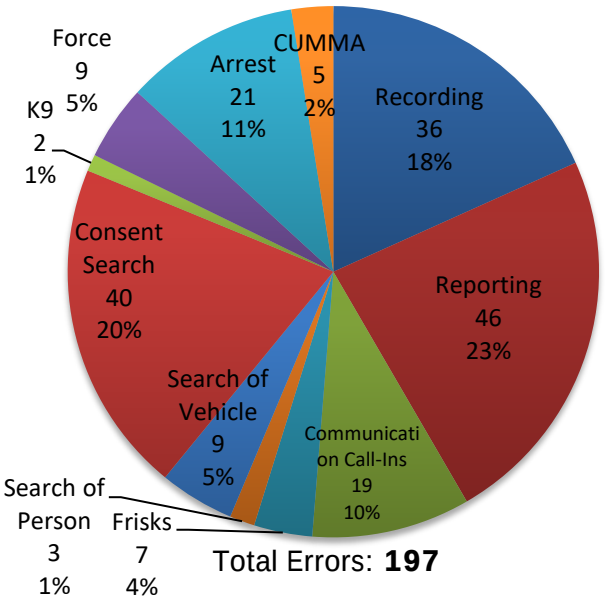
- Recording errors: Errors referring to the activation of audio and video recordings at the beginning of the motor vehicle stop and the continuation of the audio and video recordings to the completion of the stop.
- Reporting errors: Errors made in completing the motor vehicle stop report or the investigation report (if applicable).
- Call-in errors: A trooper's failure to call-in the appropriate information to the communication center at the beginning or completion of the stop.
- Vehicle exit errors: Errors made when an individual is asked to exit a vehicle.
- Frisk errors: Errors made during the course of a frisk.
- Search of person errors: Errors made when searching a person without consent.
- Search of vehicle errors: Errors made when searching a vehicle without consent.
- Consent search errors: Errors made in connection with the rules governing consent to search requests, including all reporting and recording requirements.
- Canine deployment errors: Errors made when a canine is improperly deployed or the deployment is not properly documented.
- Use of force errors: Errors made during a use of force or in the documentation of a use of force.
- Arrest errors: Errors made during the course of an arrest or the documentation of the arrest.

- CUMMA errors: Errors made pertaining to the determination of whether a motorist is a medical marijuana patient prior to arrest or other law enforcement actions when the trooper detects the odor of marijuana.
- Evidence seized errors: Errors made in during a seizure of evidence.

For all of the aforementioned categories, the errors may stem from a possible violation of an individual's rights or violations of State Police policy. Figure Twenty-Seven presents this categorization for all errors caught in the current reporting period.

**Figure Twenty-Seven: Type of Errors Caught**

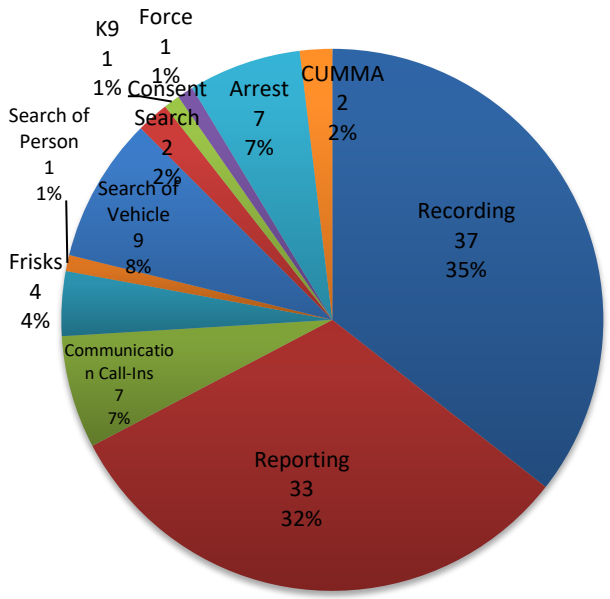
14th OLEPS Reporting Period




The most common errors State Police caught for this reporting period were errors related to reporting, consent to search requests, and recording of motor vehicle stops. State Police supervisory review noted 46 errors pertaining to reporting, 40 errors pertaining to consent to search requests, and 36 errors pertaining to the recording of stops. In total, these three categories of errors account for over half, 62%, of all errors caught. In the current period, the proportion of errors caught pertaining to reporting decreased from 29% to 23%, and errors pertaining to consent requests also decreased from 22% to 20%. Conversely, errors caught pertaining to the recording of stops increased from 14% to 18%, and errors caught pertaining to communication call-ins also increased from 8% to 10%. The proportion of errors caught pertaining to arrests decreased from 13% to 11%, while the proportion of errors caught pertaining to frisks increased from less than 1% to 4%. Errors pertaining to vehicle searches increased from 3% to 4%. The proportion of other categories of errors remained consistent in the current reporting period. Changes in the proportion of each error type does not necessarily mean that State Police failed to catch these errors, it may mean that State Police made fewer errors of that type or may also be related to sample selection.

## Figure Twenty-Eight: Type of Errors Not Caught

14th OLEPS Reporting Period

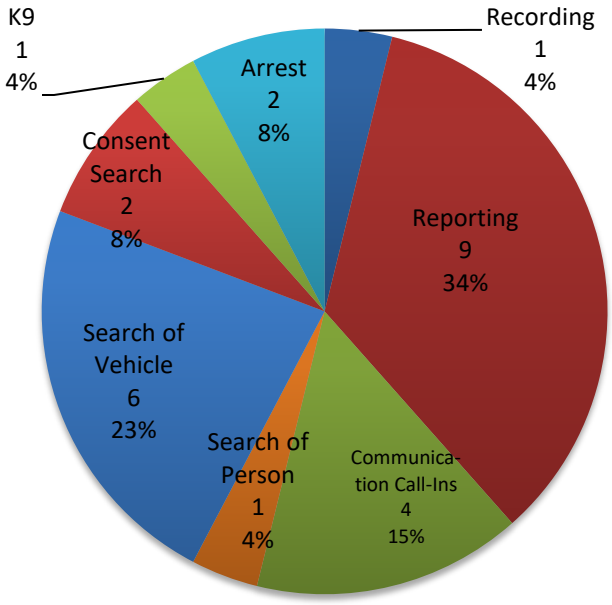



Total Errors: **104**

As shown in Figure Twenty-Eight, recording and reporting errors were the most frequent type of errors not caught, 35% and 32%, respectively. The proportion of errors not caught pertaining to recordings increased from 31% to 35%, and the proportion of errors not caught for reporting increased from 25% to 32%. The proportion of errors not caught pertaining to search of a vehicle decreased from 14% to 8%. The proportion of errors not caught pertaining to communication call-ins also decreased, from 12% to 7%, potentially related to OLEPS' re-review of cases. Frisks make up 4% of the distribution of errors not caught, up from zero in the previous reporting period. All other categories of errors either did not change or changed by only one or two percentage points.

## Figure Twenty-Nine: Type of Errors Not Caught in State Police Reviewed Stops

14th OLEPS Reporting Period



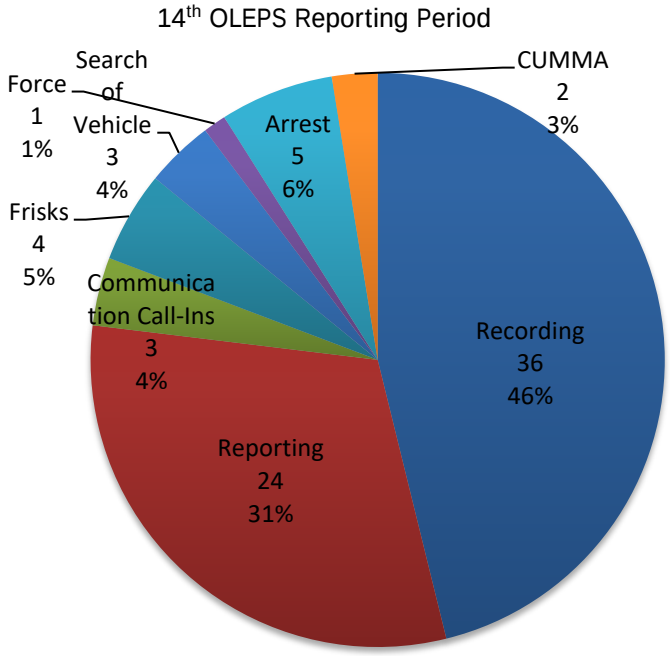

Total Errors: **26**

As noted throughout this performance standard, OLEPS reviewed a large number of stops during this reporting period that State Police did not review. As such, it is appropriate to discuss the errors that State Police did not catch in those stops that underwent review. In total, there were 26 errors not caught in the stops State Police reviewed. The majority of these errors pertain to reporting (34%), vehicle searches (23%), or communication call-ins (15%). The proportion of uncaught errors in reviewed stops increased for reporting, from 28% to 34%, and increased for vehicle searches, from 17% to 23%. Conversely, the proportion of uncaught errors in reviewed stops decreased for arrests, from 14% to 8%. Unlike the previous reporting period, there were no uncaught errors in reviewed stops pertaining to uses of force or CUMMA. However, in the current reporting period, there were uncaught errors in reviewed stops pertaining to consent searches (8%), search of person (4%), and canine deployments (4%). In the current reporting period, there were two or fewer errors in each of these categories.

As noted in previous reporting periods, State Police modified its review schedule in 2012. OLEPS' approval of a revised review schedule, which allowed State Police to review a smaller number of stops, was contingent upon continued detail in these reviews. OLEPS has noted State Police's improvement in

errors caught over several reporting periods and commends State Police for the improvement. However, OLEPS notes that, though the stops State Police reviews have a small number of uncaught errors, OLEPS noted the same types of errors in stops State Police did not review. Figure Thirty illustrates the overall universality of errors troopers made; the recognition of errors by supervisors in reviewed stops does not appear to impact trooper behavior throughout State Police. OLEPS recommends that State Police increase its usage of interventions so that troopers were aware of errors made during a stop and can modify their behavior accordingly. OLEPS believes that an increase in the use of interventions would positively impact the error rate.

**Figure Thirty: Type of Errors Not Caught in Stops Without State Police Review**




Total Errors: **78**

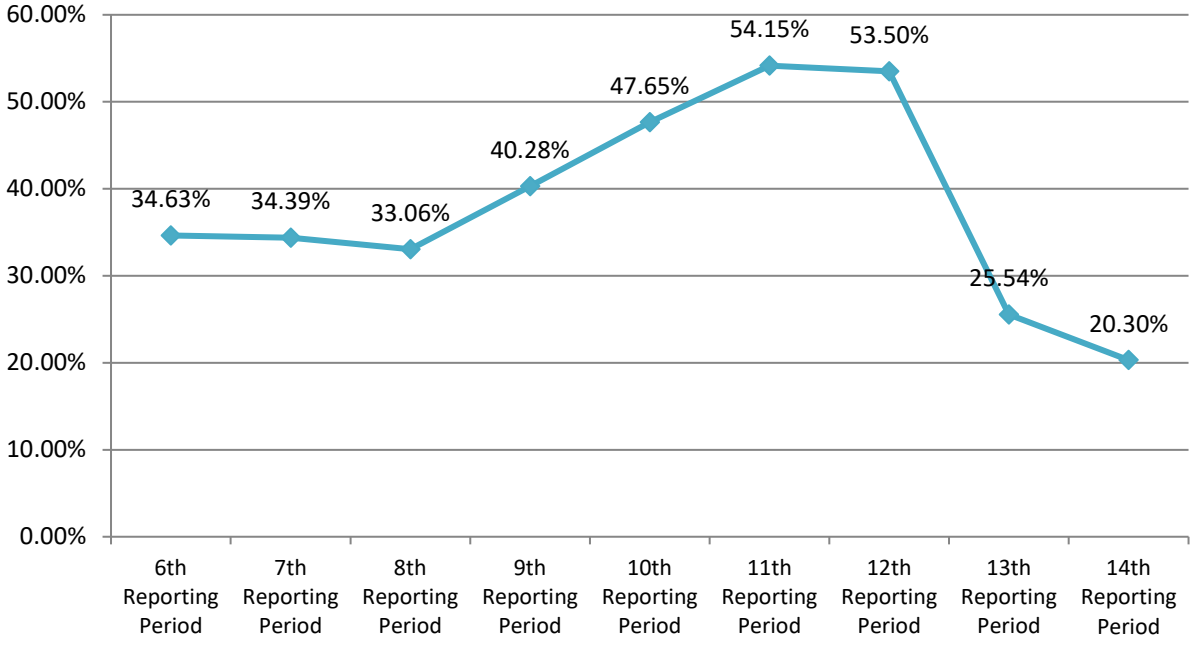
Seventy-eight of the 104 errors not caught occurred in stops State Police did not review. The majority of these errors, 77%, pertained to recording and reporting. The remaining errors were much less common. There were five or fewer errors in all other categories.

In this reporting period, while reporting and recording errors remain frequent among caught and not caught errors, the frequency of other error categories appears to be impacted by State Police policies and OLEPS' sample selection. The Court's decision in Witt makes it more efficient for troopers to search vehicles or persons based on Probable Cause without the need to request consent. Accordingly, the volume of stops with consent requests decreased considerably while the volume of stops with these non-consensual searches increased. Further, OLEPS purposely sampled a portion of stops with non-consensual searches to ensure that troopers appropriately utilize these searches. Consent searches remain a frequent error among caught errors (see Figure Twenty-Seven) because State Police were still required to review all stops with an RAS consent request. However, because State Police utilizes Probable Cause consent searches much less after Witt, the proportion of errors not caught pertaining to consent searches is extremely low, two not caught errors each in stop(s) reviewed and none in those State Police did not review. Conversely, the volume of errors pertaining to vehicle searches is larger, especially among errors not caught and non-reviewed. These stops were not required to undergo supervisory review, and as such, State Police may not have had the opportunity to catch these errors. Samples in previous reporting periods were based on the presence of other enforcement activities (e.g., frisks or arrests), resulting in higher volumes of those errors. This highlights the importance of context when examining patterns in State Police errors. Policy and procedural changes and sampling changes can affect the patterns of errors noted.

## *Interventions*

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

**Figure Thirty-One: Proportion of Errors Caught with Interventions Issued**
14th OLEPS Reporting Period




OLEPS examined the extent to which supervisors note that they informed the trooper of errors by reviewing MAPPS for evidence of interventions. According to State Police policy, interventions are required when a supervisor notes that a trooper has made an error during a motor vehicle stop. Figure Thirty-One depicts the trend of the proportion of errors caught that resulted in interventions. As shown, the proportion of interventions issued in each reporting period increased steadily until the 11th reporting period, but dropped off considerably in the 13th reporting period. The current reporting period is the second where less than 30% of errors resulted in an intervention. While State Police supervisors caught 194 errors, they issued only 39 interventions. Of all errors State Police caught, 20.30% resulted in an intervention, the lowest proportion noted since OLEPS began recording the frequency of interventions.

Table Thirty-Five depicts the number and proportion of stops with interventions by category of error. Caught errors pertaining to CUMMA resulted in an intervention in 60% of instances and caught canine errors resulted in an intervention in 50% of instances. Search of person, search of vehicle, and arrest

caught errors resulted in an intervention in 33.33% of instances each. All remaining categories of errors caught resulted in an intervention less than 30% of the time.

**Table Thirty-Five: Proportion and Type of Caught Errors Resulting in an Intervention**

14h OLEPS Reporting Period

| | Number of Interventions | Number of Errors Caught | % of Errors Caught |
|---|---|---|---|
| **Recording** | 2 | 36 | 5.56% |
| **Reporting** | 7 | 46 | 15.22% |
| **Communication Call-Ins** | 5 | 19 | 26.32% |
| **Vehicle Exits** | 0 | 0 | - |
| **Frisks** | 1 | 7 | 14.29% |
| **Search of Person** | 1 | 3 | 33.33% |
| **Search of Vehicle** | 3 | 9 | 33.33% |
| **Consent Requests** | 8 | 40 | 20.00% |
| **K9** | 1 | 2 | 50.00% |
| **Use of Force** | 2 | 9 | 22.22% |
| **Arrest** | 7 | 21 | 33.33% |
| **CUMMA** | 3 | 5 | 60.00% |
| **Evidence** | 0 | 0 | - |
| **Total** | **40** | **197** | **20.30%** |

The proportion of interventions issued in the current period is the lowest since OLEPS began recording the rate of interventions used. Though the total number of errors caught in the current reporting period, 197, is 34 errors fewer than the 231 caught in the previous reporting period, the number of interventions in each period differs by 19 (59 in the previous period compared to 40 in the current reporting period). The continued low rate of interventions is unlikely a result of sample selection. OLEPS continues to recommend the use of interventions to note a caught error to ensure that troopers are aware of mistakes made and have the opportunity to remedy those errors in the future.

## Summary of Standard 9

The current reporting period included review of a number of stops that did not receive a State Police supervisory review. As such, the overall number of errors OLEPS caught that State Police did not identify remains high. State Police failed to note errors in the stops that State Police did review, especially pertaining to reporting and vehicle searches. The errors noted by OLEPS in non-reviewed stops were most frequently recording and reporting errors. State Police should continue its improvement in detailed reviews and note all trooper errors during stops. Further, State Police should notify troopers of all errors to help minimize these errors in all stops.

OLEPS notes that about 13% of all stops State Police reviewed contained errors not noted in reviews, an increase from 12% in the previous reporting period. Approximately 29% of all stops State Police did not review contained errors. Accordingly, there were actions that deviated from State Police policies and procedures that State Police did not identify and could not correct.

OLEPS' re-reviews pertaining to communication call-ins and recording did not identify any new patterns and trends. That is, the re-review confirmed the patterns and trends that noted for many reporting periods. Further, the proportions of errors were consistent with previous reporting periods.

As stated in previous reports, a trooper can only correct behavior if s/he knows there is an issue. Interventions are a vital tool for self-analysis, allowing both troopers and supervisors to record areas of both excellence and need for improvement. For multiple reporting periods, State Police had increased the use of interventions. However, OLEPS noted a substantial decrease in the volume of interventions in the previous reporting period. In the current reporting period, only 20.30% of errors resulted in an intervention, a roughly five-percentage point decrease from the previous reporting period. OLEPS recommends that State Police increase its use of interventions so that troopers who made the error have the ability to modify, as needed, future behavior.

# Performance Standard 10: Supervisory Referral to OPS

## Standards

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

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

## Assessment

OLEPS has reviewed records of referrals to OPS based on troopers' actions or omissions while conducting motor vehicle stops. Such referrals are generally rare. During the current reporting period, OLEPS did not refer any incidents to OPS for review.

# Performance Standard 11: Supervisory Presence in the Field

## Standard

This standard remains unchanged from the Consent Decree:

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

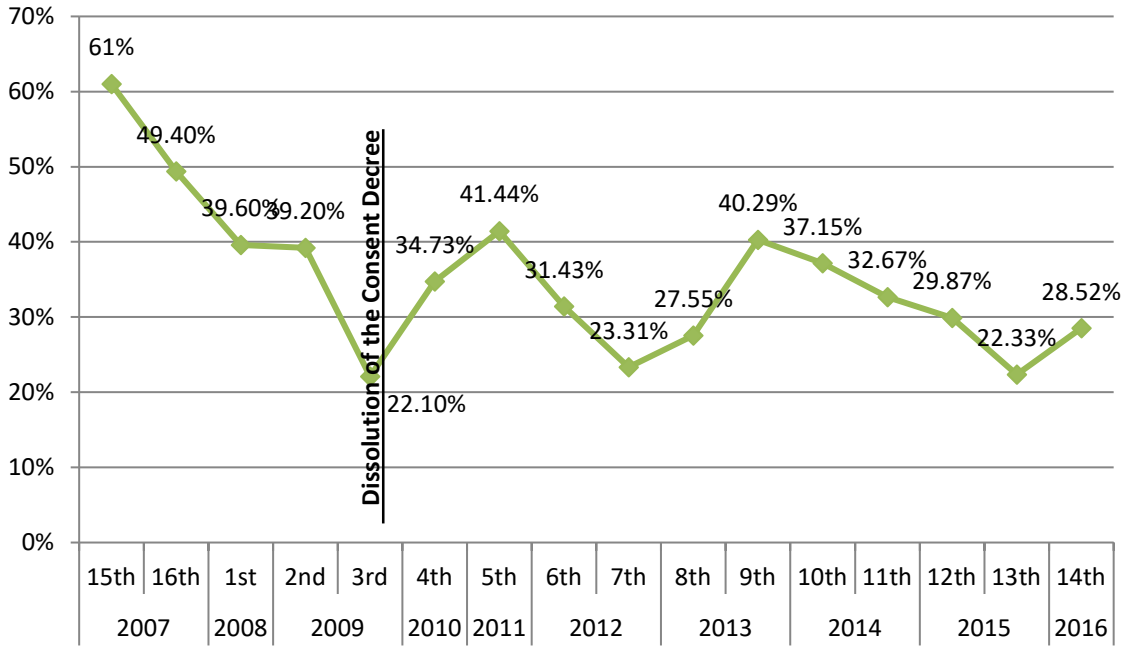
In light of motor vehicle stop review requirements that take up much of a supervisor's available road time, a specific numeric requirement of supervisory presence will not be given at this time. Recommended, however, is that State Police should, at minimum, maintain, but ideally improve, its rate of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

## Assessment

For several reporting periods, OLEPS has noted a trend of low supervisory presence in the field. Figure Thirty-Two presents this trend. In the current reporting period, supervisors were present in 83, or 28.52%, stops. In 46 stops, OLEPS verified supervisory presence by video and in 37 stops verified supervisory presence through stop reports. In the previous reporting period, a supervisor was present in roughly 22% of all stops. Since the 15th reporting period (under the independent monitors), the percent of stops where a supervisor was present has declined, reaching a low of 22.10% in the third reporting period. Since this time, OLEPS noted varying levels of supervisory presence during motor vehicle stops. The proportion of stops with a supervisor present in the current reporting period is an increase from the previous reporting period after a four reporting period trend of declining rates of supervisory presence. The sample selection parameters in the current period were identical to those used in the previous reporting period. Thus, the increase in supervisory presence is unlikely to be a reflection of the sample selected.

Supervisors were present in 24 stops (52.17%) with RAS consent requests, 11 stops (78.57%) with official canine deployments, and 18 stops (40.91%) with uses of force. Compared to the previous reporting period, there was a larger proportion of supervisory presence in stops with all critical activities. Since the dissolution of the Consent Decree, supervisory presence peaked in the 5th and 9th periods, but has since remained below 38%.

**Figure Thirty-Two: Trend of Supervisory Field Presence**
14th OLEPS Reporting Period

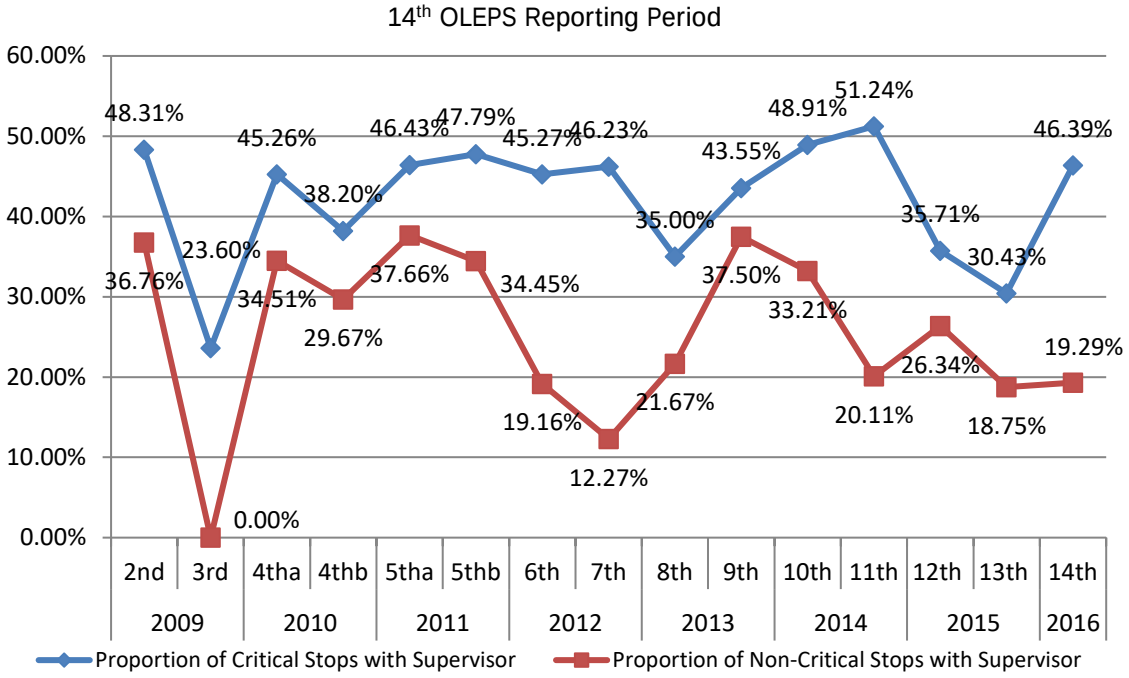



OLEPS used statistical analyses to determine whether there was a statistically significant difference in the average volume of errors (i.e., caught, not caught, and total errors) in stops with and without supervisory presence. An independent samples *t*-test indicated that there is a significant difference in the number of errors caught in stops with a supervisor present (M=1.35, s=2.06) compared to those without a supervisor present (M=0.41, s=1.20), $t(105.038)=-3.91$, $p<.001$. There was not a significant difference in the number of errors not caught in stops with supervisory presence (M=0.24, s=0.62) and those without supervisory presence (M=0.40, s=0.87), $t(212.12)=1.793$ $p=0.074$, however, this difference approaches statistical significance. Further, analysis revealed a significant difference in the total number of errors made between stops with (M=1.59, s=2.15) and without (M=0.81, s=1.40) supervisory presence, $t(111.23)=-3.06$, $p=0.003$. Thus, the data indicate that there is a relationship between supervisory presence and the volume of errors caught and the total volume of errors. The significance levels were large enough to conduct a one-tailed test of significance. Therefore, it can be concluded that the volume of errors caught and total volume of errors were significantly larger in stops with a supervisor than they were without a supervisor. This is likely the result of the activities occurring in these stops; supervisors have historically been present during non-routine stops, such as critical incidents.

Critical stops, those with RAS consent requests, drug-detecting canine deployments, and uses of force, undergo mandatory reviews and their activities require supervisory approval and additional reports. Figure Thirty-Three depicts supervisory presence in critical stops compared to non-critical stops. The proportion of stops with supervisors present is generally greater among critical stops than non-critical stops. In the current reporting period, there were 97 reviewed critical stops. A supervisor was present in 46% of these stops (45 stops). This proportion is an increase from the previous reporting period and the largest since the 11th reporting period. While OLEPS reviewed more stops that are non-critical in the current reporting period, 197, only 19.29% of these stops (38) had a supervisor present on the scene. The proportion of non-critical stops with supervisory presence fluctuates across reporting periods in Figure Thirty-Three because of changes to the secondary sample of stops reviewed in each reporting

period. In the third reporting period, OLEPS reviewed only 95 stops, 89 of which were critical stops and six of which were non-critical stops. In all other reporting periods, the majority of stops reviewed were non-critical stops. The activities occurring in these stops vary across reporting periods, which may impact the likelihood that a supervisor might be on scene.

**Figure Thirty-Three: Trend of Supervisory Field Presence in Critical & Non-Critical Stops**




## Summary of Standard 11

While OLEPS anticipated an increase in supervisory presence in the field after State Police implemented a revised review schedule for motor vehicle stops in 2011, supervisory presence has generally decreased since the second half of 2013. Because State Police recently graduated several Academy classes and because of the recent policy changes following Witt, which reduce the volume of required supervisory reviews- OLEPS anticipated an increase in supervisory presence in the field. After several periods of decreasing volumes of supervisory presence, there was an increase in supervisory presence in the current reporting period. OLEPS noted this increase for all stops, but especially critical stops. OLEPS stresses the importance of supervisory presence and directs State Police to the Consent Decree for specifications on this requirement.

# Office of Professional Standards & Investigations

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

## Methodology

During the review period, OLEPS monitored the activities of OPS in two ways. First, OLEPS conducted a legal review of substantiated disciplinary investigations. The purpose of each legal review was to determine whether there was sufficient evidence to move forward with disciplinary action; that is, whether the findings were supported by a preponderance of the evidence. OLEPS examined the investigative activities OPS undertook and assessed the quality and admissibility of the evidence. OLEPS also reviewed the proposed penalty for each substantiated investigation. In conducting its review, OLEPS had full access to MAPPS and IAPro[39] information concerning the trooper's prior disciplinary history. This information was evaluated in conjunction with the evidence developed in the investigation before disciplinary charges were filed and a penalty recommended. OLEPS also reviewed the proposed penalty for each substantiated investigation, providing guidance and advice on the level of discipline imposed so that it was appropriate and fair. In doing so, OLEPS considered the member's history of discipline, discipline imposed on other members with the same or similar substantiated charges, and any other factors deemed relevant to the recommendation of discipline.

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



[39] Internal Affairs Professional, or IAPro, is a database that houses trooper misconduct information.

# Performance Standard 12: Appropriate & Timely Investigations

## Standards

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

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

## Assessment

In the current reporting period, OLEPS performed an audit of investigations OPS conducted, covering January 1, 2016 to June 30, 2016.

This audit consisted of a review of 89 closed cases alleging misconduct. Of this total, 65 consisted of complaints involving racial profiling, disparate treatment, excessive force, illegal or improper searches, and domestic violence. OLEPS selected an additional 24 cases for review from all other misconduct and administrative investigations. OLEPS conducted reviews of the written files for all 89 closed cases and conducted an additional review of audio and video evidence for five cases.

### *Investigation Length*

During the OLEPS audit of OPS, OLEPS examined the length of misconduct investigations to determine if they were appropriate based on justifiable reasons. These reasons included, but were not limited to:

- Investigator caseload
- Unavailability of principals, complainants, or witnesses
- Investigator re-assignment
- Pending criminal investigation

For the audit covering the current reporting period, OLEPS noted that 55.55% (40 of the 72 cases submitted for a misconduct investigation), were not completed within the 120 working day requirement. During this audit, OLEPS noted that 31 of these cases included an appropriate request for extension while nine cases did not. OLEPS also noted 56 cases where an extended period passed between receipt of a complaint and assignment to an investigator, thus delaying the beginning of the investigation. Additionally, OLEPS noted an extended period between investigator completion of a misconduct case and supervisory review of the case in 48 cases.

## *Appropriate Interventions*

In addition to evaluating the investigation length of all misconduct cases, OLEPS also reviews the proposed penalty for each substantiated investigation. During this review, OLEPS has full access to the involved trooper's disciplinary history. OLEPS evaluates this in conjunction with the evidence developed by the investigation before disciplinary charges are filed and a penalty is recommended. Disciplinary matters cannot move forward unless OLEPS has performed a legal sufficiency and penalty review. In the first half of 2016, OLEPS performed roughly 69 legal sufficiency and penalty reviews.

# Performance Standard 13: Internal Audits of Citizen Complaint Processes

## Standards

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

- All calls must be recorded
- All complaints reviewed as to whether they constitute allegations of misconduct and whether the allegation is:
    - Criminal
    - Requires administrative investigation
    - Non-disciplinary performance matter
    - Administratively closed

## Assessment

OLEPS audits the citizen complaint process through an audit of the complaint hotline, checking for proper classification and reception of complaints. This audit covered the period of January 1, 2016 to June 30, 2016. State Police received 78 complaint calls to the hotline during the review period, and OLEPS reviewed a selected portion of these calls. OLEPS concluded that OPS assigned a case number and handled the complaint appropriately for all calls reviewed.

# Training

The Training Bureau is not reviewed in this report but appears in OLEPS' 15th Oversight Report, which covers the Academy Performance Standards for the entire 2016 calendar year. Accordingly, Performance Standards 14 through 22 do not appear in this report.

# MAPPS

Multiple units in the State Police share responsibility for data in the MAPPS system. An outside vendor maintains the system and implements upgrades and enhancements to the system as State Police requests. The vendor is responsive to the needs of the MAPPS Unit (within the Office of the Chief of Staff and under the Office of Quality Assurance). The information contained in MAPPS pulls from other information systems in the Division. Stop data stored in MAPPS comes from the CAD system and RMS, which the Information Technology Bureau manages. Misconduct data and complaints handled as performance issues (i.e., Performance Investigation Disposition Reports or PIDRs) come from the IAPro database of the Office of Professional Standards. Information in MAPPS on assignments and promotions come from the Human Resources Bureau. Training information displayed in MAPPS is a live view of the Academy's database known as the Academy Computerized Training System (ACTS).

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



## Methodology

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

OLEPS' formal audit of MAPPS contained two parts. First, OLEPS accessed MAPPS to find evidence of specific information as required by State Police policy and procedures. Second, all troopers subject to a meaningful review[40] in the current reporting period were queried in MAPPS to determine whether there was a resolution of the review. OLEPS audited the MAPPS system by selecting a sample of troopers and accessing all records in MAPPS to ensure the availability of records of all requirements per State Police policies and procedures.

OLEPS also communicates with the MAPPS Unit regularly. OLEPS notes any issues with MAPPS and communicates them to the Unit. Additionally, since this Unit creates the RACG report, OLEPS also discusses trends and patterns in trooper behavior with the Unit.

[40] State Police conducts meaningful reviews on troopers who receive three misconduct allegations within two years, also known as 3-in-2 Reviews.

# Performance Standard 23: Maintenance of MAPPS

## Standards

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

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



## Assessment

OLEPS selected a sample of troopers involved in motor vehicle stops to audit MAPPS. OLEPS reviewed 291 motor vehicle stops in the current period conducted by 240 troopers. Of these troopers, 22 were probationary troopers (recent graduates) on the date of the motor vehicle stop reviewed in this reporting period. The selection for the MAPPS audit included all 240 troopers, representing about 9.6% of the roughly 2,500 troopers in State Police. The troopers selected were from all troops. To determine whether there was a record of required information for the reporting period in question, there was a review of each trooper's MAPPS records.

### *Motor Vehicle Stop Data*

MAPPS must contain information on all motor vehicle stops performed by a given trooper. This module contains several analytic tools that allow State Police to examine a trooper's stop data in relation to both internal and external benchmarks. MAPPS contained motor vehicle stop data for all 240[41] troopers for the current reporting period.

### *Performance Data*

#### *Trooper Reviews*

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

[41] Six troopers were not active during the review of this information but were active during the current reporting period; thus, access to this information was not possible for these six troopers in MAPPS at the time of this report. The following numbers reported reflect 234 troopers, the total number of troopers where data was available.

Of the troopers sampled, 208 troopers received at least one quarterly review. As of November 2017, 26 troopers had not received at least one quarterly review for the first half of 2016. Of these 26 troopers, 20 were probationary troopers during that period. Four of the remaining six received at least one type of annual evaluation.

State Police categorizes annual evaluations as Partial, First Probationary, Second Probationary, and Third Probationary evaluations. There were 52 evaluations conducted in the first half of 2016 for 47 troopers; 21 Partial evaluations, five First Probationary evaluations, four Second Probationary evaluations, and 21 Third Probationary evaluations conducted.

Thus, there were 165 troopers who received only at least one quarterly review, four troopers who only received at least one annual evaluation, and 43 troopers who received both at least one quarterly review and one annual evaluation. Twenty-two troopers did not receive either a quarterly or an annual evaluation for this reporting period. All troopers who received neither a quarterly review nor an annual evaluation were active during the entire reporting period and assigned to road stations.

### *Assignments*

MAPPS provides information on trooper assignments, containing both current and historical assignments for each trooper. In the current reporting period, MAPPS listed current and past assignments for all 240[42] troopers.

### *Training*

The Academy Computerized Training System (ACTS) feeds data into MAPPS regarding training completion.

Of the 240 troopers reviewed in this reporting period, 166 troopers completed at least one off duty and one on duty Spring 2016 firearms training. There were 65 troopers who completed only on duty Spring 2016 firearms training and three troopers who did not complete such training.

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

### *Compliments*

The compliments module in MAPPS contains records of all compliments received by troopers for service performed. OLEPS found that State Police implemented this module and lists general information pertaining to each compliment. OLEPS found that 44 of the troopers sampled received at least one compliment in the current reporting period.

[42] The six troopers where data was unavailable is included in this final number.

## *Motor Vehicle Stop Reviews*

Motor vehicle stops are required to undergo supervisory review as determined by Field Operations' review schedule. For this requirement, OLEPS ensured that MAPPS contained motor vehicle stop reviews for the sampled troopers. OLEPS found evidence that 231 of the sampled troopers had reviews of motor vehicle stops on record for the current reporting period. Of the nine troopers without motor vehicle stop reviews, six troopers were inactive during the reporting period and the remaining three troopers were active during the entire reporting period and assigned to road stations.

## *Journals*

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

There were 13 journal entries in the current reporting period for 11 troopers. Two of these entries pertained to scatterplot comprehensive reports,[43] four pertained to career development and seven pertained to risk management awareness. As noted in previous reports, OLEPS recommends that State Police more effectively use this module, especially given that State Police does not regularly utilize interventions to record errors made in motor vehicle stops.

## *Interventions*

### *Interventions*

MAPPS contains an Interventions module wherein members may issue an intervention or task another member with administering an intervention directed toward improving a member's performance. OLEPS found interventions recorded for 140 of the 240 sampled troopers. These interventions resulted from a number of actions and behaviors, not necessarily from a motor vehicle stop. As noted in Performance Standard 9, OLEPS noted interventions stemming from motor vehicle stops in only 20.30% of errors State Police caught.

### *Commendation Performance Notices (PNs)*

Commendation PNs, stored within the Intervention module, allow supervisors to commend a trooper for a job well done. OLEPS found that 174 troopers had at least one commendation performance notice in the current period.

### *Counseling Performance Notices (PNs)*

Counseling PNs, stored within the Intervention module, allow supervisors to counsel a trooper. OLEPS found that three troopers had at least one counseling performance notice in the first half of 2016.

[43] Scatterplot Comprehensive Reports occur for troopers who have fallen outside of pre-determined criteria based on motor vehicle stop activity. These reviews focus on the totality of a trooper's motor vehicle stop data, misconducts, uses of force, PIDRs, Interventions, and training.

### *Misconduct*

OLEPS also checked to ensure that all cases listed in IAPro (the database that houses misconduct information) were also in MAPPS for the troopers selected. OLEPS found that there were 63 sampled troopers with misconduct cases in IAPro, but only 27 were in MAPPS for the selected troopers. In total, there were 80 misconduct cases listed among the 63 troopers in IAPro compared to the 28 misconduct cases among 27 troopers in MAPPS. In all outstanding cases, IAPro contained information that the supervisor of the principal received notification of the allegation of misconduct. OLEPS has noted issues pertaining to missing misconduct data in MAPPS since the first half of 2015. State Police conducted an audit to determine the extent and source of this issue. The audit indicated errors in the integration of IAPro data into MAPPS regarding misconduct, use of force, and PIDR data resulting from human error. OPS and the MAPPS Unit met in February 2017 to correct all inaccurate data and to verify that all steps for publication into IAPro were followed correctly.

### *Use of Force Supervisory Reviews*

State Police has set a threshold of two uses of force per trooper within a one year period before an alert is triggered that begins a supervisory review process. In the current reporting period, 20 of the 240 troopers had documented use of force supervisory reviews in MAPPS, more than the number noted in the previous reporting period. As noted throughout this report, there was an increase in uses of force in motor vehicle stops. These increases likely explain the increase in use of force supervisory reviews.

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

The procedure for evaluating meaningful reviews differs slightly from the overall MAPPS review. Instead of utilizing a sample of all troopers involved in stops, OLEPS obtained a list of all troopers receiving a meaningful review in the first half of 2016 from IAPro. In total, State Police conducted 15 meaningful reviews during this period.

MAPPS contained an intervention and/or journal entry for 11 of the 15 meaningful reviews conducted during this reporting period. One meaningful review involved a trooper who was inactive when the alert was triggered, explaining the lack of documentation. The remaining three meaningful reviews involved troopers who had no documentation of said reviews on MAPPS. As of November 2016, these reviews were completed.

## Summary of Standard 23

OLEPS' audit of MAPPS indicated that MAPPS contains the requisite information and data, with the exception of certain misconduct data. As noted in Performance Standard 9, OLEPS recommends that State Police utilize the Intervention module in MAPPS to record communication with troopers who have made an error during a motor vehicle stop. Additionally, the audit continues to highlight the issue between the MAPPS, NJLearn, and NJ.gov databases, as discussed in previous reports. OLEPS also continues to recommend that State Police adopt an official policy on meaningful reviews, especially regarding the documentation of such reviews. Additionally, OLEPS continues to note that State Police does not routinely conduct meaningful reviews for troopers on leave when the alert triggers. State Police needs a formal policy that details the instructions for these reviews. In this reporting period, OLEPS noted several missing misconduct cases from a trooper's records in MAPPS. Without appearing in MAPPS, future

supervisors may be unaware of the trooper's history and cannot make informed recommendations regarding assignments, promotions, future misconduct cases, or other management decisions regarding the trooper's performance.

# Performance Standard 24: MAPPS Reports

## Standards

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

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

## Assessment

OLEPS assesses the requirements of this standard through review of the quarterly RACG Reports. OLEPS routinely reviews reports MAPPS publishes on the racial/ethnic distribution of stops and post-stop interactions. OLEPS regularly attends meetings reviewing these reports. OLEPS ensures continued review of trends found in trooper behavior.

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

These reports include the examination of racial/ethnic percentages for all stops based on reasons for the stop and enforcement actions. The analysis specifically focuses on both Probable Cause and RAS consent searches and the find rates for these searches. The analysis also reviews non-consensual searches. Each report and presentation includes not only the current year, but also the two previous years. The focus of these reports and presentations changes each quarter. State Police focuses on one troop for primary analysis each quarter, but also presents additional risk analysis for the entire Division.

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

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

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

State Police orally present each RACG Report at quarterly RACG meetings. The attendees review the results of the report during the presentation. The meeting serves as a forum for questions, comments, and requests for further analysis of the reviewed data. The meeting is mandatory for Risk Management Advisory Panel members and any member the Superintendent invites, typically the command staff for the Troop reviewed. Should a required member be unable to attend the meeting, she/he must send a designated replacement. Table Thirty-Six depicts attendance at these meetings. Members italicized were those State Police policies and procedures designate as panel members. The director of OLEPS is a non-voting panel member. Superintendent Memorandum requires the attendance of all other members noted in Table Thirty-Six. During the current reporting period, there were two RACG meetings- January and March 2016.

## Table Thirty-Six: RACG Meeting Attendance

14th OLEPS Reporting Period

| | January 2016 | | March 2016 | |
|---|---|---|---|---|
| | **Invited** | **Attended** | **Invited** | **Attended** |
| ***Major Commanding Officer, Administration*** | *Y* | *Y* | *Y* | Designee |
| ***Deputy Superintendent of Operations*** | *Y* | *Y* | *Y* | *Y* |
| ***Deputy Superintendent of Investigations*** | *Y* | Designee | *Y* | Designee |
| ***Commanding Officer, Office of Professional Standards*** | *Y* | *Y* | *Y* | *Y* |
| ***Quality Assurance Officer, Office of Quality Assurance*** | *Y* | *Y* | *Y* | *Y* |
| ***OLEPS Director*** | *Y* | *Y* | *Y* | *Y* |
| **Deputy Superintendent of Homeland Security** | Y | Y | Y | N |
| **Chief of Staff** | N | Designee | Y | Designee |
| **Troop Commander** | 1 | 1 | 1 | 1 |
| **Deputy Troop Commander(s)** | 1 | 1 | 1 | 1 |
| **Regional Troop Commander (s)** | 2 | 2 | 1 | 1 |
| **Additional Troop Resource (s)** | 0 | 1 | 0 | 3 |

At the January meeting, there were four voting panel members and three non-voting panel members required to attend. OLEPS noted that all panel members or designees attended. There were four members of Troop command staff invited and all attended in addition to one additional member involved in the Troop's risk management processes.

For the March 2016 meeting, there were four voting panel members invited and four non-voting panel members required to attend. With the exception of the Superintendent of Homeland Security (a non-voting panel member), OLEPS noted that all panel members or designees attended. There were three members of Troop command staff invited and all attended in addition to three additional members involved in the Troop's risk management processes.

These quarterly meetings provide State Police with information and analysis detailing potential risks. The panel members have the unique ability to provide insight and suggestions based on their experience and their Bureau's work. Without all requisite members, potential resolutions and remedies may lack necessary insights. Further, lack of attendance from command staff and panel members may send a message that such meetings are not a priority for State Police, and in turn, promulgate future non-attendance.

Overall, the MAPPS Reports meet the requirements of this performance standard. Attendance at RACG meetings in this reporting period was a considerable improvement from previous reporting periods. OLEPS will continue to examine attendance levels in future reporting periods.

# Oversight & Public Information

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

### Standards

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

OLEPS is required to complete the following tasks:

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

### Assessment

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

- Fourth Public Aggregate Misconduct Report

All of OLEPS' reports and publications can be found on the OLEPS' website:
http://www.nj.gov/oag/oleps

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

## Standards

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

## Assessment

State Police continues to discuss changes/revisions to protocols, forms, reports, and logs with OLEPS. OLEPS reviews and comments on proposed changes to State Police policies and procedures and associated documentation. During the current reporting period, OLEPS reviewed the following:

- Five revised Operational Instructions
- Eight revised Standing Operating Procedures
- 189 requests for Escort Reviews
- 16 Lesson Plans

# SUMMARY

## Overview

The results of OLEPS' analysis of State Police from January 1, 2016 to June 30, 2016 indicates that, overall, State Police follows the guidelines regulating trooper activity. The 291 motor vehicle stops, MAPPS data, training documentation, and OPS cases reviewed indicate that, with few exceptions, State Police adheres to its own policies and procedures.

Motor vehicle stops involving uses of force continued to increase, from 38 stops in the previous reporting period to 44 stops in the current. Although this is the largest volume of stops with uses of force in all reporting periods examined in this report, OLEPS observed no stops with a use of force that deviated from applicable standards. OLEPS will continue to examine precipitating factors and circumstances in all stops with uses of force.

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



State Police performed the majority of post-stop activities in accordance with State Police policies, procedures, and legal standards. However, OLEPS noted several instances where troopers did not meet the appropriate legal standards for the post-stop activities used. In the current reporting period, OLEPS noted instances where troopers did not meet the appropriate legal standards for post-stop activities. Specifically: two stops did not meet the legal standard of Reasonable Articulable Suspicion (RAS) to request a consent to search. State Police caught both errors. However, State Police issued an intervention for only one of these errors. One stop did not meet the legal standard of RAS for a canine deployment. State Police supervisory review caught this error but did not issue an intervention.

In six stops, a frisk of the driver did not meet the legal standard of RAS. State Police supervisory review caught four of these errors. However, only one resulted in an intervention. State Police supervisory review did not catch these errors in the remaining two stops, because State Police did not review these stops. Three stops with a frisk of passenger 1 did not meet the legal standard of RAS. State Police caught two of these errors, but neither resulted in an intervention. State Police did not catch the remaining error because State Police did not review the stop. One stop with a frisk of passenger 2 did not meet the appropriate legal standard of RAS. State Police did not catch this error because there was no review of the stop. One frisk of passenger 1 extended beyond a pat down. State Police caught this error, but did not result in an intervention.

Six stops with a non-consensual vehicle search had errors on the search. State Police caught two of these errors, and one resulted in an intervention. Three stops involved searches of drivers not conducted incident to arrest (ITA), and one stop involved a search of passenger 1 not conducted ITA. State Police caught two errors involving the driver, and one resulted in an intervention. Despite reviewing the stop, State Police did not catch the other error. State Police caught the error pertaining to passenger 1. However, it did not result in an intervention. Despite these instances, State Police performed the majority of post-stop activities reviewed in accordance with State Police policies, procedures, and legal standards.

Overall, stops reviewed in the current reporting period were, on average, shorter in length than the previous reporting period. OLEPS found significant differences for the lengths of stops with and without a canine deployment; stops with a deployment were significantly longer than in stops without a deployment. Results that were not significant, but approached statistical significance, include differences in average length of stops where nervousness was and was not cited, and stops in which failure to make eye contact was and was not cited. The differences between all other racial/ethnic groups for all types of stops were not significant. In previous reporting periods, OLEPS noted several instances of *de facto* arrests based on the length of stop. However, OLEPS did not note any in the current reporting period. OLEPS reminds State Police of this history and encourages supervisors to note issues regarding the length of motor vehicle stops.

While State Police has caught more errors than the past, improvement is still warranted. Less than half of the stops OLEPS reviewed, 128 (44%), also received a State Police review. Among the stops State Police did review, State Police failed to note errors in 13% (16 of 128) of stops. Further, 29% (47 of 163) of stops State Police did not review contained an error. OLEPS continues to reinforce the need for detailed reviews with appropriate feedback to troopers. Feedback on motor vehicle stops, especially any errors or deficiencies, ideally would influence a trooper's behavior in all stops, not just those reviewed.

Of concern, the use of interventions following an error during a motor vehicle stop decreased considerably in the previous reporting period and continued to decrease in this reporting period. In the current reporting period, only 20% of all errors caught resulted in an intervention. Most of the interventions issued pertained to consent requests, arrests, reporting, and communication call-ins. OLEPS continues to recommend State Police supervisors use interventions when noting errors.

OLEPS noted an increase in the proportion of stops with supervisors present at the scene of the stop. Nearly 29% of all stops had a supervisor on scene, an increase from 22% in the previous reporting period. OLEPS will continue to examine the proportion of supervisors on the road to determine whether the quality of reviews and use of interventions are inversely related to supervisor presence during stops. OLEPS expects that both supervisory presence and the quality of supervisory reviews should increase as State Police recently added a number of new troopers to its ranks.

Recording issues persist in the current reporting period. Recordings of stops were still not ideal; many stops have missing recordings, malfunctions, or difficulties that make reviewing stops difficult. State Police should continue to ensure appropriate cataloging of motor vehicle stop recordings and to ensure that equipment remains current and in good working order. Regardless of newly installed recording equipment, recording errors remain high among errors caught and errors in stops that State Police did not review.

## Recommendations

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

- Continue analysis on racial/ethnic distributions and differences of motorists involved in stops.
- Examine potential causes for dramatic changes in the volume of certain post-stop activities such as uses of force.
- Conduct detailed, focused, supervisory reviews, especially in all critical stops and noted areas of concern.
- If necessary, reiterate the expectations of supervisory reviews by informing supervisors of OLEPS' concerns regarding these reviews.
- Improve the use of interventions as a record of supervisory comments.
- Reiterate the requirements of RAS, Probable Cause, and all applicable legal standards to ensure that troopers appropriately engage in post-stop activities.
- Reinforce concerns regarding the length of stops. Refer to previous Monitoring Reports written by the Independent Monitor (see Appendix One) for more detail regarding the concerns surrounding *de facto* arrests.
- Increase supervisory presence in the field, especially in light of the reduced review workload that was further reduced following Witt.
- Ensure that State Police units that handle the majority of tasks related to the Decree (i.e., OPS, MAPPS, ITB, and Training Bureau) remain appropriately staffed to meet their mission.
- Ensure continuity of staff in highlighted areas (i.e., OQA, OPS, MAPPS, ITB, and Training Bureau) to ensure the understanding of historical decisions, events, and issues. Consideration should be given to assign a civilian analyst to these units to lend technical support for the collection and analysis of data in addition to the provision of continuity during transfers and detachments of enlisted personnel.
- Clearly and formally detail the process for conducting 3 in 2, or meaningful reviews.
- Ensure that all information required to be stored in MAPPS is appropriately entered or transferred into the database, including NJLearn and NJ.gov.
- Continued vigilance in upgrades or repairs to aging audio and video equipment and ensure that troopers are appropriately activating this equipment.
- Continue efforts to resolve technical issues with OLEPS' access to motor vehicle stops recorded on upgraded recording equipment.

## Appendix One

Previously Published Monitoring/Oversight Reports

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

| Report | Publication Date | Reporting Period |
|---|---|---|
| Monitors' Sixteenth Report: Long-term Compliance Audit Civil Number 99-5970(MLC) | August 2007 | October 1, 2006- March 31, 2007 |
| Monitors' Seventeenth Report: Long-term Compliance Audit Civil Number 99-5970(MLC) | April 16, 2009 | January 1, 2007- December 31, 2007 |
| First Monitoring Report Prepared by Office of Law Enforcement Professional Standards | April 29, 2010 | January 1, 2008- December 31, 2008 |
| Second Monitoring Report Prepared by Office of Law Enforcement Professional Standards | August 2011 | January 1, 2009- June 30, 2009 |
| Third Monitoring Report Prepared by Office of Law Enforcement Professional Standards | July 2012 | July 1, 2009- December 31, 2009 |
| Fourth Monitoring Report Prepared by Office of Law Enforcement Professional Standards | October 2012 | January 1, 2010- December 31, 2010 |
| Fifth Monitoring Report prepared by Office of Law Enforcement Professional Standards | May 2013 | January 1, 2011- December 31, 2011 |
| Sixth Oversight Report prepared by Office of Law Enforcement Professional Standards | July 2013 | January 1, 2012- June 30, 2012 |
| Seventh Oversight Report prepared by Office of Law Enforcement Professional Standards | March 2014 | July 1, 2012- December 31, 2012 |
| Eighth Oversight Report prepared by Office of Law Enforcement Professional Standards | October 2014 | January 1, 2013- June 30, 2013 |
| Ninth Oversight Report prepared by Office of Law Enforcement Professional Standards | July 2015 | July 1, 2013- December 31, 2013 |
| Tenth Oversight Report prepared by Office of Law Enforcement Professional Standards | September 2015 | January 1, 2014- June 30, 2014 |
| Eleventh Oversight Report prepared by Office of Law Enforcement Professional Standards | October 2016 | July 1, 2014- December 31, 2014 |
| Twelfth Oversight Report prepared by Office of Law Enforcement Professional Standards | March 2017 | January 1, 2015- June 30, 2015 |
| Thirteenth Oversight Report prepared by Office of Law Enforcement Professional Standards | June 2018 | July 1, 2015 – December 31, 2015 |

# Appendix Two

Table 2.1: Type of Errors Caught by Station

| | Recording | Reporting | Comm. | Exits | Frisks | Search of Person | Search of Vehicle | Consent Requests | Canine Deploy. | Use of Force | Arrests | CUMMA | Evid-ence | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Atlantic City** | 2 | 2 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | **6** |
| **Bass River** | 0 | 2 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | **4** |
| **Bellmawr** | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | **2** |
| **Bloomfield** | 0 | 2 | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | **4** |
| **Bordentown** | 3 | 3 | 0 | 0 | 0 | 0 | 2 | 3 | 1 | 1 | 1 | 0 | 0 | **14** |
| **Bridgeton** | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **4** |
| **Buena Vista** | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | **2** |
| **Cranbury** | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | **3** |
| **Hamilton** | 2 | 4 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 2 | 1 | 0 | 0 | **10** |
| **Holmdel** | 1 | 1 | 2 | 0 | 1 | 0 | 0 | 2 | 1 | 0 | 0 | 0 | 0 | **8** |
| **Hope** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | **1** |
| **Kingwood** | 5 | 5 | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 2 | 0 | 0 | **15** |
| **Moorestown** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Netcong** | 2 | 2 | 5 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 1 | 0 | 0 | **13** |
| **Newark** | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | **3** |
| **Other** | 0 | 8 | 1 | 0 | 2 | 0 | 0 | 3 | 0 | 1 | 1 | 2 | 0 | **18** |
| **Perryville** | 1 | 4 | 0 | 0 | 1 | 2 | 0 | 3 | 0 | 1 | 0 | 0 | 0 | **12** |
| **Port Norris** | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | **3** |
| **Red Lion** | 2 | 2 | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | **7** |
| **Somerville** | 0 | 1 | 0 | 0 | 0 | 1 | 2 | 4 | 0 | 0 | 9 | 0 | | **17** |
| **Sussex** | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 0 | 0 | 0 | **6** |
| **Totowa** | 1 | 3 | 0 | 0 | 0 | 0 | 0 | 5 | 0 | 1 | 2 | 2 | 0 | **14** |
| **Tuckerton** | 2 | 1 | 5 | 0 | 1 | 0 | 0 | 3 | 0 | 0 | 1 | 1 | 0 | **14** |
| **Washington** | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | **2** |
| **Woodbine** | 2 | 1 | 5 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | **10** |
| **Woodstown** | 2 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | **5** |
| **Total** | **36** | **46** | **19** | **0** | **7** | **3** | **9** | **40** | **2** | **9** | **21** | **5** | **0** | **197** |

Table 2.2: Type of Errors Not Caught by Station

| | Recording | Reporting | Comm. | Exits | Frisks | Search of Person | Search of Vehicle | Consent Requests | Canine Deploy. | Use of Force | Arrest | CUMMA | Evid-ence | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Atlantic City** | 5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **5** |
| **Bass River** | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | **2** |
| **Bellmawr** | 6 | 3 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | **10** |
| **Bloomfield** | 5 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **7** |
| **Bordentown** | 2 | 5 | 0 | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **10** |
| **Bridgeton** | 2 | 4 | 2 | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 1 | 0 | **11** |
| **Buena Vista** | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | **5** |
| **Cranbury** | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **2** |
| **Hamilton** | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | **2** |
| **Holmdel** | 1 | 2 | 2 | 0 | 0 | 1 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | **9** |
| **Hope** | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **1** |
| **Kingwood** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | **1** |
| **Moorestown** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Netcong** | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **2** |
| **Newark** | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **1** |
| **Other** | 2 | 1 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 3 | 0 | 0 | **8** |
| **Perryville** | 0 | 3 | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 1 | 0 | 0 | 0 | **6** |
| **Port Norris** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Red Lion** | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **3** |
| **Somerville** | 0 | 5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **5** |
| **Sussex** | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | **2** |
| **Totowa** | 0 | 2 | 3 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | **6** |
| **Tuckerton** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Washington** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Woodbine** | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **2** |
| **Woodstown** | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | **4** |
| **Total** | **37** | **32** | **7** | **0** | **4** | **1** | **9** | **2** | **1** | **1** | **7** | **2** | **0** | **104** |

Table 2.3: Type of Errors Non-Reviewed by Station

| | Recording | Reporting | Comm. | Exits | Frisks | Search of Person | Search of Vehicle | Consent Requests | Canine Deploy. | Use of Force | Arrest | CUMMA | Evid-ence | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Atlantic City** | 5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **5** |
| **Bass River** | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | **2** |
| **Bellmawr** | 6 | 2 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | **8** |
| **Bloomfield** | 5 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **7** |
| **Bordentown** | 2 | 4 | 0 | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **9** |
| **Bridgeton** | 2 | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | **7** |
| **Buena Vista** | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | **5** |
| **Cranbury** | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **1** |
| **Hamilton** | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | **2** |
| **Holmdel** | 0 | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | **2** |
| **Hope** | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **1** |
| **Moorestown** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Netcong** | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **2** |
| **Newark** | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Other** | 2 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | **8** |
| **Perryville** | 0 | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | **3** |
| **Port Norris** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Red Lion** | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **3** |
| **Somerville** | 0 | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **4** |
| **Sussex** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Totowa** | 0 | 1 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **4** |
| **Tuckerton** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Washington** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Woodbine** | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **2** |
| **Woodstown** | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **2** |
| **Total** | **36** | **24** | **3** | **0** | **4** | **0** | **3** | **0** | **0** | **1** | **5** | **2** | **0** | **78** |

Table 2.4: Type of Interventions by Station

| | Recording | Reporting | Comm. | Exits | Frisks | Search of Person | Search of Vehicle | Consent Requests | Canine Deploy. | Use of Force | Arrest | CUMMA | Evid-ence | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Atlantic City** | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **1** |
| **Bass River** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Bellmawr** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Bloomfield** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Bordentown** | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | **2** |
| **Bridgeton** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Buena Vista** | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | **2** |
| **Cranbury** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Hamilton** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Holmdel** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 1 | 0 | 0 | 0 | 0 | **3** |
| **Hope** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Kingwood** | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **1** |
| **Moorestown** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Netcong** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Newark** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Other** | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 2 | 0 | **5** |
| **Perryville** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Port Norris** | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | **3** |
| **Red Lion** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Somerville** | 0 | 1 | 0 | 0 | 0 | 1 | 2 | 3 | 0 | 0 | 4 | 0 | 0 | **11** |
| **Sussex** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Totowa** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 2 | 1 | 0 | **4** |
| **Tuckerton** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Washington** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Woodbine** | 0 | 1 | 5 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | **8** |
| **Woodstown** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | **0** |
| **Total** | **2** | **7** | **5** | **0** | **1** | **1** | **3** | **8** | **1** | **2** | **7** | **3** | **0** | **40** |

# Appendix Three

Supplemental Data Analysis Results

**Chi-Square Overview:**

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

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

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

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

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

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

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

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

**Example:**
As an example, the calculation of the Chi-square will be reviewed for Table One.

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

**Table One: Consent Requests by Race/Ethnicity of Driver**
14th OLEPS Reporting Period

| | No Consent Request | Consent Request | Total |
|---|---|---|---|
| **White** | 96 | 25 | **121** |
| **Black** | 92 | 14 | **106** |
| **Hispanic** | 49 | 7 | **56** |
| **Total** | **237** | **46** | **283** |

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

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

First, calculate the expected frequency for White drivers with no consent request. The row total is 121 and the column total is 237. The total n for the table is 283.

$$\frac{121*237}{283} = 101.33$$

Thus, the expected value of White drivers without a consent request is 101.33. The same formula is calculated for each racial/ethnic group for no consent request and for consent request. The table below presents the expected values for each cell in parentheses.

**Table Two: Expected Values for Consent Requests by Race/Ethnicity of Driver**
14th OLEPS Reporting Period

| | No Consent Request | Consent Request | Total |
|---|---|---|---|
| **White** | 96*(101.33)* | 25*(19.67)* | **121** |
| **Black** | 92 *(88.77)* | 14*(17.23)* | **106** |
| **Hispanic** | 49 *(46.90)* | 7 *(9.10)* | **56** |
| **Total** | **237** | **46** | **283** |

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

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

$$\chi^2 = \frac{(96-101.33)^2}{101.33} + \frac{(25-19.67)^2}{19.67} + \frac{(92-88.77)^2}{88.77} + \frac{(14-17.23)^2}{17.23} + \frac{(49-46.90)^2}{46.90} + \frac{(7-9.10)^2}{9.10}$$

$\chi^2 = 3.029$

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

Next, calculate the degrees of freedom.

df= (# of columns-1) * (# of rows-1)

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

df= 2

The Chi-Square Distribution Table (available in most basic statistics books or online), indicates that in order to reject the null hypothesis at a significance level of .05, the Chi-square statistic needs to be 5.99 or greater. Our value is 3.029, less than the required value. This means that we fail to reject the null hypothesis; there is not a significant difference between the racial/ethnic distribution of consent requests.

## Table Three: Canine Deployments by Race/Ethnicity of Driver

14th OLEPS Reporting Period

| | No Canine Deployment | Canine Deployment | Total |
|---|---|---|---|
| **White** | 116 | 6 | **122** |
| **Non-White** | 158 | 11 | **169** |
| **Total** | **274** | **17** | **291** |

$X^2$=0.326, df=1
$p$= 0.568

## Table Four: Uses of Force by Race/Ethnicity of Driver

14th OLEPS Reporting Period

| | No Force | Use of Force | Total |
|---|---|---|---|
| **White** | 104 | 18 | **122** |
| **Black** | 91 | 17 | **108** |
| **Hispanic** | 47 | 9 | **56** |
| **Total** | **242** | **44** | **286** |

$X^2$=0.068, df=2
$p$=0.967

## Table Five: Arrest Data by Race/Ethnicity of Driver

43rd OLEPS Reporting Period

| | Arrest | No Arrest | Total |
|---|---|---|---|
| **White** | 116 | 6 | **122** |
| **Non-White** | 162 | 7 | **169** |
| **Total** | **278** | **13** | **291** |

$X^2$=0.1, df=1
$p$=0.752

## Table Six: Sampled Vehicle Stop Rates by Reason for Stop

14th OLEPS Reporting Period

| | White | Non-White | Total |
|---|---|---|---|
| **FTML** | 33 | 30 | **63** |
| **Safety Violations** | 18 | 29 | **47** |
| **Rate of Speed** | 12 | 30 | **42** |
| **Equipment Violations** | 16 | 35 | **51** |
| **Seat Belts** | 8 | 4 | **12** |
| **Total** | **87** | **128** | **215** |

$X^2$=11.441, df=4
$p$=0.022
One cell has an expected count less than five.

## Table Seven: Consent Request Stop Rates by Reason for Consent

14th OLEPS Reporting Period

| | Reasonable Articulable Suspicion | Probable Cause | Total |
|---|---|---|---|
| **White** | 24 | 1 | **25** |
| **Non-White** | 22 | 1 | **23** |
| **Total** | **46** | **2** | **48** |

$X^2$=0.004, df=1
$p$=0.952
Two cells have an expected count of less than five.

## Table Eight: Canine Deployment Rates by Reason for Deployment

14th OLEPS Reporting Period

| | Reasonable Articulable Suspicion | Probable Cause | Total |
|---|---|---|---|
| **White** | 6 | 0 | **6** |
| **Non-White** | 7 | 4 | **11** |
| **Total** | **13** | **4** | **17** |

$X^2$=2.853, df=1
$p$=0.091
Three cells have an expected count of less than five.

## Table Nine: Arrest Reasons by Race/Ethnicity of Driver

14th OLEPS Reporting Period

| | Probable Cause | Warrant | Warrant and Probable Cause | Total |
|---|---|---|---|---|
| **White** | 65 | 28 | 23 | **116** |
| **Black** | 51 | 37 | 16 | **104** |
| **Hispanic** | 36 | 10 | 6 | **52** |
| **Total** | **152** | **75** | **45** | **272** |

$X^2$=8.363, df=4
$p$=0.079

## Table Ten: Day v. Night Stops

14th OLEPS Reporting Period

| | Day | Night | Total |
|---|---|---|---|
| **White** | 54 | 68 | **122** |
| **Black** | 48 | 60 | **108** |
| **Hispanic** | 24 | 32 | **56** |
| **Total** | **126** | **160** | **286** |

$X^2$=0.041, df=2
$P$=0.980

## Independent Samples *t*-test

### Overview

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

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

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

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

$X_1$= mean of group 1
$X_2$= mean of group 2
$\mu_1$= population 1
$\mu_2$=population 2
*S*= estimated standard error

**Example**:
Hypothesis: Do White and Black drivers differ in the length of their motor vehicle stops? The mean stop length for White drivers is 42.47, the standard deviation is 30.85, and n=121. The mean stop length for Black drivers is 40.01, the standard deviation is 30.59, and n=106.

Hypothesis:
$H_0$= the length of stops are equal for White and Black drivers
$H_1$= the length of stops are not equal for White and Black drivers

Set criteria:
Significance level ($\alpha$)= .05

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

$$df = n_1 + n_2 - 2$$

$n_1$=the number of observations in sample 1
$n_2$= the number of observations in sample 2

$$df = 121 + 106 - 2$$

df=225

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

Calculate the mean and standard deviation. This information has been provided. The mean stop length for White drivers is 42.47, the standard deviation is 30.85, and n=121. The mean stop length for Black drivers is 40.01, the standard deviation is 30.59 and n=106.

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

$$t = \frac{(42.47-40.01) - (\mu_1 - \mu_2)}{S_{x1-x2}}$$

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

$$t = \frac{(42.47-40.01)}{S_{x1-x2}}$$

To calculate S, use this equation:

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

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

$$s^2_{pooled} = \frac{(df_1)s^2{}_1 + (df_2)s^2{}_2}{df_1 + df_2}$$

$df_1=n_1-1$ $df_1=121-1$ $df_1=120$

$df_2=n_2-1$ $df_2=106-1$ $df_2=105$

$$S^2_{pooled} = \frac{(120)30.85^2 + (105)30.59^2}{120+105}$$

$$S^2_{pooled} = \frac{(120)951.723 + (105)935.748}{225}$$

$$S^2_{pooled} = \frac{114206.76+98253.54}{225}$$

$$S^2_{pooled} = 944.268$$

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

$$S_{x1\text{-}x2} = \sqrt{\frac{944.268}{120} + \frac{944.268}{105}}$$

$$S_{x1\text{-}x2} = \sqrt{7.8689 + 8.993}$$

$$S_{x1\text{-}x2} = \sqrt{16.8619}$$

$$S_{x1\text{-}x2} = 4.106$$

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

$$t = \frac{(42.47-40.01)}{S_{x1\text{-}x2}}$$

$$t = \frac{(42.47-40.01)}{4.106}$$

$$t = \frac{2.46}{4.106}$$

$$t = 0.60$$

Compare the *t* value calculated, 0.60, to the critical *t* value from the table, 1.98.

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

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

## Appendix Four

Definitions of Acronyms and Abbreviations

BOLO: Be On the Look Out

CAD: Computer Aided Dispatch. State Police's dispatch system.

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

DSO: Deputy Superintendent of Operations

DTT: Duty to Transport

EEO: Equal Employment Opportunity.

FTML: Failure to Maintain Lane

IAIB: Internal Affairs Investigation Bureau

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

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

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

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

MVR: Motor vehicle stop review

MVSR: Motor vehicle stop report

O.I.: Operations Instructions

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

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

OSPA: Office of State Police Affairs

Probable Cause: Probable Cause

RAS: Reasonable Articulable Suspicion

RMS: Records Management System

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

SPPAR: Section Patrol Practice Assessment Reviews.

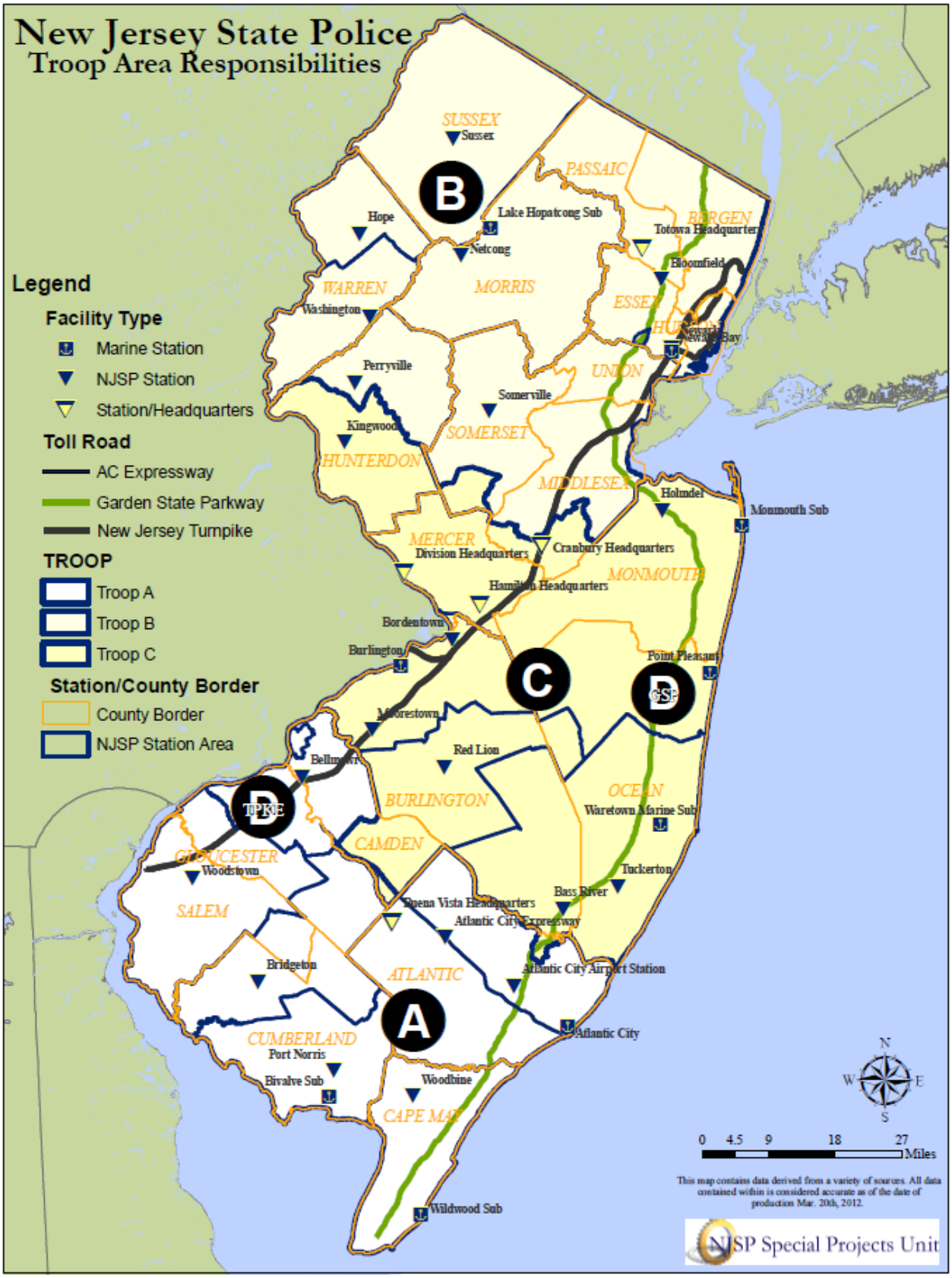
TCS: Trooper Coach System.

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

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

## Appendix Five

New Jersey State Police Troop Area Responsibilities




Appendix Five