

EIGHTH REPORT  
Independent Monitor  
for the  
Maricopa County Sheriff's Office



Reporting Period – First Quarter 2016

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Independent Monitor

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## Table of Contents

|  |     |
|--|-----|
| Section 1: Introduction.....   | 3   |
| Section 2: Executive Summary.....                                      | 5   |
| Section 3: Implementation Unit Creation and Documentation Request..... | 10  |
| Section 4: Policies and Procedures.....                                | 15  |
| Section 5: Pre-Planned Operations.....                                 | 45  |
| Section 6: Training.....   | 50  |
| Section 7: Traffic Stop Documentation and Data Collection.....         | 67  |
| Section 8: Early Identification System (EIS).....                      | 110 |
| Section 9: Supervision and Evaluation of Officer Performance.....      | 133 |
| Section 10: Misconduct and Complaints.....                             | 166 |
| Section 11: Community Engagement.....                                  | 173 |
| Section 12: Concluding Remarks.....                                    | 180 |
| Appendix: Acronyms.....  | 182 |

## Section 1: Introduction

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This is my eighth report issued in my capacity as the Court-appointed Monitor in the case of *Manuel de Jesus Ortega Melendres, et al., v. Joseph M. Arpaio, et al.* (No. CV-07-02513-PHX-GMS), and documents activities occurring during the first quarter of 2016. Subsequent to my appointment, and as a result of further Court proceedings, my duties have been expanded in the areas of community engagement, oversight of internal investigations, independent investigative authority, and review of MCSO's Property Unit.

During this reporting period, the Maricopa County Sheriff's Office (MCSO) made slight gains in Phase 1, or policy-related, compliance and in Phase 2, or operational, compliance with the provisions of the Supplemental Permanent Injunction/Judgment Order ("Order") issued by the Honorable G. Murray Snow in the above-referenced litigation.

While all areas of the Order are important, progress in three critical areas continues to elude MCSO. The first is the last major block of training to be delivered pursuant to Section VII of the Order: Supervisor and Command Level Training. The lesson plans and associated training materials have been in development for two years now. MCSO has engaged at least two outside consultants to work on the development of this training, before ultimately ceding development to in-house staff, with extensive input from my Team and the Parties. Given that a lack of consistent and quality supervision is at the heart of so many issues in the underlying case, this situation became untenable. During our April site visit, I directed that the Supervisory Training commence on or before June 15, 2016, with the instructors training beginning on or before June 1, 2016. I dispatched a Team member to observe the instructor training ("train-the-trainer") and assist MCSO when requested. We will provide an update on the Supervisory Training in our next quarterly status report.

The second area of critical importance is the Early Intervention System (EIS). To its credit, MCSO has done a good job of capturing and collecting data associated with traffic stops. This was, appropriately, MCSO's initial focus of attention, as traffic stops played a key role in this litigation. The forms initially created for MCSO's capture system (TraCS) have undergone several modifications to rectify problems common to a new data collection process. However, the *analysis* of the data has been plagued with problems; and MCSO has not achieved solutions to capture the myriad of other data necessary to populate the EIS, in particular data relevant to Paragraph 75. MCSO blames a lack of information technology resources for the slow pace. Granted, any properly functioning EIS will be dependent on underlying technology to facilitate a supervisor's use of the system, but the requirements have been known to MCSO for over two-and-one-half years, and MCSO has only recently begun exploring solutions to some of the technological hurdles.

Relatedly, MCSO has provided us and the Parties with at least two drafts of the annual analysis of the traffic stop data required by Paragraph 66 of the Order, but the majority of the time spent on discussing these drafts has centered on possible flaws with traffic stop data, which MCSO claims renders its conclusions suspect. Given that the analysis is for the period ending June 30, 2015 – over one year ago – we directed MCSO to produce a final version of the analysis by May 31, 2016; and we and the Parties will respond to it. The results will be discussed in detail in our next report.

The third critical area pertains to administrative investigations of misconduct and the administration of the discipline process. During the last reporting period, we advised that the PSB commanding officer and her team began revising MCSO's disciplinary policies and initiated steps to ensure that all investigations contain, at a minimum, some basic information in a standardized format. The latter was accomplished by establishing uniform reporting formats and checklists, and training all supervisors in their use. While this is a necessary and positive step, it is not a substitute for substantive training on how to conduct proper administrative investigations. This training remains in the early stages of development. During the reporting period, we and the Parties reviewed proposed updates to MCSO's disciplinary policies. Based on the issues we have documented in our investigation reviews, the numerous deficiencies brought to light during the contempt proceedings, and the breadth of the comments offered on the existing internal investigations policy, we recommended that PSB start fresh with a new policy. We provided extensive feedback on what this policy should contain during and after our most recent site visit.

As we have reported previously, MCSO has been slow to develop some kind of report or log to capture a deputy's dispatched and self-initiated activity over the course of a shift. More recently, MCSO expressed a desire to capture this information electronically, with much of the information populated by the Computer-Aided Dispatch (CAD) system. We advised that this would be acceptable, provided there was a means to verify supervisory review of each report. We viewed a demonstration of the reporting process during our April site visit, and learned that it was being field-tested with one squad in a district. This was a positive step forward, but given the unacceptable pace of implementation to date, we advised MCSO that if the activity report was not deployed Office-wide by June 1, deputies and supervisors must begin completing paper activity reports daily on that date. MCSO did meet this deadline, and we will comment further on the electronic system in our next report.

Also during this reporting period, MCSO continued the deployment of body-worn cameras. MCSO initially hoped to have the cameras deployed across all districts by the end of 2015. We perceived that schedule as optimistic, and MCSO encountered a host of logistical and infrastructure issues. By December 31, the cameras were fully operational in only one district. As of our most recent (April) site visit, the cameras were deployed in all but two districts. MCSO has not resolved all of the connectivity issues in those districts, making it difficult or impossible to download video from the cameras to free up storage space. MCSO's back-up plan until this is resolved is to issue two body-worn cameras to deputies in these districts. While one is being downloaded in a neighboring district with good connectivity, the other will be worn on patrol.

We continue to note that the technical quality of both the video and audio are excellent, and because of the wider deployment over this review period, we have had access to more videos during our traffic stop review.

## Section 2: Executive Summary

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The Order is divided into several main parts, as outlined below, along with a brief description of some of the developments in each area over the reporting period.

- COURT ORDER III. MCSO IMPLEMENTATION UNIT AND INTERNAL AGENCY-WIDE ASSESSMENT: MCSO's Court Implementation Division (CID) published its quarterly report as required by Paragraph 11.
- COURT ORDER V. POLICIES AND PROCEDURES: MCSO has promulgated and trained to the policies identified in this section of the Order. The policies were distributed in conjunction with the agency-wide Fourth and Fourteenth Amendment training, which MCSO completed during the fifth reporting period. During this reporting period, MCSO published one Order-related General Order, GB-2 (Command Responsibility); and revised two Order-related General Orders, CP-2 (Code of Conduct) and CP-3 (Workplace Professionalism). Several key Order-related General Orders are currently in development. During this reporting period, MCSO also issued three Briefing Boards and one Administrative Broadcast that touched on Order-related topics.
- COURT ORDER VI. PRE-PLANNED OPERATIONS: MCSO is in Phase 1 and Phase 2 compliance with this Section of the Order. MCSO did not conduct any applicable pre-planned operations during this reporting period.
- COURT ORDER VII. TRAINING: During this reporting period, MCSO completed the 2015 Annual Combined Bias-Free Policing and Fourth Amendment Training. MCSO continues to make progress on the development of the Supervisory Training, although the Training was not approved during this reporting period. Supervisors received Administrative Investigations Checklist Training during this reporting period. This training does not supplant Administrative Investigations Training, currently under development for supervisors. Also during this reporting period, MCSO continued to deliver training classes on body-worn cameras and TraCS period. New policy GG-1 (Peace Officer Training Administration), revised policy GG-2 (Training Administration), and the Training Division Operations Manual remained under development and review during this reporting period.
- COURT ORDER VIII. TRAFFIC STOP DOCUMENTATION AND DATA COLLECTION AND REVIEW: MCSO continues to provide a sample of traffic stop data to us on a monthly basis. Most of the systems used to collect the data have been automated, and for the most part, deputies are complying with the information capture and documentation requirements associated with traffic stops. When MCSO made technical changes to the TraCS system, we noted more thorough reporting by deputies. We also continue to note some of the inadequacies of MCSO practices surrounding the setting of alert thresholds used for ongoing monthly and quarterly data analyses related to these. The data audit conducted by Arizona State University (ASU) resulted in procedures MCSO must adopt to improve the quality of data used for monthly, quarterly, and annual analyses to investigate possible cases of racial profiling and other biased-based policing. However, our ability to analyze the integrity of – and develop

recommendations for – benchmarks and thresholds used in monthly, quarterly, and annual analyses by MCSO continues to be hampered by the substantial delay in providing us with clean traffic stop data for the July 2014-June 2015 period. As of our April site visit, eight full months had transpired without a satisfactory resolution of data problems we identified. We had hoped that the data-cleaning procedures developed by ASU would result in the 12-month traffic stop data file representing July 2014-June 2015 to be efficacious with regard to the annual evaluation, but problems with certain elements of TraCS have resulted in a substantial delay in the completion of the annual analysis. The last data file provided by EIU on December 31, 2015 had to be discarded because of numerous data problems with estimates of the length of a traffic stop, duplicate records, and missing vehicle contact end times. During our April 2016 site visit, we made it clear that the methodology used by EIU to set alerts in EIS was no longer acceptable and we agreed to EIU's request for with specific recommendations for an acceptable methodology.

During our April 2016 site visit, we determined that MCSO had issued body-worn cameras to all deputies who primarily enforce traffic laws; however, due to technical difficulties (related to connectivity) in District 4 and the Lake Patrol, the program was not fully functional in all districts. We have reviewed recordings of actual traffic stops and have determined that the video and audio are of excellent quality.

- COURT ORDER IX. EARLY IDENTIFICATION SYSTEM (“EIS”): The EIS policy, GH-5, was published on November 18, 2015. TraCS training for all personnel who have traffic stop contact with the public has been memorialized as required. The EIU has improved the transmission of alert investigations to supervisors by incorporating this process into Blue Team. However, we find that the closure of a significant minority of alert investigations by supervisors lacks clear descriptions of how or why these investigations were closed. Supervisors still lack independent access to their subordinates' complaint histories and dispositions without the assistance of PSB. MCSO has tested modifications to EIS, but, at present, those adjustments have not been successful; and MCSO continues to work toward a solution with the software vendor. During our February site visit, MCSO demonstrated the FILEBOUND software system that it uses to store Incident Reports. This is an electronic system that is searchable and available remotely to supervisors. However, the records housed via this software are not accessible through EIS. During our April site visit, we discussed at length what information had to be captured in the EIS database to represent Incident Reports, Investigatory Stops, and Arrests for line supervisors to effectively oversee the activity of their subordinates. MCSO continues to investigate solutions to that end, but this has not resulted in any substantial progress. MCSO has engaged an outside contractor to analyze the annual traffic stop data, which may also allow for a re-evaluation of the thresholds that trigger alerts generated by the EIS system. Based upon our own analysis, we recommended an alternative method that MCSO is currently reviewing. MCSO continues to make progress toward meeting the EIS-related requirements of the Order. However, BIO inspection reports of patrol supervisor notes show dramatic fluctuations in the average compliance rates by supervisors per month. We anticipate these will improve once Supervisory Training is completed.

Also during this reporting period, we reviewed evaluations by EIU personnel regarding supervisory oversight of their subordinates and the inspection reports (covering the areas of Patrol Supervisory Notes, County Attorney dispositions, and Incident Reports) provided by BIO; both the County Attorney disposition and Incident Report inspections show steady improvements in the level of supervisory oversight, while the patrol supervisory note inspections show some decline in the use of supervisory tools made available to them.

- **COURT ORDER X. SUPERVISION AND EVALUATIONS OF OFFICER PERFORMANCE:** In 2015, MCSO made little progress in the development of processes of accountability in the areas of supervision and performance evaluation. We believe that MCSO has made some progress in the first quarter of 2016. As a result of project delays in the past, we are cautiously optimistic that the implementation of solutions will occur within expected timeframes. The accurate documentation of the daily activities of deputies and supervisors is a fundamental practice in law enforcement that has been missing from this agency. The development of Daily Activity Reports has been slow in the making; a sound working solution, up to this point, has eluded MCSO. During our April site visit, MCSO made a presentation of a proposed CAD-based Daily Activity Log that appears to capture the information needed to corroborate compliance with several Paragraphs of this Order. The Monitoring Team reviewed and provided comments on the proposed Daily Activity Log format. The project was planned in two phases, the first of which was scheduled to start on June 1, 2016.

During our April site visit, we met with MCSO Human Resources representatives and reviewed the last revised draft of GC-4 (Employee Performance Appraisals), as well as the revised Employee Performance Appraisal (EPA) Form. Employee Performance Appraisals reviewed up to this point have lacked consistency in ratings, and most supervisor EPAs have been missing required rating dimensions. Deficient EPAs should be minimized with the implementation of the new GC-4 policy and revised EPA form. MCSO has worked with the Monitoring Team to revise and improve the employee performance evaluation process, and it is currently working on developing the training curriculum for GC-4 and the new appraisal format. MCSO has committed to submitting the training curriculum to the Monitoring Team and Parties by the end of July.

We began reviewing Arrest Reports this quarter, starting in February. MCSO had not worked out the document production process in time for us to review January Arrest Reports. We identified several deficiencies, as noted in our assessment of compliance with the supervision requirements of this Order. On a positive note, in our review of Incident Reports, we noted that most reports are well-written and relatively comprehensive. With the exception of vehicle crash reports, supervisory reviews and memorialization of Incident Reports are occurring within the required time constraints. Vehicle crash reports are state forms that cannot be modified without state approval, and modification would likely involve a lengthy process. As a temporary solution, some supervisors have been signing and dating hard copies of crash reports, but this process remains inconsistent. MCSO is working on a more effective solution. Incident reports associated with arrests are generally reviewed and memorialized within the required 72-

hour timeframe. MCSO is currently working on resolving the problem of documentation of supervisory reviews of Vehicle Stop Contact Forms (VSCFs), as well as memorialization of supervisor-deputy discussions related to stops and detentions. During our district visits, we met with commanders and supervisors and discussed the weaknesses and strengths found in our reviews, as well as ways to improve compliance and documentation.

- COURT ORDER XI. MISCONDUCT AND COMPLAINTS: While the quality of MCSO's investigations at both the Professional Standards Bureau (PSB) and at the district levels remains inconsistent and in many areas lacking, MCSO has taken some steps to address these issues. We have observed some procedural improvements in investigations with the implementation of the checklist and investigative format developed by PSB, but continue to have serious concerns with the thoroughness of some investigations, the justification for findings, the justification for disciplinary decisions, and the manner in which these decisions are made. MCSO continues to work on revisions of its internal affairs policies, and we are providing extensive comments and recommendations regarding these proposed policy revisions. PSB now has a lieutenant in place whose primary responsibility is to liaise with districts and divisions conducting administrative investigations. This should help to ensure more consistent and complete investigations. PSB personnel will also be reviewing administrative investigations completed in districts and divisions prior to their forwarding to command staff for findings. PSB supervisors have also attended a variety of training sessions that should assist them in conducting their administrative investigations.
- COURT ORDER XII. COMMUNITY ENGAGEMENT: We held one community meeting during this reporting period. The meeting was held in MCSO Patrol District 1 in Tempe at Kyrene del Norte Elementary School on February 3, 2016. The meeting, which was conducted in both English and Spanish, attracted approximately 15 community members. The meeting was well advertised with area-focused radio, print, distribution of flyers in the vicinity of the meeting, and social media advertising in both English and Spanish. The purpose of the event was to inform community members of the many changes taking place within MCSO, as well as to provide community members the opportunity to voice support or criticism in a safe forum. While we are responsible for Community Engagement, MCSO continues to support our efforts. Key members of the MCSO's leadership, representatives from the Court Implementation Division (CID), and district personnel participated at the meeting; and CID personnel were responsive and helpful in satisfying all requirements to reserve the venue we selected for the community meeting. In addition, during this reporting period, the Community Advisory Board (CAB) initiated actions to raise community awareness of the existence and function of the CAB.

**Compliance Summary:**

This report documents compliance with applicable Order requirements, or Paragraphs, in two phases. For Phase 1, compliance is assessed according to whether requisite policies and procedures have been developed and approved and agency personnel have received documented training on their contents. For Phase 2 compliance, generally considered operational implementation, MCSO must demonstrate that the applicable Order requirements are being complied with more than 94% of the time, or in more than 94% of the instances being reviewed.

We use four levels of compliance: In compliance; Not in compliance; Deferred; and Not applicable. “In” compliance and “Not” in compliance are self-explanatory. Deferred is used in circumstances in which we are unable to fully determine the compliance status due to a lack of data or information, incomplete data, or other reasons which are explained in the narrative of the report. We will also use Deferred in those situations in which the Office, in practice, is fulfilling the requirements of a Paragraph but has not yet memorialized the requirements in a formal policy. “Not applicable” is only used when describing Phase 1 compliance, and is reserved for those Paragraphs where a policy is not required.

The table below summarizes the compliance status of Paragraphs tracked in this report.<sup>1</sup> During this reporting period, MCSO’s overall Phase 1 compliance rate increased by two percentage points from the last reporting period, from 61% to 63%. This reflects a change from In compliance to Not in compliance (Paragraph 76); and a change from Not in compliance to In compliance (Paragraphs 84 and 86). MCSO’s overall Phase 2 compliance rate increased by two percentage points, from 38% to 40%. This reflects a change from Deferred to In compliance (Paragraphs 31 and 84); a change from Deferred to Not in compliance (Paragraph 33); a change from Not in compliance to In compliance (Paragraph 48); and a change from In compliance to Not in compliance (Paragraph 76). These figures, over two years into this process, are deeply troubling.

| <b>Eighth Quarterly Report Summary</b> |                |                |
|--|----------------|----------------|
| <b>Compliance Status</b>               | <b>Phase 1</b> | <b>Phase 2</b> |
| Not Applicable                         | 14             |                |
| Deferred                               | 0              | 2              |
| Not in Compliance                      | 28             | 51             |
| In Compliance                          | 47             | 36             |
| <b>Percent in Compliance</b>           | <b>63%</b>     | <b>40%</b>     |

<sup>1</sup> The percent in compliance for Phase 1 is calculated by dividing the number of Order Paragraphs determined to be in compliance by the total number of Paragraphs requiring a corresponding policy or procedure. Paragraphs with the status of Deferred are included in the denominator, while Paragraphs with the status of Not Applicable are not included. Therefore, the number of Paragraphs included in the denominator totals 75 for Phase 1. The number of Paragraphs included in the denominator totals 89 for Phase 2.

### Section 3: Implementation Unit Creation and Documentation Requests

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#### **COURT ORDER III. MCSO IMPLEMENTATION UNIT AND INTERNAL AGENCY-WIDE ASSESSMENT** (*Court Order wording in italics*)

*Paragraph 9. Defendants shall hire and retain, or reassign current MCSO employees to form an interdisciplinary unit with the skills and abilities necessary to facilitate implementation of this Order. This unit shall be called the MCSO Implementation Unit and serve as a liaison between the Parties and the Monitor and shall assist with the Defendants' implementation of and compliance with this Order. At a minimum, this unit shall: coordinate the Defendants' compliance and implementation activities; facilitate the provision of data, documents, materials, and access to the Defendants' personnel to the Monitor and Plaintiffs representatives; ensure that all data, documents and records are maintained as provided in this Order; and assist in assigning implementation and compliance-related tasks to MCSO Personnel, as directed by the Sheriff or his designee. The unit will include a single person to serve as a point of contact in communications with Plaintiffs, the Monitor and the Court.*

Shortly after the issuance of the Order, MCSO created an Implementation Unit, now identified as the Court Implementation Division (CID). With the publication of the CID Operations Manual on June 29, 2015, MCSO achieved Phase 1 compliance with this Paragraph.

At the beginning of our tenure, the division was staffed with a captain, two lieutenants, and two sergeants. Since that time, the staff has grown significantly, and as of this writing, CID consists of one captain, one lieutenant, four sergeants, one detective, two deputies, one management analyst, and one administrative assistant. The division continues to be supported by MCAO attorneys and outside counsel, who frequently participate in our meetings and telephone calls with division personnel.

During the last reporting period, CID changed the manner in which documents are provided to us. Under the new system, the Monitoring Team, the Plaintiffs, and the Plaintiff-Intervenors receive all files and documents simultaneously through MCSO's counsel via an Internet-based application. With only a few exceptions centering on open investigations, the Parties have access to the same material that we do; and we commend the simultaneous access. For the first few months after the adoption of the new system, the documents (including materials we needed to complete our quarterly assessments and fulfill some of our other responsibilities) were unacceptably delayed. However, after we raised this issue with CID during our most recent site visits, we have noted improvements in the timeliness of the production of documents.

As we have noted previously, per the Order, CID is our designated point of contact, and we hold CID accountable for addressing any issues with the provision of materials required by the Order.

MCSO remains in Phase 2 compliance with this Paragraph.

#### **Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

**Paragraph 10.** *MCSO shall collect and maintain all data and records necessary to: (1) implement this order, and document implementation of and compliance with this Order, including data and records necessary for the Monitor to conduct reliable outcome assessments, compliance reviews, and audits; and (2) perform ongoing quality assurance in each of the areas addressed by this Order. At a minimum, the foregoing data collection practices shall comport with current professional standards, with input on those standards from the Monitor.*

On June 29, 2015, the Court Implementation Division published its Operations Manual to identify its responsibilities and internal procedures for carrying them out. Accordingly, MCSO is in Phase 1 compliance with this Paragraph.

As mentioned above, until the last reporting period, CID had a history of being responsive to our requests. In many instances, we have asked for material that has not been routinely collected – or even generated – by MCSO. We continue to work with MCSO – and CID’s leadership – on what constitutes appropriate compliance assessment data. We also trust that CID staff will continue to produce documents to us and the Parties in a timely basis.

**Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

**Paragraph 11.** *Beginning with the Monitor’s first quarterly report, the Defendants, working with the unit assigned for implementation of the Order, shall file with the Court, with a copy to the Monitor and Plaintiffs, a status report no later than 30 days before the Monitor’s quarterly report is due. The Defendants’ report shall (i) delineate the steps taken by the Defendants during the reporting period to implement this Order; (ii) delineate the Defendants’ plans to correct any problems; and (iii) include responses to any concerns raised in the Monitor’s previous quarterly report.*

On June 29, 2015, the Court Implementation Division published its Operations Manual to identify its responsibilities and internal procedures for carrying them out. Accordingly, MCSO is in Phase 1 compliance with this Paragraph.

On June 13, 2016, CID published its quarterly report as required by this Paragraph. The report covers the period from January 1, through March 31, 2016. This report is divided into the Order sections, which in turn are divided among its numbered Paragraphs. For each section, MCSO provides an overview of compliance and provides greater detail on the agency’s activities working toward compliance. For each Paragraph, MCSO offers comments on the compliance status and provides responses to concerns raised in the Monitor’s previous quarterly status report, published April 15, 2016. The report, as in the past, includes a table developed with the information provided in our previous quarterly report (covering the reporting period of October 1, through December 31, 2015).

In its report, MCSO acknowledges that the pace of compliance may appear slow, but asserts that it is a result, among others, “of the collaborative effort and process among MCSO, the Monitor, the multiple attorneys representing the Plaintiffs and the DOJ.” The report refers to several

policies and training curricula, including GC-4 (Employer Performance Appraisals), GG-1 (Peace Officer Training), GG-2 (Training Administration), the EIS Training, and the Body-Worn Camera Operational Manual.

The revision of GC-4 was the result of the new electronic format of the Employer Performance Appraisal (EPA); the change from paper format required changes to the policy. The content of that policy was recently approved.

We first reviewed GG-1 on January 22, 2016. Although MCSO implemented some of our previous recommendations, others were not included, and we identified issues with the training cycle. During our February 2016 site visit, the Director of Training indicated that he had signed a recent draft of the Training Division Operations Manual, a companion document to both policies GG-1 and GG-2, which had not been supplied to us for review despite our previous requests. The document was not provided until after our April 2016 site visit; and it had not been properly prepared for the review process, and was not consistent with GG-1 or GG-2. After our review, MCSO advised us that we were sent the incorrect version. Since we and the Parties has already provided extensive comments, we asked MCSO to use the comments on the incorrect version in preparing the next draft. That next draft has not yet been provided. We continue to recommend that MCSO consolidate both GG-1 and GG-2 into a single guiding policy, which of course must be consistent with the Training Division Operations Manual.

As to EIS Training, we note that the EIS2 lesson plan was initially submitted on February 2015, but was unchanged from the original EIS Blue Team lesson plan previously used by MSCO. This lesson plan was neither revised nor updated by MCSO, and in September 2015, MCSO received extensive comments from us and the Parties. A new draft, which required further modifications, was provided in February 2016. A follow-up draft was provided by MCSO in May, and MCSO received the most recent comments from us and the Parties on June 13, 2016.

MCSO states that it provided a second draft of the Body-Worn Camera Operational Manual to the Monitor on May 6, 2016. We provided comments on that document, and we received the most recent version from MCSO on June 16, 2016.

Finally, MCSO is unclear as to our finding of noncompliance with respect to Paragraph 24, which requires that MCSO “ensure that its operations are not motivated by or initiated in response to requests for law enforcement action based on race or ethnicity.” We have advised MCSO that the Office does not have a consistent means of documenting how tips are handled and until it does, we cannot ascertain the criteria the agency uses and how it approaches different tips. MCSO elected to create an entire new unit – the Sheriff’s Intelligence Leads and Operations (SILO) – to address this issue. While this entity comes online and supporting policy or policies are developed, MCSO remains in noncompliance with Paragraph 24.

MCSO remains in compliance with Paragraph 11.

**Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

**Paragraph 12.** *The Defendants, working with the unit assigned for implementation of the Order, shall conduct a comprehensive internal assessment of their Policies and Procedures affecting Patrol Operations regarding Discriminatory Policing and unlawful detentions in the field as well as overall compliance with the Court's orders and this Order on an annual basis. The comprehensive Patrol Operations assessment shall include, but not be limited to, an analysis of collected traffic-stop and high-profile or immigration-related operations data; written Policies and Procedures; Training, as set forth in the Order; compliance with Policies and Procedures; Supervisor review; intake and investigation of civilian Complaints; conduct of internal investigations; Discipline of officers; and community relations. The first assessment shall be conducted within 180 days of the Effective Date. Results of each assessment shall be provided to the Court, the Monitor, and Plaintiffs' representatives.*

See Paragraph 13.

**Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

**Paragraph 13.** *The internal assessments prepared by the Defendants will state for the Monitor and Plaintiffs' representatives the date upon which the Defendants believe they are first in compliance with any subpart of this Order and the date on which the Defendants first assert they are in Full and Effective Compliance with the Order and the reasons for that assertion. When the Defendants first assert compliance with any subpart or Full and Effective Compliance with the Order, the Monitor shall within 30 days determine whether the Defendants are in compliance with the designated subpart(s) or in Full and Effective Compliance with the Order. If either party contests the Monitor's determination it may file an objection with the Court, from which the Court will make the determination. Thereafter, in each assessment, the Defendants will indicate with which subpart(s) of this Order it remains or has come into full compliance and the reasons therefore. The Monitor shall within 30 days thereafter make a determination as to whether the Defendants remain in Full and Effective Compliance with the Order and the reasons therefore. The Court may, at its option, order hearings on any such assessments to establish whether the Defendants are in Full and Effective Compliance with the Order or in compliance with any subpart(s).*

In June 2015, the Court Implementation Division published its Operations Manual to identify its responsibilities and internal procedures for carrying them out. Accordingly, MCSO is in Phase 1 compliance with this Paragraph.

During our December 2014 site visit, we and CID established the schedule for the submission of comprehensive annual assessments as required by these Paragraphs. They will cover MCSO's fiscal year, which runs from July 1 to June 30. MCSO will submit reports on or before September 15.

On September 15, 2015, MCSO filed with the Court its 2015 Annual Compliance Report in compliance with this Paragraph. We reviewed this report in detail and addressed follow-up questions we had with CID personnel during our October 2015 site visit. Until such time as MCSO files its next Annual Compliance Report, MCSO remains in compliance with this Paragraph.

**Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

## Section 4: Policies and Procedures

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### COURT ORDER V. POLICIES AND PROCEDURES

**Paragraph 18.** *MCSO shall deliver police services consistent with the Constitution and laws of the United States and State of Arizona, MCSO policy, and this Order, and with current professional standards. In conducting its activities, MCSO shall ensure that members of the public receive equal protection of the law, without discriminating based on actual or perceived race or ethnicity, and in a manner that promotes public confidence.*

**Paragraph 19.** *To further the goals in this Order, the MCSO shall conduct a comprehensive review of all Patrol Operations Policies and Procedures and make appropriate amendments to ensure that they reflect the Court's permanent injunction and this Order.*

MCSO policy GA-1 (Development of Written Orders) states, "The Policy Section shall conduct an annual policy review of all Critical Policies, as well the specific policies related to relevant court orders or judgments. The purpose of this annual review is to ensure that the policies provide effective direction to Office personnel and remain consistent with any court order or judgment, current law, and professional standards. The annual review shall be documented in writing." This policy was published on November 7, 2015. MCSO is in Phase 1 compliance with this Paragraph.

MCSO has taken steps toward a comprehensive review of its Patrol Operations Policies and Procedures in three phases. First, on December 31, 2013, prior to my appointment as Monitor, MCSO filed with the Court all of its policies and procedures, with amendments, that MCSO believed complied with the various Paragraphs of the Order. Second, in the internal assessment referenced above, MCSO discussed its ongoing evaluation of Patrol Operations and its development of policies and procedures. Third, MCSO, in response to our requests, provided all of the policies and procedures it believes are applicable to the Order for our review and that of the Plaintiffs. MCSO received our feedback on these policies, which also included the Plaintiffs' comments, on August 12, 2014. Based on that feedback, MCSO made adjustments to many of the policies, concentrating first on those policies to be disseminated in Detentions, Arrests, and the Enforcement of Immigration-Related Laws Training; and the Bias Free Policing Training (often referred to as Fourth and Fourteenth Amendment Training) that commenced in early September. We reviewed MCSO's updated policies and provided our approval for several on August 25, 2014. Many policies unrelated to the training, however, remain in development, and we continue to review them on a case-by-case basis as they are submitted. Additionally, MCSO has not completed a review of *all* Patrol policies and procedures for potential conflicts with the Order's requirements.

In MCSO's last quarterly compliance report (required by Paragraph 11), MCSO requested that we "identify what patrol policies and procedures are pending review to be compliant" with Paragraph 19. Following our most recent site visit, we scheduled a conference call with CID and other MCSO personnel and the Parties to discuss this issue. During the call, we reviewed MCSO's existing processes for – and documentation of – ongoing reviews of Office policies. We will discuss this issue further with MCSO during our upcoming site visit, and we will report on this in our next quarterly status report.

During our December 2014 site visit, we and CID established the schedule for the reviews and assessments as required by the Order. MCSO will review the policies and procedures applicable to the Order on an annual basis, reflecting its fiscal year, which runs from July 1 to June 30. Reports are to be submitted on or before September 15. (See Paragraph 34.)

**Compliance Status:**

Phase 1: In compliance

Phase 2: Not in compliance

**Paragraph 20.** *The MCSO shall comply with and operate in accordance with the Policies and Procedures discussed in this Order and shall take all reasonable measures to ensure that all Patrol Operations personnel comply with all such Policies and Procedures.*

**a. Policies and Procedures to Ensure Bias-Free Policing**

**Paragraph 21.** *The MCSO shall promulgate a new, department-wide policy or policies clearly prohibiting Discriminatory Policing and racial profiling. The policy or policies shall, at a minimum:*

- a. *define racial profiling as the reliance on race or ethnicity to any degree in making law enforcement decisions, except in connection with a reliable and specific suspect description;*
- b. *prohibit the selective enforcement or non-enforcement of the law based on race or ethnicity;*
- c. *prohibit the selection or rejection of particular policing tactics or strategies or locations based to any degree on race or ethnicity;*
- d. *specify that the presence of reasonable suspicion or probable cause to believe an individual has violated a law does not necessarily mean that an officer's action is race-neutral; and*
- e. *include a description of the agency's Training requirements on the topic of racial profiling in Paragraphs 48–51, data collection requirements (including video and audio recording of stops as set forth elsewhere in this Order) in Paragraphs 54–63 and oversight mechanisms to detect and prevent racial profiling, including disciplinary consequences for officers who engage in racial profiling.*

MCSO has developed policies and addressed the policy deficiencies previously noted by the Monitoring Team. MCSO has finalized and published policies, including: CP-2 (Code of Conduct), amended February 12, 2016; CP-8 (Preventing Racial and Other Bias-Based Profiling), issued September 5, 2014; EA-5 (Enforcement Communications), amended October 29, 2015; EA-11 (Arrest Procedures), issued September 5, 2014; EB-1 (Traffic Enforcement, Violators Contacts and Citation Issuance), issued September 22, 2014; EB-2 (Traffic Stop Data), issued September 22, 2014; and GJ-33 (Significant Operations), issued September 5, 2014. Each

of these contains the appropriate policy direction related to this Paragraph. These policies have been distributed to agency personnel and specifically trained to during the required Fourth and Fourteenth Amendment training conducted by MCSO in 2014. A Monitoring Team member personally observed specific references to areas of required compliance in this Section during the training.

MCSO is in Phase 1 compliance with this Paragraph. Implementation of these policies is covered in the other Paragraphs of the Order. Therefore, Phase 2 compliance with this Paragraph is deferred.

**Compliance Status:**

Phase 1: In compliance

Phase 2: Deferred

*Paragraph 22. MCSO leadership and supervising Deputies and detention officers shall unequivocally and consistently reinforce to subordinates that Discriminatory Policing is unacceptable.*

MCSO policies CP-8 (Preventing Racial and Other Bias-Based Profiling) and EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) have been finalized, approved, distributed, and trained to in the MCSO Fourth and Fourteenth Amendment Training for sworn personnel and Posse members. MCSO completed this training in 2014. MCSO is in Phase 1 compliance with this Paragraph.

During our December 2014 site visit, we discussed with MCSO methods and procedures that could be put in place to “consistently reinforce to subordinates that Discriminatory Policing is unacceptable.” This discussion included utilizing the review of monthly supervisor notes, facility and vehicle inspections, as well as conducting both email and CAD (Computer Aided Dispatch) audits. MCSO implemented many of these methods and the Bureau of Internal Oversight (BIO) conducted its first supervisory notes audit in late 2014. At that time, only 2% of the 47 sworn supervisors randomly inspected were in compliance with consistently reinforcing that discriminatory policing is unacceptable in their supervisory notes. BIO recommended additional training and policy review, and began publishing reports of its findings on the BIO website for MCSO. BIO has continued to conduct these audits since November 2014, and now includes detention supervisory notes as well as those for sworn personnel.

During our discussions with BIO personnel in October 2015, we determined that the audit reporting in place was not providing complete information specific to the anti-racial profiling message requirements and may not accurately reflect actual compliance. MCSO made adjustments to the reporting methodology for both sworn and detention personnel supervisory notes, and agreed that future monthly submissions would include both the audits and a sample of specific supervisory notes inspected for both sworn and detention personnel. We also reminded MCSO that compliance is dependent on specific reinforcement from the supervisor – not just an entry that there was no indication of any discriminatory policing.

MCSO's audit for sworn supervisory notes for this reporting period showed a 97.3% compliance rate for January 2016, a 97.3% compliance rate for February 2016, and a 100% compliance rate for March 2016. In our review of the actual sworn supervisory notes, we found compliance to be only slightly less than reported for January and February 2016, and agree with their 100% compliance reporting for March 2016. In a few cases, we still found supervisors who noted only an observation rather than having a discussion; but overall, sworn supervisors are consistently noting in their supervisory notes that they are meeting with their employees and discussing the prohibition against discriminatory policing.

MCSO's audit for detention supervisory notes for this reporting period showed a 50% compliance rate for January 2016, a 70.9% compliance rate for February 2016, and a 68.7% compliance rate for March 2016. Our review of the actual detention supervisory notes again showed a lower compliance rate than reported. Even using MCSO's reported compliance, detention supervisor notes are far below an acceptable compliance rate.

During our April 2016 site visit, we met with members of BIO and CID to discuss the supervisory notes audits. We agreed to adjust the reporting process for these notes. The samples of sworn and detention supervisor notes selected for the first month of the reporting period will now be used for the remainder of the reporting period. This will allow us to review the notes for the same personnel for each of the three months in the reporting period to determine quarterly compliance with this Paragraph as required by MCSO policy.

Due to the continued low compliance rate by detention personnel, we met personally with members of detention command staff during our April 2016 site visit to specifically explain and reinforce the need for detention supervisors to play an active role in meeting the requirements of this Paragraph by consistently reinforcing to their personnel the prohibition against discriminatory policing. We will continue to reinforce this with detention personnel as necessary during our future site visits.

Our review of the supervisory notes for this reporting period found an increase in compliance by sworn supervisory personnel; and overall, the supervisory notes are in compliance with the requirements of this Paragraph for this reporting period. However, we continue to find that detention supervisory notes need significant improvement for MCSO to reach full compliance with this Paragraph.

During our February and April 2016 site visits, we met with several district captains. In one case, the captain reported that he reinforces the requirements of this Paragraph during monthly supervisor meetings that are documented in Blue Team. Another captain reported that his supervisors were meeting the requirements of this Paragraph and providing documentation in supervisory notes and in briefing notes. A third captain told us that he and his lieutenant sit in on briefings and engage in discussions with personnel on a variety of topics, to include the prohibition against discriminatory policing.

MCSO has not yet reached Phase 2 compliance with this Paragraph.

During this reporting period, BIO conducted audits of employee emails and CAD messaging, and reported two facility inspections on the mcsobio.org website. The outcomes of these inspections/audits are covered in Paragraph 23.

**Compliance Status:**

Phase 1: In compliance

Phase 2: Not in compliance

***Paragraph 23.** Within 30 days of the Effective Date, MCSO shall modify its Code of Conduct to prohibit MCSO Employees from utilizing County property, such as County e-mail, in a manner that discriminates against, or denigrates, anyone on the basis of race, color, or national origin.*

On September 5, 2014, MCSO policy CP-2 (Code of Conduct) was published, and it has since been distributed. It was specifically trained to as part of the Fourth and Fourteenth Amendment training that MCSO completed in 2014. CP-2 was amended on February 12, 2016. MCSO is in Phase 1 compliance with this Paragraph.

During prior reporting periods, we discussed with CID and BIO personnel the importance of conducting random email audits or other inspections as a means to ensure that personnel were using County systems appropriately and to demonstrate compliance with this Paragraph. Since that time, BIO has conducted monthly audits of emails and CAD/MDC communications for this purpose. During its first audits in November and December 2014, BIO identified multiple concerns, which it addressed by forwarding deficiency memorandums or memorandums of concern to the appropriate chain of command; these required a response and appropriate follow-up within 30 days. MCSO also began publishing BIO's audits on the BIO website at mcsobio.org.

Since that time, MCSO has continued to conduct monthly audits of CAD messaging and emails, and its compliance has been at or near 100% each month.

BIO utilizes a randomizing program to select samples for each inspection. BIO reviews CAD messages in an effort to identify compliance with MCSO policies CP-2 (Code of Conduct), CP-3 (Workplace Professionalism), and GM-1 (Electronic Communications and Voicemail). In its submission to our Team, MCSO includes the specific nature of any potential concerns identified during the audits.

During this reporting period, MCSO conducted three CAD and Alpha Paging audits. MCSO reported a 100% compliance rate for the audit conducted in January 2016, a 100% compliance rate for the audit conducted in February 2016, and a 99.9% compliance rate for the audit conducted in March 2016. In its March 2016 audit, BIO identified one concern – a failure to use good judgment in messaging – that BIO appropriately documented on a memorandum of concern and forwarded to the chain of command for disposition. This concern was not relevant to the requirements of this Paragraph.

During this reporting period, MCSO conducted three email audits. In January and February 2016, MCSO reported a 97% compliance rate for each month. One issue was identified in each month, but neither was found to be relevant to the requirements of this Paragraph. MCSO reported a 94% compliance rate for March 2016. None of the three issues identified in this audit were found to be relevant to the requirements of this Paragraph. In all of the instances where issues were identified, BIO forwarded Memorandums of Concern to the appropriate chain of command.

During our April 2016 site visit, we discussed the processes used to conduct the email and CAD audits with BIO and CID. Following our site visit, in May 2016, a member of our Team observed these processes, to ensure that we have a thorough understanding of the process and mechanics involved in conducting these audits.

During the previous reporting period, MCSO conducted facility inspections at the Civil Division, the SWAT Division, and the Major Crimes Division. All three audits found no evidence indicating that any of the facilities were being used in a manner that would discriminate, or denigrate anyone on the basis of race, color, national origin, age, religious beliefs, gender, culture, sexual orientation, veteran status, or disability. In our October 2015 and February 2016 site visits, we visited several districts and found no signage, pictures, or other indication of County property being used in violation of this Paragraph.

During this reporting period, we reviewed facility inspection reports at mcsobio.org for the Professional Standards Bureau and the Aviation Division. The inspection of the Aviation Division occurred in January 2016, and MCSO reported 100% compliance. The inspection report authored by BIO for PSB indicated in its heading and in its “timeframe inspected” that the inspection was for March 2016. However, the narrative of the report says that the actual inspection date was April 5, 2016; therefore, since this is a one-day inspection, it was not considered as proof of compliance for this reporting period. We reviewed the 68-question Matrix Checklist that MCSO uses for these inspections, and found that there was a question on the inspection form that specifically addressed the use of any office of County equipment “in a manner that discriminates, or denigrates, anyone of the basis of race, color, national origin, age, religious beliefs, gender, culture, sexual orientation, veteran status, or disability.”

During our April 2016 site visit, we visited Districts 1 and 7, and determined that there was no indication of County property being used in violation of this Paragraph. We also met with BIO and CID and requested that we receive the completed Matrix checklists used during any future facility inspections. We also learned during our site visit that MCSO revised the Matrix checklist form; it now contains only 51 questions. We have reviewed the revised checklist and it still contains the question regarding the appropriate use of County property.

MCSO continues its efforts to ensure that County property is not used to violate the requirements of this Paragraph – and when deficiencies have been noted, MCSO has taken appropriate action.

As noted previously, we have consistently seen a reduction in the issues we identified in our first audits in late 2014. This underscores the value of conducting these audits and inspections on an ongoing basis.

MCSO remains in Phase 1 and Phase 2 compliance with this Paragraph.

**Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

***Paragraph 24.** The MCSO shall ensure that its operations are not motivated by or initiated in response to requests for law enforcement action based on race or ethnicity. In deciding to take any law enforcement action, the MCSO shall not rely on any information received from the public, including through any hotline, by mail, email, phone or in person, unless the information contains evidence of a crime that is independently corroborated by the MCSO, such independent corroboration is documented in writing, and reliance on the information is consistent with all MCSO policies.*

MCSO policy EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) was finalized and published on September 22, 2014, and trained to during the Fourth and Fourteenth Amendment training completed by MCSO in 2014. While this policy addressees “traffic” contacts, it does not address any information that MCSO receives from the public through other means upon which it may base its law enforcement actions.

In April 2014, we met with members of the MCSO Court Implementation Division and members of the Special Investigations Division (SID) to determine what methods they employed to receive information from the public regarding criminal activity. MCSO now provides us with the information on the hotlines in use by MCSO on a monthly basis.

The Judicial Enforcement Division maintains one tip-line and one website, both of which are dedicated to the Sheriff’s Office Deadbeat Parent Program. This program is focused on civil arrest warrants for failure to pay child support, and arresting authority is limited by statute. MCSO completes basic intelligence and makes a follow-up call. If a civil warrant is found, it is assigned to a deputy who will attempt to locate the wanted subject.

Enforcement Support receives tips that are not all tracked or recorded. From the information submitted, it appears that the information received is related to arrest warrants. A Posse member tracks the tips that are distributed on a spreadsheet.

The Major Crimes Division manages one active hotline and an associated electronic mailbox that community members can use to report complaints of suspected animal abuse. Both are advertised on the MCSO website.

Special Investigations maintains a Drug Line Report. This report contains information provided by callers regarding possible drug activity. The form includes a call number, call time, category of possible offense, reported details, and a field for a disposition. Some of the tips are assigned for follow-up, while others are shown as unfounded or exceptionally cleared.

We reviewed the tip information received by Major Crimes, Enforcement Support, Civil, and Special Investigations for this reporting period. We found all of the tip information to be generally consistent with the mission of each tip-line. The drug line received one tip regarding drug activity that includes information that could be relevant to compliance with this Paragraph.

We requested additional information from MCSO regarding this tip and have received confirmation that MCSO is only addressing the narcotics complaint that was received.

Each district in the Patrol Division provides a separate response each month regarding how it responds to complaints from the public, and how it conducts operations as a result:

- District 1 reported, “All calls of this nature would be directed to MCSO Communications to dispatch a Deputy to respond and take a report. Any call regarding drug activity would be directed to MCSO Drug Hotline, which is administrated by MCSO Special Investigations Division.” District 1 advised that it had no system outside of those noted that would allow a community member to call in and report a crime. If a community member called the district, s/he would be referred to MCSO Communications. District 1 did not report any activity relevant to this Paragraph during this reporting period.
- District 2 reported that it does not have any dedicated hotline or tip-line telephone numbers or other such methods specifically to capture or receive complaints from community members regarding potential criminal activity. In general, the district has a main telephone number for any calls incoming to the district. During this reporting period, District 2 did not report any activity relevant to this Paragraph.
- District 3 reported that it accepts complaints from community members regarding potential criminal activity through mail, email, telephone, and walk-up traffic. It does not track actions taken regarding these complaints, but reported that they are generally assigned to the supervisor most able to respond to the complaint. District 3 reported that it had not received any crime tips during this reporting period.
- District 4 reported that it does not currently have a hotline designated to receive complaints from members of the community within its jurisdiction. District 4 reported that it receives complaints from community members in the following ways: walk-up traffic; telephone calls; emails; and notifications of complaints through mcsso.org (forwarded to the captain from Headquarters). District 4 reported receiving information from community members during this reporting period, but it did not initiate any operations; and none of the complaints provided in District 4’s response for this reporting period were relevant to compliance with this Paragraph.
- District 6 reported that it serves the town of Queen Creek pursuant to a law enforcement contract. As Queen Creek’s primary law enforcement organization, it is responsible to police town ordinances/codes as well as applicable state law. District 6 reported that it has a web-based application that is used to report local issues related to town services. District 6 received concerns from the public during this reporting period. None of the concerns provided in the response for this reporting period were related to compliance with this Paragraph, and no operations were initiated.
- District 7 reported that it uses a Request for Enforcement Services/Community Service Form, which members of the public complete for specific enforcement for patrols such as speed enforcement or extra patrols because of potentially reoccurring problems such as criminal damage or vandalism. These forms are given to the patrol sergeants to assign to deputies. District 7 reported that it does not track or have any documentation as to what

follow-up is completed, but it is working on a remedy for that situation. District 7 also reported that it participates in “Text-A-Tip” in Fountain Hills. Tips generated in this program are completely anonymous. District 7 investigates the tips if possible, but report that the tips are not always entered into the website; staff are also working on a solution for this issue. District 7 did receive “Text-A-Tips” during this reporting period. We did not find any that were relevant to compliance with the requirements of this Paragraph and District 7 personnel reported that they did not initiate any operations during this reporting period.

- Lake Patrol reported that it “does not have any established email addresses or hotlines which community members can utilize to report potential criminal activity.” All information relating to potential activity comes to Lake Patrol through the MCSO Communications Division. Lake Patrol reported that it had not received any information from community members regarding criminal activity during this reporting period.

With the exception of the drug line complaint we noted and followed up on, none of the forms or logs we have reviewed to date has contained any information on any suspected criminal activity that would be perceived as racially biased. In those cases where MCSO has responded to a community concern it received, there has been no indication that either the complaint of criminal activity or the response by MCSO has been based on race or ethnicity. MCSO does not employ a consistent methodology or tracking system for its tip-lines or other community complaints of potential criminal activity. Divisions may or may not use a form, forms vary from division to division, and there is no documented follow-up in some cases.

During our February 2016 site visit, we met with MCSO personnel to discuss their progress in developing a policy and consistent reporting practices for their hotlines. MCSO informed us during this meeting that it was creating a new unit that would be called the Sheriff’s Intelligence Leads and Operations (SILO). This unit will be led by a captain already assigned to the Arizona Counter Terrorism Information Center (ACTIC). MCSO will hire two criminal intelligence analysts, two investigative research specialists, and one intelligence analyst supervisor who will report to the captain assigned to the ACTIC.

MCSO personnel advised us that they would draft a policy and an SOP for the unit; but that their primary responsibility would be to vet, corroborate, and disseminate to the appropriate divisions valid tip information that requires follow-up action. MCSO informed us that it currently receives between 200-400 tips per month, in multiple divisions and via multiple ways within the agency. This is consistent with observations our Team has made. Our review of hotline information to date has shown that the majority of tips are related to deadbeat parents, warrants, animal abuse, and narcotics. MCSO has not determined how it will address any tips that might be called in to the patrol districts, but it is exploring this issue as well. In addition to creating this specialized unit, MCSO will also identify specific personnel in other law enforcement agencies to whom it can forward tip information when appropriate.

During our April 2016 site visit, we met with MCSO personnel to discuss any updates on the implementation of the SILO Unit and the development of any relevant policies. MCSO has now hired two criminal intelligence analysts, and is in the process of hiring a civilian unit supervisor and two investigative research specialists. The MCSO personnel confirmed that the unit would be managed out of the ACTIC. They have completed the first draft of the unit policy and will be forwarding it to our Team for review after completing some internal edits. They told us that the tentative date for implementation of the unit is June 2, 2016. They are still in the process of identifying liaisons in every division and in other law enforcement agencies and creating the appropriate databases to use.

We will assess Phase 1 compliance with this Paragraph once the policies and procedures for the new SILO Unit are written and approved. After that time, we can address Phase 2 compliance.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

***b. Policies and Procedures to Ensure Bias-Free Traffic Enforcement***

***Paragraph 25.*** *The MCSO will revise its policy or policies relating to traffic enforcement to ensure that those policies, at a minimum:*

- a. prohibit racial profiling in the enforcement of traffic laws, including the selection of which vehicles to stop based to any degree on race or ethnicity, even where an officer has reasonable suspicion or probable cause to believe a violation is being or has been committed;*
- b. provide Deputies with guidance on effective traffic enforcement, including the prioritization of traffic enforcement resources to promote public safety;*
- c. prohibit the selection of particular communities, locations or geographic areas for targeted traffic enforcement based to any degree on the racial or ethnic composition of the community;*
- d. prohibit the selection of which motor vehicle occupants to question or investigate based to any degree on race or ethnicity;*
- e. prohibit the use of particular tactics or procedures on a traffic stop based on race or ethnicity;*
- f. require deputies at the beginning of each stop, before making contact with the vehicle, to contact dispatch and state the reason for the stop, unless Exigent Circumstances make it unsafe or impracticable for the deputy to contact dispatch;*
- g. prohibit Deputies from extending the duration of any traffic stop longer than the time that is necessary to address the original purpose for the stop and/or to resolve any apparent criminal violation for which the Deputy has or acquires reasonable suspicion or*

*probable cause to believe has been committed or is being committed; h. require the duration of each traffic stop to be recorded;*

- i. provide Deputies with a list and/or description of forms of identification deemed acceptable for drivers and passengers (in circumstances where identification is required of them) who are unable to present a driver's license or other state-issued identification; and*
- j. instruct Deputies that they are not to ask for the Social Security number or card of any motorist who has provided a valid form of identification, unless it is needed to complete a citation or report.*

MCSO has developed several policies that, in concert, incorporate the requirements of this Paragraph. These include: EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), dated September 22, 2014; EB-2 (Traffic Stop Data Collection), dated September 22, 2014 and amended December 17, 2015; EA-5 (Enforcement Communications), amended October 29, 2015; and CP-8 (Preventing Racial and other Bias-Based Policing), dated September 5, 2014. In our feedback to MCSO, we required that the definition of racial profiling be consistent throughout all policies where it is included, and that it mirror the definition provided in the Order. MCSO made the requested policy changes in each of the affected documents, which were then reviewed and approved. The policies were disseminated and trained to during the Fourth and Fourteenth Amendment training, which MCSO completed in December 2014. MCSO is in Phase 1 compliance with this Paragraph.

During the finalization of the Fourth and Fourteenth Amendment training curricula required by the Order, the Parties agreed to a list and/or description of forms of identification deemed acceptable for drivers and passengers, as required by this Paragraph. The data required for verification to ensure compliance with these policies is captured in Paragraph 54 by the TraCS system. The system documents the requirements of the Order and MCSO policies. MCSO has continued to make technical changes to the TraCS system to ensure that the mandatory fields on the forms utilized to collect the data are completed and the deputies are capturing the required information. The TraCS administrator made six additional updates to the system on March 28, 2016. TraCS is a robust system that allows the user agency to make technical changes to improve how required information is captured.

To capture the information for this Paragraph, we review MCSO's Vehicle Stop Contact Form, Vehicle Stop Contact Form Supplemental Sheet, Incidental Contact Sheet, Written Warning/Repair Form, Arizona Traffic Ticket and Complaint Form, Internet I/Viewer Event Form, Justice Web Interface Form, CAD printout, and any Incident Report generated by the traffic stop. MCSO created many of these forms to capture the requirements of the Order for Paragraphs 25 and 54. In addition, we met with ASU personnel in October 2015, February 2016, and April 2016, and reviewed the analysis of the traffic stop data they presented. Since our July 2015 site visit, there has been significant improvement in the TraCS system that has enhanced the reliability and validity of the data provided by MCSO. We compare traffic stop data in the sample between Latino and non-Latino drivers.

Paragraph 25.a. prohibits racial profiling in the enforcement of traffic laws, including the selection of which vehicles to stop based to any degree on race or ethnicity, even where an officer has reasonable suspicion or probable cause to believe a violation is being or has been committed. The selection of the sample size and the sampling methodology employed for drawing the sample is detailed in Section 7: Traffic Stop Documentation and Data Collection. Our review of a sample of 105 traffic stops (from a total of 6,827) that occurred during this reporting period in Districts 1, 2, 3, 4, 6, and 7, and Lake Patrol indicated that MCSO was following protocol, and that the stops did not violate the Order or internal policies. During our April 2016 site visit, we met with the PSB commander and staff; and they advised us that they did not receive any complaints during this reporting period from Latino drivers alleging racial profiling, deputies selecting which vehicles to stop, or deputies targeting specific communities to enforce traffic laws based to any degree on race. Paragraphs 66 and 67 require an annual comprehensive analysis of all traffic stop data, which will more accurately determine if the requirements of this Paragraph are being met. MCSO is currently compliant with this Subparagraph.

Paragraph 25.b. requires MCSO to provide deputies with guidance on effective traffic enforcement, including the prioritization of traffic enforcement resources to promote public safety. MCSO policy EB-1.A-E addresses these concerns. The policy specifies that driving under the influence and speeding are the main causes of accidents, and should be the focus of traffic enforcement. We found that the majority of violations cited (49%) were for speeding and address the policy requirements. In the remaining cases, the stops were for reasons such as failure to obey official traffic control devices (14%); failure to possess valid registrations, licenses, or tags (24%); or equipment violations (10%). In our review, we break down the specific traffic violation for each stop and utilize each traffic stop form completed by MCSO deputies during the stop to make a determination if the stop is justified and fulfills the requirements of the Paragraph. When we review the 105 sample traffic stops from across all districts during this reporting period, we make note of the locations of the stops contained on the Vehicle Stop Contact Form, the CAD printout and the I/Viewer system to ensure that they are accurate. Our review of the data indicates MCSO is compliant with this Subparagraph.

Paragraph 25.c. requires MCSO to prohibit the selection of particular communities, locations, or geographic areas for targeted traffic enforcement based to any degree on the racial or ethnic composition of the community. During our inspection, we document the location of every stop and note the GPS coordinates if available. Our review of the sample data during this reporting period did not indicate that MCSO was targeting any specific area or ethnicity to conduct traffic stops. MCSO is in compliance with this Subparagraph.

Paragraph 25.d. requires MCSO to prohibit the selection of which motor vehicle occupants to question or investigate based to any degree on race or ethnicity. During this review of the traffic stop data, we reviewed 33 instances where the deputy contacted passengers; in 17 cases, the contact was due to the driver not having a valid license, and therefore s/he was not able to operate the vehicle. In these cases, in lieu of towing, the deputy allowed the passenger or another person to drive the vehicle. We found no indication from the sample that deputies based their questioning of passengers, to any degree, on race or ethnicity. In one case, the deputy stopped a Latina female for failing to obey a traffic control device (ran red light). The deputy

determined that she was driving with a suspended license and had a child in the vehicle. The deputy allowed the driver to call a friend to the scene and drive the vehicle so it would not be towed. The deputy did run a warrants check on the friend during the stop to ensure that the driver's license he presented was not revoked. Twelve percent of the 105 drivers in our sample during this reporting period had suspended licenses; therefore, it was not unusual for the deputy to run a license check to ensure that it was valid. We found one instance where the deputy did not fully articulate the reason for contact with a passenger (a Latino male). In this case, the driver was stopped for defective equipment and issued a warning. The deputy listed the reason for the contact with the passenger as "general convo" which does not meet the requirement. In our experience reviewing traffic stop data, questioning or investigating passengers occurs infrequently.

We reviewed the demographic data of Maricopa County (according to 2014 U.S. Census data, 30.3% of the population is Hispanic), and found that the ratio of the ethnicity of the violators and passengers in the population was in range with the ethnicity of the individuals stopped. (See Paragraph 54.e.) A review of citizen complaints for the quarter did not reveal any accusations against MCSO personnel that would indicate deputies were conducting pre-textual traffic stops to question drivers or passengers regarding their ethnicity or to determine whether they are unlawfully present in the country. When body-worn cameras are fully implemented, we will review a sample of the recordings to verify if deputies are conducting pre-textual stops or questioning of occupants to determine if they are legally in the country. MCSO is compliant with this Subparagraph.

Paragraph 25.e. requires MCSO to prohibit the use of particular tactics or procedures on a traffic stop based on race or ethnicity. (See Paragraph 54.e.) We reviewed a sample of 30 CAD audio recordings of traffic stops and 105 CAD printouts where the dispatcher enters the reason for the stop when advised by the deputy in the field. The methodology that we employed to select the samples is described in detail in Section 7. Prior to making the stop, the deputies advised dispatch of the stop with location, tag/state, and reason for the stop in all about one case. None of the stops in the sample involved the use of traffic checkpoints. All stops, with one exception, appeared to comport with policy. For the one non-compliant stop involving a white male driver, the deputy indicated, "shall not be driven" on the VSCF as the reason for the stop. No other reason or violation information was provided. We have found that while data entry inaccuracies are important, their number is negligible.

During our April 2016 site visit, we conducted a ride-along with a deputy who was equipped with a body-worn camera to observe the process deputies use during a traffic stop, and to determine if the deputy activated the recording device when the deputy made the decision to stop the vehicle and if the deputy continued to record until the violator was released. In the instance we observed – a violation for failing to signal a turn – the deputy followed procedure. The driver was issued a warning. As in many cases, at the time of the stop, we could not determine the ethnicity or gender of the driver until the vehicle was approached. The stop was routine and the deputy's actions followed policy. We met with the PSB commander her staff during our April 2016 site visit and inquired if, during this reporting period, any Latino drivers or passengers made any complaints regarding deputies using particular tactics or procedures to target Latinos. The PSB commander advised that PSB had not received any complaints of this nature. Our review of the sample data indicated that traffic stops were not based on race or ethnicity and reflected the general makeup of the population of the County; therefore, MCSO is in compliance with this Subparagraph.

Paragraph 25.f. requires deputies at the beginning of each stop, before making contact with the vehicle, to verbally contact dispatch and state the reason for the stop unless exigent circumstances make it unsafe for the deputy to contact dispatch. In all of the 30 CAD audio recordings we reviewed, the deputy advised dispatch of the reason for the stop, prior to making contact with the vehicle occupants. In the 75 other cases that were part of our sample, we reviewed the VSCF and the CAD printout to ensure that deputies were properly advising dispatch of the reason for the stop prior to making contact with the violator. There was one traffic stop (not part of the audio review) where we could not determine if the deputy advised dispatch of the violation. Our review indicates that MCSO is compliant with this Subparagraph. When the deputy advises Communications of the location, tag number, and reason for the stop, this information is logged on the CAD printout. (See Paragraph 54e.) MCSO is in compliance with this Subparagraph.

Paragraph 25.g. prohibits deputies from extending the duration of any traffic stop longer than the time that is necessary to address the original purpose for the stop and/or to resolve any apparent criminal violation for which the deputy has or acquires reasonable suspicion or probable cause to believe has been committed or is being committed. In our review of 105 traffic stops, we determined that one stop, involving a white female, lasted for a longer duration than necessary (36 minutes). The deputy advised that during the stop his supervisor arrived on the scene; and after he completed his traffic stop paperwork, they began talking and he simply forgot to check back into service. The stop was for driving at night without proper headlights and should have been a simple stop. The deputy documented his error on the forms. If the deputy's supervisor had asked the deputy if he had cleared the stop he could have provided an immediate teaching moment. There were 14 other stops that were extended and justified due to the nature of the circumstances. In nine of the extended stops, the deputy towed the vehicles or made an arrest. The arrests were made for violations due to suspended driver's licenses, expired registrations, open warrants, or other criminal charges. In three cases, deputies advised that they were experiencing computer printer issues. In another case, the deputy allowed the driver's wife to take the vehicle in lieu of towing; and in the last case, the deputy allowed the driver to call a friend to take possession of the vehicle due to a small infant being in the vehicle. The drivers in these two cases were a white male and a Latina female.

We reviewed one case where a Latina female was stopped for speeding (54 MPH in 45 MPH zone). A warrant check was run on the driver. It took an additional 13 minutes after the results of the warrant check came back before she was released. We reviewed the body-worn camera video of this case during our April 2016 site visit, and discovered the driver was on record as having multiple licenses (Washington and Arizona) – and thus, additional investigation was warranted. The recording indicated that, due to additional investigation by the deputy, the length of the stop was justified. The outcome of this stop resulted in a warning. MCSO is in compliance with this Subparagraph. (See Paragraph 54.i.)

Paragraph 25.h. requires the duration of each traffic stop to be recorded. In our review, we determined that the duration was recorded accurately in 101 of the 105 traffic stops. In four cases, there was a difference of five or more minutes in the start or end time of the stop, when comparing the Vehicle Stop Contact Form and the dispatch CAD printout. There were no explanations by the deputies as to why there were disparities between the stop forms. In two of the four stops where the stop times did not match, the drivers were Latino; one was cited for an expired plate and in the other case the driver was cited for speeding. In another case, the driver was a white female who received a warning for a speeding violation. In the remaining case, the driver was an Indian/Alaskan male who was cited for a suspended license plate. Two of these stops were extended and justified. In one case, the printer in the deputy's vehicle ran out of ink; and in the other case, a passenger was arrested on an outstanding warrant. In our experience reviewing MCSO's traffic stop forms, the majority of violations with documenting the beginning and ending times of the stop is attributed to the deputy incorrectly inputting times on the VSCF. The supervisor is required to review all activity by deputies within 72 hours and should catch any discrepancies and provide appropriate counseling to those subordinates. If supervisors conducted daily reviews of the TraCS forms, the initiating deputy could make timely corrections. Proper and timely supervision should reduce the number of deficiencies. (See Paragraphs 54.b. and 54.i.) MCSO is compliant with this Subparagraph with a 96% compliance rating.

Paragraph 25.i. requires that MCSO provide deputies with a list and/or description of forms of identification deemed acceptable for drivers and passengers (in circumstances where identification is required of them) who are unable to present a driver license or other state-issued identification. The Plaintiffs' attorneys and MCSO have agreed on acceptable forms of identification, and this information has been included in the Fourth and Fourteenth Amendment training conducted by outside consultants. Policy EA-11.8.3 (Arrest Procedures), dated September 5, 2014, provides a list of acceptable forms of identification if a valid or invalid driver's license cannot be produced. Only driver licenses, with six exceptions (driver did not have a valid license on his person), were presented to deputies in each of the cases provided in our sample. Four of these cases involved Latino drivers. In one case, a Latino male presented an Arizona Identification Card as proof of identity. In another case, a Latino male advised the deputy he had never had a driver's license in Mexico or the United States, and he presented a Mexico Workers Permit Card as proof of identity. In the remaining two cases involving Latino drivers, one had a valid license but it was not on his person at the time of the stop; and in the other case, the Latina female's driver's license had been revoked. The deputy has the ability to run records checks on the name and date of birth of the drivers to determine if the motorist had a valid license. MCSO is in compliance with this Subparagraph.

Paragraph 25.j. requires MCSO to instruct deputies that they are not to ask for the Social Security Number or card of any motorist who has provided a valid form of identification, unless it is needed to complete a citation or report. EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) prohibits deputies from asking for the Social Security Number of any motorist who has provided a valid form of identification. For this reporting period, we did not find in our sample any instances where a deputy asked for – or was provided with – a Social Security Number by the driver or passengers. In two cases, the deputy accepted alternative forms of identification as proof of identification. MCSO began employing body-worn cameras in November 2015, and five districts were on line and fully operational with the body-worn cameras during this reporting period. We reviewed a sample of traffic stops to evaluate the body-worn camera video/audio interactions of the deputies to determine if they are abiding by the requirements of the Order. In September 2015, MCSO added fields to the Vehicle Stop Contact Form to include the documentation of on-body camera recordings. MCSO is compliant with this Subparagraph.

**Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

***c. Policies and Procedures to Ensure Bias-Free Detentions and Arrests***

***Paragraph 26.*** *The MCSO shall revise its policy or policies relating to Investigatory Detentions and arrests to ensure that those policies, at a minimum:*

- a. require that Deputies have reasonable suspicion that a person is engaged in, has committed, or is about to commit, a crime before initiating an investigatory seizure;*
- b. require that Deputies have probable cause to believe that a person is engaged in, has committed, or is about to commit, a crime before initiating an arrest;*
- c. provide Deputies with guidance on factors to be considered in deciding whether to cite and release an individual for a criminal violation or whether to make an arrest;*
- d. require Deputies to notify Supervisors before effectuating an arrest following any immigration-related investigation or for an Immigration-Related Crime, or for any crime by a vehicle passenger related to lack of an identity document;*
- e. prohibit the use of a person's race or ethnicity as a factor in establishing reasonable suspicion or probable cause to believe a person has, is, or will commit a crime, except as part of a reliable and specific suspect description; and*
- f. prohibit the use of quotas, whether formal or informal, for stops, citations, detentions, or arrests (though this requirement shall not be construed to prohibit the MCSO from reviewing Deputy activity for the purpose of assessing a Deputy's overall effectiveness or whether the Deputy may be engaging in unconstitutional policing).*

MCSO finalized and published policies EB-1 (Traffic Enforcement, Violator Contacts and Citation Issuance), on September 22, 2014; and EA-11 (Arrest Procedures), on September 5, 2014. Both contain the appropriate policy direction and were specifically trained to during the required Fourth and Fourteenth Amendment training completed by MCSO in 2014. The Monitoring Team observed specific references to areas of required compliance in this Section during the training. MCSO is in Phase 1 compliance with this Paragraph.

During this reporting period, MCSO again reports that there were no immigration-related arrests or investigations; or investigations for misconduct with weapons, forgery, or any other immigration-related crime. MCSO reported two arrests for identify theft during this reporting period. In the first instance, MCSO received a complaint from a community member regarding a relative who had used her identification to take out a loan. In the second instance, a subject who had been booked in to the MCSO jail on other charges was found to have provided the identity of a relative at the time of her booking. In both cases, the victims of the identity theft wished to aid in the prosecution of the crimes.

This Paragraph requires that a supervisor be notified of any arrest of a vehicle *passenger* for any crime related to the lack of an identity document. MCSO reports again this reporting period that no such arrests have occurred.

MCSO reported five incidents where vehicle drivers had charges pertaining to lack of an identity document. Of these drivers, two were Native American males, two were Latino males, and one was a Latina female. All stops were made with articulated traffic violations precipitating the stop. Two of the incidents involved traffic accidents. As a result of these stops, one driver was booked on traffic charges; and another was booked on a combination of traffic violations and outstanding warrants. The remaining three drivers received citations and were released. The documentation that the arresting deputies provided offered details of the contacts. Based on our review of the reports, the actions of the deputies at each scene appear to be consistent with acceptable law enforcement practices.

During this reporting period, MCSO Special Investigations Division's Anti-Trafficking Unit (ATU) arrested or cleared warrants on 16 persons. Seven of these arrests were originated by Border Patrol and involved subjects transporting marijuana into Arizona. The remaining arrests were a result of warrants or street level investigations initiated by the ATU.

There was no indication that race or ethnicity was a factor in determining any law enforcement action that was taken by MCSO personnel in any of these investigations.

MCSO remains in Phase 1 and Phase 2 compliance with this Paragraph.

**Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

***d. Policies and Procedures Governing the Enforcement of Immigration-Related Laws***

**Paragraph 27.** *The MCSO shall remove discussion of its LEAR Policy from all agency written Policies and Procedures, except that the agency may mention the LEAR Policy in order to clarify that it is discontinued.*

MCSO provided the finalized policy for EA-11 (Arrest Procedures), the Investigations Division Operations Manual, and the former HSU (Human Smuggling Unit) Operations Manual. The only reference to a LEAR (Law Enforcement Agency Response) Policy is in the former HSU Operations Manual where references are made to a U.S. Immigration and Customs Enforcement (ICE) LEAR Policy. We reviewed the relevant policies and find no reference to an MCSO LEAR Policy. We have met with MCSO staff, and have been advised that MCSO has never had a LEAR Policy of its own, though ICE does have one that was referenced in former policies and draft memorandums. These draft memorandums and policy references to the ICE LEAR policy may have contributed to the belief by many MCSO personnel that MCSO did, in fact, have a LEAR policy. MCSO must ensure that its personnel do not mistakenly believe that MCSO has any immigration enforcement authority based on the former draft LEAR policy, and needs to ensure that any future references to policies or procedures of other agencies are clearly defined and explained to MCSO personnel.

MCSO remains in Phase 1 and Phase 2 compliance with this Paragraph.

**Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

**Paragraph 28.** *The MCSO shall promulgate a new policy or policies, or will revise its existing policy or policies, relating to the enforcement of Immigration-Related Laws to ensure that they, at a minimum:*

- a. specify that unauthorized presence in the United States is not a crime and does not itself constitute reasonable suspicion or probable cause to believe that a person has committed or is committing any crime;*
- b. prohibit officers from detaining any individual based on actual or suspected “unlawful presence,” without something more;*
- c. prohibit officers from initiating a pre-textual vehicle stop where an officer has reasonable suspicion or probable cause to believe a traffic or equipment violation has been or is being committed in order to determine whether the driver or passengers are unlawfully present;*
- d. prohibit the Deputies from relying on race or apparent Latino ancestry to any degree to select whom to stop or to investigate for an Immigration-Related Crime (except in connection with a specific suspect description);*
- e. prohibit Deputies from relying on a suspect’s speaking Spanish, or speaking English with an accent, or appearance as a day laborer as a factor in developing reasonable suspicion*

- or probable cause to believe a person has committed or is committing any crime, or reasonable suspicion to believe that an individual is in the country without authorization;*
- f. unless the officer has reasonable suspicion that the person is in the country unlawfully and probable cause to believe the individual has committed or is committing a crime, the MCSO shall prohibit officers from (a) questioning any individual as to his/her alienage or immigration status; (b) investigating an individual's identity or searching the individual in order to develop evidence of unlawful status; or (c) detaining an individual while contacting ICE/CBP with an inquiry about immigration status or awaiting a response from ICE/CBP. In such cases, the officer must still comply with Paragraph 25(g) of this Order. Notwithstanding the foregoing, an officer may (a) briefly question an individual as to his/her alienage or immigration status; (b) contact ICE/CBP and await a response from federal authorities if the officer has reasonable suspicion to believe the person is in the country unlawfully and reasonable suspicion to believe the person is engaged in an Immigration-Related Crime for which unlawful immigration status is an element, so long as doing so does not unreasonably extend the stop in violation of Paragraph 25(g) of this Order;*
- g. prohibit Deputies from transporting or delivering an individual to ICE/CBP custody from a traffic stop unless a request to do so has been voluntarily made by the individual;*
- h. Require that, before any questioning as to alienage or immigration status or any contact with ICE/CBP is initiated, an officer check with a Supervisor to ensure that the circumstances justify such an action under MCSO policy and receive approval to proceed. Officers must also document, in every such case, (a) the reason(s) for making the immigration-status inquiry or contacting ICE/CBP, (b) the time approval was received, (c) when ICE/CBP was contacted, (d) the time it took to receive a response from ICE/CBP, if applicable, and (e) whether the individual was then transferred to ICE/CBP custody.*

On September 5, 2014, MCSO finalized policies CP-8 (Preventing Racial and Other Bias-Based Profiling) and EA-11 (Arrest Procedures). EB-1 (Traffic Enforcement, Violator Contacts and Citation Issuance) was finalized on September 22, 2014. These policies have been approved, distributed, and trained to during the mandatory Fourth and Fourteenth Amendment training completed during 2014. The Monitoring Team observed specific references to areas of required compliance in this section during the training.

In the previous reporting period, MCSO reported that for the months of October and November 2015, there were no instances of any subject being transported to ICE/Border Patrol, no instances of deputies having contacts with ICE/Border Patrol for the purpose of making an immigration status inquiry, and no arrests made following any immigration-related investigation or for any immigration-related crime.

MCSO reported one contact with ICE/Border Patrol in December 2015. A deputy stopped a subject for a traffic violation. During the contact, the deputy ran a warrant check on the driver. Running warrant checks on traffic violators is a standard law enforcement practice. MCSO dispatch advised the deputy that the subject had an outstanding warrant from ICE for "failing to report for deportation." MCSO dispatch contacted ICE, and then transmitted to the deputy that

this was an administrative warrant and ICE did not normally deport on these type of warrants. After further follow-up, MCSO dispatch related to the deputy that ICE would remove the warrant, and the subject was free to go. While ICE did respond to the telephone inquiry, ICE did not respond to the scene. The deputy completed the Vehicle Stop Contact Form that affirms that the traffic stop was extended with supervisor approval for the purpose of contacting ICE to verify the validity of the warrant. The subject was cited for the traffic violation and released. This is the first time we have seen an ICE contact during a traffic stop in our reviews. The vehicle driver was detained for 31 minutes while the deputy obtained and verified information on the warrant. During the last reporting period, we recommended that MCSO conduct additional training on the types of warrants that ICE issues, and that MCSO provide specific guidance on how each type of warrant should be handled.

During our April 2016 site visit, we met with MCSO to discuss this specific stop at the request of Plaintiffs and Plaintiff-Intervenors. The Parties' concerns about the stop centered on the length of time it took the deputies to run the warrant check, the deputies' apparent lack of understanding of an ICE administrative warrant, whether the deputies had notified their supervisor at the time they noted, and why it took an extended amount of time to resolve the situation. MCSO personnel advised us that they were in the process of reviewing the stop, and we reiterated our recommendation that MCSO should conduct additional training in this area.

We have since reviewed the body-worn camera video from the traffic stop, and determined that the deputy contacted his supervisor by phone within one minute of being notified of the warrant by Dispatch. This would be consistent with the time noted on the vehicle stop contact form. The MCSO contact form provided also indicated that ICE did not respond. If this portion of the form is intended to document whether ICE physically responded to the scene, the notation by deputies is accurate. It is also clear that ICE personnel did respond telephonically to MCSO Dispatch. MCSO may wish to clarify whether a response is intended to designate a response to the scene or a telephonic response, to prevent misunderstandings as to its intent in the future. We were not able to determine with any certainty why the stop took so long to conduct, as it appeared that the deputies turned off the body-worn cameras during some periods of time that they were not in direct contact with the violator, a violation of GJ-35.C. We will determine if MCSO took any corrective action as a result of the deputies' failure to leave their cameras activated for the duration of the stop. From the video we were able to review, we observed that the deputies appeared to be uncertain about the type of warrant hit they had received and what action should be taken – which may account, at least in part, for the extended stop time. The portions of the stop on the body-worn camera video that we reviewed did not reveal any apparent misconduct by the deputies, but reinforced our belief that MCSO should provide additional training on ICE warrants and the required use of body-worn cameras.

During this reporting period, MCSO reported that there were no instances of any subject being transported to ICE/Border Patrol, no instances of deputies having contacts with ICE/Border Patrol for the purpose of making an immigration status inquiry, and no arrests made following any immigration-related investigation or for any immigration-related crime.

**Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

***e. Policies and Procedures Generally***

***Paragraph 29.*** *MCSO Policies and Procedures shall define terms clearly, comply with applicable law and the requirements of this Order, and comport with current professional standards.*

See Paragraph 30.

**Compliance Status:**

Phase 1: Not applicable

Phase 2: In compliance

***Paragraph 30.*** *Unless otherwise noted, the MCSO shall submit all Policies and Procedures and amendments to Policies and Procedures provided for by this Order to the Monitor for review within 90 days of the Effective Date pursuant to the process described in Section IV. These Policies and Procedures shall be approved by the Monitor or the Court prior to their implementation.*

MCSO continues to provide us, the Plaintiffs' attorneys, and the Plaintiff-Intervenors with drafts of its Order-related policies and procedures prior to publication, as required by the Order. We, the Plaintiffs' attorneys, and the Plaintiff-Intervenors review the policies to ensure that they define terms clearly, comply with applicable law and the requirements of the Order, and comport with current professional standards. Once drafts are finalized, incorporating the feedback of the Plaintiffs' attorneys, Plaintiff-Intervenors, and the Monitoring Team, MCSO again provides them to the Monitoring Team for final review and approval. As this process has been followed for those Order-related policies published thus far, MCSO is in compliance with this Paragraph.

**Compliance Status:**

Phase 1: Not applicable

Phase 2: In compliance

**Paragraph 31.** *Within 60 days after such approval, MCSO shall ensure that all relevant MCSO Patrol Operation Personnel have received, read, and understand their responsibilities pursuant to the Policy or Procedure. The MCSO shall ensure that personnel continue to be regularly notified of any new Policies and Procedures or changes to Policies and Procedures. The Monitor shall assess and report to the Court and the Parties on whether he/she believes relevant personnel are provided sufficient notification of and access to, and understand each policy or procedure as necessary to fulfill their responsibilities.*

MCSO's policy GA-1 (Development of Written Orders), published on November 7, 2015, indicates that Office personnel shall be notified of new policies and changes to existing policies via Briefing Boards and through a software program, E-Policy. MCSO is in Phase 1 compliance with this Paragraph.

GA-1 defines a Briefing Board as an "official publication produced by the Policy Section, which provides information regarding Office policy. Prior to some policies being revised, time-sensitive changes are often announced in the Briefing Board until the entire policy can be revised and finalized. The information in a Briefing Board has the force and effect of policy." As noted previously, we recognize the authority of Briefing Boards and understand their utility in publishing critical policy changes quickly, but we have advised MCSO that we will generally not grant Phase 1 compliance for an Order requirement until such time as the requirement is memorialized in a more formal policy.

During our most recent site visit, we received an overview and demonstration of the E-Policy System, a companion program to the computer-based training program, E-Learning, which MCSO has been using for years. MCSO first advised Office personnel of the launch of the E-Policy program in Briefing Board 15-02, issued January 21, 2015. The Briefing Board states, "Effective immediately, E-Policy will be used by the Office to ensure employees, posse members, and reserve deputies have access to all Office policy [Critical (C), General (G), Detention (D), and Enforcement (E)], as well as updates to, and revisions of all Office policy. E-Policy will also be the mechanism in which the Office will be able to verify the receipt of policy by employees, posse members, and reserve deputies, as well as an acknowledgement that the policy was reviewed and understood." The Briefing Board further states, "In those cases involving Critical Policy and other select policies, the E-Policy requirement will also include the need to correctly answer questions regarding the revised policy."

We have advised MCSO that in those cases where formal training is required by the Order, the E-Policy questions – which test comprehension of a policy – cannot serve as a substitute for the training. During this reporting period, MCSO published one new Order-related General Order, GB-2 (Command Responsibility); and it amended two Order-related General Orders, CP-2 (Code of Conduct) and CP-3 (Workplace Professionalism). Several additional General Orders are currently in development. During this reporting period, MCSO also issued three Briefing Boards and one Administrative Broadcast that touched on Order-related topics.

During this reporting period, we reviewed Skills Manager System compliance reports for policies that were approved over 60 days prior to the start of this reporting period. Each report lists the MCSO personnel who are required, according to the Training Division, to receive the particular policy via the E-Policy System; and the date upon which the employee received and read the policy. We verified via the Skills Manager System compliance reports that at least 95% of relevant MCSO employees received the following policies within 60 days of their publication: EA-5 (Enforcement Communications); GF-5 (Incident Report Guidelines); GC-7 (Transfer of Personnel); GA-1 (Development of Written Orders); GH-5 (Early Identification System Policy); and GJ-33 (Significant Operations).

We will continue to review MCSO's records for the training of relevant personnel on its published policies, and report on this in our next report. MCSO is in Phase 2 compliance with this Paragraph.

**Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

***Paragraph 32.** The MCSO shall require that all Patrol Operation personnel report violations of policy; that Supervisors of all ranks shall be held accountable for identifying and responding to policy or procedure violations by personnel under their command; and that personnel be held accountable for policy and procedure violations. The MCSO shall apply policies uniformly.*

The following MCSO policies were originally offered in response to this Paragraph: CP-2 (Code of Conduct); CP-8 (Preventing Racial and other Bias-Based Profiling); GC-17 (Employee Disciplinary Procedure); and GH-2 (Internal Investigations). After some necessary revisions, these policies were approved effective September 5, 2014. The requirements of this Paragraph are incorporated in these policies, which were disseminated and trained to during the Fourth and Fourteenth Amendment Training that MCSO completed during previous reporting periods. CP-2 was amended during this reporting period, on February 12, 2016.

For the reporting period from July 2015 through September 2015, we reviewed 66 completed administrative investigations conducted by MCSO involving sworn personnel. In many of the cases, we found deficiencies, including: incomplete investigations; failure to interview all parties; and unsupported findings. We discussed these concerns with PSB personnel during our February 2016 site visit.

During one meeting with PSB personnel and MCSO counsel during our February 2016 site visit, they informed us that many of the issues with the administrative investigations are MCSO's cultural issues they are trying to change; and that MCSO personnel were not held accountable for these issues in the past. We agree with this assessment. We continue to believe that cultural change and accountability must start with the leadership of the organization if it is to take hold.

Since all cases investigated by PSB are briefed to the Chief Deputy or his designee who makes the final decision on findings, a member of our Team attended a PSB briefing with the Chief Deputy in November 2015. We identified numerous concerns with the method MCSO uses to review and determine findings on the most serious allegations.

The new checklist and investigative format documents approved by MCSO should resolve some of the problems with administrative investigations once fully implemented. The new protocol requires that the PSB investigator draw “conclusions,” and that the PSB captain determine the preliminary findings. If higher-level personnel in the organization disagree with the preliminary findings, they will be required to provide justification in writing. This same process will be used for investigations conducted in MCSO districts and divisions.

During the reporting period from October through December 2015, we reviewed 59 investigations submitted in response to the requirements of this Paragraph, and also reviewed some of the audio- or videotaped interviews conducted with MCSO personnel. Again, we identified concerns with the quality of these investigations, including: failure to interview all parties and unsupported findings. We also noted a number of cases where complaints had been filed in late 2014 or early 2015 and were not completed until late 2015. PSB personnel advised that they had become aware of many pending cases and were ensuring that all of these cases were being addressed.

During our site visit in April 2016, we met with PSB personnel and discussed our concerns with the administrative investigations we had reviewed for October through December 2015. We provided them with case numbers and detailed information regarding our concerns. We also discussed their proposed policy revisions to GH-2 (Internal Investigations). Along with the Plaintiffs and Plaintiff-Intervenors, we provided numerous comments and recommendations for improving this policy. We also discussed the new investigation checklist and investigative document format they are using. While they have not completed the training of all supervisors, many of the newer investigations we have reviewed have included the checklist and used the required document formats. These protocols appear to be having a positive impact on the quality of the procedures used to conduct investigations. PSB personnel expect to have all training completed for these protocols before the end of the next reporting period, at which time all administrative investigations will be required to contain these documents.

During this reporting period, we reviewed 101 investigations involving 129 sworn, reserve, or Posse members, submitted in compliance with the requirements of Paragraph 32; and reviewed some audio or video interviews. There were 141 allegations of misconduct. There were three additional cases submitted in compliance with this Paragraph that were spin-off cases regarding former Deputy Armendariz. These cases are being reviewed as a part of a separate process and are not included in this review. Of the 101 cases we reviewed, 20 of the investigations were initiated internally, and 81 were external complaints. The 101 cases (some of which involved multiple allegations) resulted in 23 sustained findings, 55 not sustained findings, 41 unfounded findings, 20 exonerated findings, and two cases had no finding.

Following the 23 sustained findings, two Posse members were terminated, one Posse member resigned, one reserve deputy was terminated, and one deputy had already been terminated for sustained findings in a previous investigation. The remainder of the sustained cases resulted in 12 written reprimands, six coaching sessions, and one informal training. Since MCSO did not include information relative to the category of the violation sustained or where the case fell in the progressive discipline process or Matrix, it was not possible for us to determine if the sanctions were appropriate.

Of the 101 cases we reviewed, we agree with the findings in 80 cases, and disagree with at least one of the findings in 21 cases. In some cases, our disagreement stems from a failure to interview all parties before coming to a finding, or to properly categorize the finding by inappropriately using the “procedural” finding. In some instances, MCSO could have come to a finding of sustained, unfounded, or exonerated, rather than not sustained, had MCSO conducted additional investigation or interviews.

In 66 of the 101 cases we reviewed, we have some concerns. In some cases, our concerns are procedural in nature and include such issues as failing to include all documents, or failing to allow the principal in an investigation to make a five-minute statement as required by MCSO’s policy. In other cases, there are more serious concerns, including: failure to properly identify potential misconduct; failure to thoroughly investigate all allegations; a review process that determines final findings without justification; inappropriate sanctions; and the delay of case investigations beyond the required time limits, resulting in employees not receiving the appropriate level of discipline. We noted cases where complaints were received by MCSO in 2014 or 2015 and the investigations were not completed until late 2015 or early 2016. As previously noted, while we remain concerned with the lack of accountability that has existed at MCSO for completing administrative investigations, we acknowledge the current efforts of PSB to address these cases.

There were several cases submitted during this reporting period that we found particularly troubling.

In the first case, a deputy was sustained for what we agree might be considered a minor violation of policy had it been a first offense. However, it was not the employee’s first sustained violation of this policy. MCSO then combined the discipline for an entirely separate violation of more serious misconduct with the written reprimand the deputy received for the more minor violation. This separate violation did not occur at the same time nor the same place as the original violation, was not in any way related to the original violation, and should not have been included in the single written reprimand. In the past, MCSO had issued significant and serious discipline to this employee, and it did not appear that the decision to issue a written reprimand took into consideration the prior discipline, as required. In addition, the documentation provided shows that both investigations were completed in October 2014, but the single written reprimand for the combined cases was not issued until February 2016. It is not clear what occurred with this case between the time it was concluded in 2014 and the time discipline was issued in 2016.

Additionally, we noted that BIO reviewed this case as part of its inspection for February 2016; BIO appropriately identified the violation of the required timeline for investigations. The inspection report also indicated that the first sustained violation, for which the employee received the written reprimand, should have been categorized as a fourth Category 1 offense. The minimum sanction for a third Category 1 offense is an eight-hour suspension, and the maximum sanction is termination. The Matrix does not even list a “fourth violation” for this, or any other, category of offense. This same inspection report indicated that the second violation included in the written reprimand should have been categorized as a fourth Category 2 offense. The minimum sanction for a third violation of a category 2 offense is a minimum 16-hour suspension and the maximum sanction is termination. BIO’s inspection report validates our concerns with this case, and our belief that MCSO’s failure to complete investigations as required by policy and law results in employees not being held accountable for their actions.

In the second case, a sergeant wrote a memorandum of concern regarding two possible, but separate, truthfulness issues involving a deputy; and requested that PSB investigate both. The Chief Deputy approved PSB conducting these investigations. In both cases, the investigating PSB sergeant recommended and supported that the truthfulness allegations should be not sustained. Despite the recommendations of the investigator, the final findings for both cases were unfounded. There was no justification provided as to why the recommendations of the investigating supervisor were not supported. By MCSO policy, only the Chief Deputy, or his designee, can determine the findings for alleged violations of the truthfulness policy. Based on our review of these two investigations, we concur with the recommendation by the investigating supervisor that these violations be not sustained. Without any other information or documentation by the Chief Deputy, or his designee, that would justify the findings of unfounded, we believe that the finding of unfounded for both of these cases was both unsupported and inappropriate.

In the third case, the complaint occurred in December of 2014 when two separate businesses complained about the conduct of a deputy. A criminal investigation into this allegation was conducted, as the conduct appeared to violate ARS 41-1756 and would be considered unauthorized access to criminal history, a Class 6 felony. The case was submitted to the Maricopa County Attorney’s Office, who turned down the case on March 22, 2015, citing “no reasonable likelihood of conviction.”

According to the investigative file, the administrative investigation on this case began on April 22, 2015, though the investigative sergeant wrote that she did not receive the case to investigate until May 22, 2015. It appears that the first administrative interview of the principal in this case did not occur until September 2015, five months after the administrative case was opened. In October 2015, the investigating supervisor requested an extension on the original investigation, citing numerous reasons for the request; this extension was approved. The investigation was concluded with a finding of sustained for conduct unbecoming and failure to meet standards, and a finding of not sustained for the allegation of conformance to laws. The principal received the notice of findings on November 23, 2015, seven months after the administrative case was opened.

We are in agreement with the sustained findings on conduct unbecoming and failure to meet standards, but are in disagreement with the not sustained finding on the conformance with laws allegation. While the MCAO turned the case down for criminal prosecution, MCAO did not indicate that it lacked the elements of the crime – only that there was no reasonable likelihood of conviction. MCSO should have found the conduct of this employee sustained or exonerated since there is no question that the conduct occurred. A not sustained finding is inappropriate. This case was forwarded for a pre-determination hearing with an initial determination of an eight-hour suspension for the conduct unbecoming violation.

The pre-determination hearing was held in December 2015, a year after the conduct occurred, and more than seven months after the administrative investigation was opened. The final outcome was a written reprimand. The Deputy Chief who conducted the pre-determination hearing wrote that he concurred with the findings on the investigation, but because the investigation fell outside of the 180-day time period and the justification for the delay was not in accordance with ARS 38-110.1.5, a suspension was not justified and MCSO would issue a written reprimand. While we disagree with the findings and sanction in this case, we note that the Deputy Chief provided an investigative note document that provided insight into his decision-making. This case is yet another example of MCSO's failure to complete investigations as required by policy and by law, resulting in employees not appropriately being held accountable for their actions.

As in the past, we will provide MCSO with detailed information regarding all of our case concerns during our next site visit.

During this reporting period, we reviewed the three administrative investigation inspections that were conducted by BIO. The purpose for these inspections is to determine if the selected administrative investigations were conducted in compliance with Office policies and in support of the Order. BIO noted 85% compliance in January 2016, 64% compliance in February 2016, and 84% compliance in March 2016. The majority of deficiencies noted in these inspections relate to investigations that were not completed within the required time limit, investigations where employees were not provided with Notices of Investigation (NOIs) or Garrity warnings, and other missing documentation. We are in agreement with the inspection findings, given their stated purpose.

We will not find MCSO in Phase 2 compliance with this Paragraph until the Office addresses the substantive issues we continue to find in our reviews of MCSO's internal investigations.

**Compliance Status:**

Phase 1: In compliance

Phase 2: Not in compliance

*Paragraph 33. MCSO Personnel who engage in Discriminatory Policing in any context will be subjected to administrative Discipline and, where appropriate, referred for criminal prosecution. MCSO shall provide clear guidelines, in writing, regarding the disciplinary consequences for personnel who engage in Discriminatory Policing.*

MCSO offered policies CP-8 (Preventing Racial and other Bias-Based Profiling) and GC-17 (Employee Disciplinary Procedure) as proofs of compliance with this Paragraph. The requirements of this Paragraph are incorporated in the combination of these policies. MCSO considers acts of discriminatory policing as Category 6 violations under its Disciplinary Matrix, and the penalties range from a 40-hour suspension to dismissal for a first offense. Penalties for a second offense range from an 80-hour suspension to dismissal, and dismissal is the mandatory penalty for a third offense.

CP-8 and GC-17 were revised and re-issued effective September 5, 2014. MCSO distributed these policies to all attendees at the Bias-Free Policing and Fourth Amendment Training described later in this report.

During the previous reporting period, MCSO completed and submitted three administrative investigations for this Paragraph. In two cases, we agreed with the finding; and in one, we disagreed.

During this reporting period, we reviewed 14 administrative investigations submitted for this Paragraph. As with the Paragraph 32 submittals for this reporting period, a number of cases submitted for this Paragraph reflect PSB's continuing efforts to reconcile cases that were initiated in 2014 and early 2015. There were 21 allegations of misconduct against 18 sworn personnel, one Posse member, and two detention officers. Eight allegations were not sustained, six were unfounded, six were exonerated and one allegation was sustained. We disagree with one of the findings; and in other cases, we have additional concerns. Two cases were particularly concerning.

In the first case, a jail inmate filed a complaint against a detention officer. The inmate alleged that the detention officer had referred to him using numerous racial slurs and other inappropriate language. Other persons at the jail overheard some of these comments. The complaint was originally not sustained, but a handwritten "sustained" was added by a Deputy Chief. We agree with the decision by the Deputy Chief to sustain the allegation. The detention officer was sustained for a violation of the Code of Conduct – unbecoming conduct and public demeanor. The employee received a 16-hour suspension and the violation was determined to be sufficient enough to deny the employee a performance step increase. A review of the detention officer's discipline history revealed extensive prior discipline, dating back to 2012. There was no information that identified the category of this complaint, or the appropriate sanction based on progressive discipline and the Discipline Matrix. Given the serious nature of this conduct and the employee's prior discipline, we question both the policy violation sustained and the disciplinary sanction imposed.

In the second case, a member of the community filed a complaint in February 2014, alleging racial slurs, other inappropriate language, and the threatened use of a Taser by a deputy. The complainant was contacted that month by a district sergeant to obtain initial information about the complaint, and the sergeant authored a memorandum entitled “Racial Bias/Excessive Force Complaint” that he forwarded through his chain of command. The memorandum was reviewed and forwarded by the sergeant’s lieutenant and captain, also in February 2014. While there was no indication where the memorandum was forwarded, given the title of the complaint, we believe it should have been forwarded to PSB. There is no indication that anything additional occurred on this complaint until January 2016, nearly two years later, when PSB began an investigation. The investigation was as thorough as could be expected given the two-year delay, and the finding was not sustained. The investigator noted that he was unable to obtain video from the location where the incident occurred due to the time delay; and that he was unable to locate some witnesses to the incident, while others had only a general recollection of what had occurred. The involved deputy could not locate surveillance video, despite the investigator’s belief that the deputy possessed it at the time of the incident. Given all of these factors, we believe that the investigating supervisor had little choice in reaching a finding of not sustained. Had this investigation been appropriately and thoroughly investigated when it occurred, rather than two years later, it is likely that the outcome would have been different.

MCSO opened two new investigations relevant to Paragraph 33 during this reporting period and provided the general allegations for our review. We will review these cases once the investigations are complete.

We have now reviewed a total of 23 administrative investigations relevant to compliance with this Paragraph. We have disagreed with the findings in four cases and have noted other concerns, including the appropriateness of a disciplinary sanction, and a two-year delay in conducting an investigation.

During our next site visit, we will discuss with PSB personnel in detail the investigations where we have identified concerns related to this Paragraph.

MCSO is not in Phase 2 compliance with this Paragraph.

**Compliance Status:**

Phase 1: In compliance

Phase 2: Not in compliance

*Paragraph 34. MCSO shall review each policy and procedure on an annual basis to ensure that the policy or procedure provides effective direction to MCSO Personnel and remains consistent with this Order, current law and professional standards. The MCSO shall document such annual review in writing. MCSO also shall review Policies and Procedures as necessary upon notice of a policy deficiency during audits or reviews. MCSO shall revise any deficient policy as soon as practicable.*

MCSO policy GA-1 (Development of Written Orders) states, “The Policy Section shall conduct an annual policy review of all Critical Policies, as well the specific policies related to relevant court orders or judgments. The purpose of this annual review is to ensure that the policies provide effective direction to Office personnel and remain consistent with any court order or judgment, current law, and professional standards. The annual review shall be documented in writing.” This policy was published on November 7, 2015. MCSO remains in Phase 1 compliance with this Paragraph.

As mentioned above, since the first several months of our tenure, MCSO has been reviewing its policies in response to Order requirements and our document requests. Many of the policies have been adjusted based on our feedback and that of the Plaintiffs’ attorneys and Plaintiff-Intervenors. Several have been issued to sworn personnel and Posse members in conjunction with the ongoing Fourth and Fourteenth Amendment Training.

As noted previously, during our December 2014 site visit, we established a schedule for the annual reviews required by the Order. We agreed that the cycle for this review requirement would be MCSO’s fiscal year, which runs from July 1 to June 30.

MCSO submitted its first annual policy review (or Policy Section Annual Assessment) on September 28, 2015. The report covers the period of April 1, 2014 through June 30, 2015; and lists the Order-related policies, Briefing Boards, and Administrative Broadcasts issued during that time period. It notes that MCSO’s Policy Section “has taken major steps toward compliance with the Court’s Order” by creating policies related to pre-planned operations, body-worn cameras, and the Bureau of Internal Oversight; and revising policies related to traffic enforcement, and detentions and arrests.

During our April 2016 site visit, we requested from MCSO written confirmation that a process has been established in which the Office component who has primary responsibility for the content of a policy is afforded one final review of the policy to ensure that MCSO does not remove critical (or Order-compliant) content prior to sending to the Monitor and Parties or publication. In response to our request, MCSO noted that the Compliance Division would revise its Operations Manual with this advisement. The new language states, “Once the approval is received from the Office component primarily responsible for the content of the policy, no further changes or removal of the policy content is permitted prior to sending the policy to the Monitor/Parties, HR Bureau Chief, Chief Deputy, or for publication.”

MCSO is in compliance with Paragraph 34.

**Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

## Section 5: Pre-Planned Operations

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The Court Order requires that MCSO notify the Monitor, as well as the two Deputy Monitors, of any upcoming significant operation via email and telephone call, to ensure a prompt response by Monitoring Team personnel. The Order also requires that MCSO provide the Monitor with a submitted plan, as well as the name and contact information of the on-scene commanding officer of any scheduled operation.

The following Paragraph responses provide more detail with regard to particular aspects of the Court Order for pre-planned or significant operations.

### **COURT ORDER VI. PRE-PLANNED OPERATIONS**

*Paragraph 35. The Monitor shall regularly review the mission statement, policies and operations documents of any Specialized Unit within the MCSO that enforces Immigration-Related Laws to ensure that such unit(s) is/are operating in accordance with the Constitution, the laws of the United States and State of Arizona, and this Order.*

MCSO has taken the position that the agency no longer has Specialized Units that enforce immigration laws. During discussions with the Compliance and Implementation Division (CID) and attorneys from the Maricopa County Attorney's Office (MCAO), we recommended that applicable immigration laws and immigration-related crimes, as those terms are defined in the Order, be identified. MCSO identified forgery and misconduct with weapons as crimes that may, in some cases, have immigration status as an element of the crime. These cases are now investigated by district detectives, as is also the case for the same crimes without the element of immigration status.

MCSO disbanded its Criminal Employment Unit (CEU) in January 2015 and removed it from the SID organizational chart. Any information regarding the kinds of violations that would have previously been investigated by this unit that come to MCSO's attention are now forwarded to a federal agency for review and any appropriate action. Unused portions of grant funds dedicated to these types of investigations were returned.

MCSO reports that it no longer conducts any human smuggling investigations and has changed the name of the Human Smuggling Unit (HSU) to the Anti-Trafficking Unit (ATU) and changed the focus of the unit. We have observed in our document reviews that this unit now primarily investigates narcotics crimes.

MCSO's organizational chart for SID no longer shows the Criminal Employment Unit or the Human Smuggling Unit. The former Human Smuggling Unit is now listed as the Anti-Trafficking Unit on the organizational chart.

During our review of the arrests made by the Special Investigations Division Anti-Trafficking Unit since March 2015, we have not seen any arrests for immigration or human smuggling violations. The cases submitted by MCSO and reviewed for the ATU are primarily related to narcotics trafficking offenses.

During this reporting period, the ATU continued to investigate narcotics violations. There were no investigations related to any immigration or human smuggling activity.

**Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

***Paragraph 36.** The MCSO shall ensure that any Significant Operations or Patrols are initiated and carried out in a race-neutral fashion. For any Significant Operation or Patrol involving 10 or more MCSO personnel, excluding posse members, the MCSO shall develop a written protocol including a statement of the operational motivations and objectives, parameters for supporting documentation that shall be collected, operations plans, and provide instructions to supervisors, deputies and posse members. That written protocol shall be provided to the Monitor in advance of any Significant Operation or Patrol.*

On September 5, 2014, MCSO finalized and distributed GJ-33 (Significant Operations). The Protocols, Planning Checklist, and Supervisor Daily Checklists were also finalized and distributed. The policy (GJ-33) was specifically trained to during the Fourth and Fourteenth Amendment training for sworn personnel and Posse members. The policies and protocols accurately reflect the requirements of the Order. MCSO is in Phase 1 compliance with this Paragraph.

Since achieving Phase 1 compliance, MCSO has reported conducting only one significant operation that invoked the requirements of this Paragraph. "Operation Borderline" was conducted from October 20, through October 27, 2014, to interdict the flow of illegal narcotics into Maricopa County. MCSO met all the requirements of this Paragraph during this operation.

During the previous reporting period, MCSO reported one operation by the Special Investigations Division. This operation did not meet the criteria for a significant operation and was reported in compliance with other Paragraphs of the Order. This operation utilized nine MCSO personnel for a legitimate law enforcement operation. MCSO did not make any arrests, and the investigation was ongoing at the time MCSO reported it to us.

During this reporting period, we became aware of "Operation No Drug Bust Too Small" when it was reported in the media. This operation was reported to have resulted in the arrest of 102 persons and the seizure of millions of dollars in narcotics and other contraband. We contacted MCSO for additional details on this operation and learned that it was a focused effort on outstanding narcotic warrants and street-level drug investigations that occurred between August 2015 and February 2016. MCSO reported that it was not an operation in a typical sense. After reviewing the documentation provided by MCSO at our request, we are satisfied that this operation did not meet the reporting requirements of this Paragraph.

**Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

*Paragraph 37. The MCSO shall submit a standard template for operations plans and standard instructions for supervisors, deputies and posse members applicable to all Significant Operations or Patrols to the Monitor for review pursuant to the process described in Section IV within 90 days of the Effective Date. In Exigent Circumstances, the MCSO may conduct Significant Operations or Patrols during the interim period but such patrols shall be conducted in a manner that is in compliance with the requirement of this Order. Any Significant Operations or Patrols thereafter must be in accordance with the approved template and instructions.*

On September 5, 2014, MCSO finalized and distributed GJ-33 (Significant Operations). The Protocols, Planning Checklist, and Supervisor Daily Checklists have also been finalized. The policy (GJ-33) was specifically trained to during the Fourth and Fourteenth Amendment training conducted by MCSO during 2014. MCSO is in Phase 1 compliance with this Paragraph.

Since achieving Phase 1 compliance, MCSO has reported conducting only one significant operation meeting the requirements of this Paragraph. "Operation Borderline" was conducted from October 20, through October 27, 2014, to interdict the flow of illegal narcotics into Maricopa County. MCSO met all the requirements of this Paragraph during this operation.

MCSO has consistently reported in each subsequent reporting period that it has not conducted any significant operations meeting the requirements of this Paragraph. During this reporting period, MCSO again reported that it did not conduct any significant operations invoking the requirements of this Paragraph.

**Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

**(Note: Unchanged language is presented in *italicized font*. Additions are indicated by underlined font. Deletions are indicated by ~~crossed-out font~~.)**

*Paragraph 38. If the MCSO conducts any Significant Operations or Patrols involving 10 or more MCSO Personnel excluding posse members, it shall create the following documentation and provide it to the Monitor and Plaintiffs within ~~30~~ 10 days after the operation:*

- a. documentation of the specific justification/reason for the operation, certified as drafted prior to the operation (this documentation must include analysis of relevant, reliable, and comparative crime data);*
- b. information that triggered the operation and/or selection of the particular site for the operation;*
- c. documentation of the steps taken to corroborate any information or intelligence received from non-law enforcement personnel;*
- d. documentation of command staff review and approval of the operation and operations plans;*

- e. *a listing of specific operational objectives for the patrol;*
- f. *documentation of specific operational objectives and instructions as communicated to participating MCSO Personnel;*
- g. *any operations plans, other instructions, guidance or post-operation feedback or debriefing provided to participating MCSO Personnel;*
- h. *a post-operation analysis of the patrol, including a detailed report of any significant events that occurred during the patrol;*
- i. *arrest lists, officer participation logs and records for the patrol; and*
- j. *data about each contact made during the operation, including whether it resulted in a citation or arrest.*

On September 5, 2014, MCSO finalized and distributed GJ-33 (Significant Operations). The Protocols, Planning Checklist, and Supervisor Daily Checklists have also been finalized. The policy (GJ-33) was specifically trained to during the Fourth and Fourteenth Amendment training completed by MCSO in 2014. MCSO is in Phase 1 compliance with this Paragraph.

Since achieving Phase 1 compliance, MCSO has reported conducting only one significant operation meeting the requirements of this Paragraph. "Operation Borderline" was conducted from October 20, through October 27, 2014, to interdict the flow of illegal narcotics into Maricopa County. MCSO met all the requirements of this Paragraph during this operation.

MCSO has consistently reported in each subsequent reporting period that it has not conducted any significant operations meeting the requirements of this Paragraph. During this reporting period, MCSO again reported that it did not conduct any significant operations invoking the requirements of this Paragraph.

**Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

(Note: Unchanged language is presented in *italicized font*. Additions are indicated by underlined font. Deletions are indicated by ~~crossed-out font~~.)

**Paragraph 39.** *The MCSO Monitor shall hold a community outreach meeting no more than 30 40 days after any Significant Operations or Patrols in the affected District(s). ~~MCSO shall work with the Community Advisory Board to ensure that the community outreach meeting adequately communicates information regarding the objectives and results of the operation or patrol~~ The Monitor shall communicate the operational details provided to it by the MCSO and shall hear any complaints or concerns raised by community members. The Monitor may investigate and respond to those concerns. The community outreach meeting shall be advertised and conducted in English and Spanish.*

The Court has amended the original Order to move responsibility for Community Outreach to the Monitor. This section no longer applies to the activities of MCSO.

During the current reporting period, MCSO did not conduct any significant operations, and it was not necessary for us to conduct any community outreach meetings related to this Paragraph.

***Paragraph 40.** The MCSO shall notify the Monitor and Plaintiffs within 24 hours of any immigration related traffic enforcement activity or Significant Operation involving the arrest of 5 or more people unless such disclosure would interfere with an on-going criminal investigation in which case the notification shall be provided under seal to the Court, which may determine that disclosure to the Monitor and Plaintiffs would not interfere with an on-going criminal investigation. In any event, as soon as disclosure would no longer interfere with an on-going criminal investigation, MCSO shall provide the notification to the Monitor and Plaintiffs. To the extent that it is not already covered above by Paragraph 38, the Monitor and Plaintiffs may request any documentation related to such activity as they deem reasonably necessary to ensure compliance with the Court's orders.*

MCSO developed the significant operations protocol as required, and modified it to include Section 7 that requires notification to the Plaintiffs. MCSO is in Phase 1 compliance with this Paragraph.

Since achieving Phase 1 compliance, MCSO has reported conducting only one significant operation meeting the requirements of this Paragraph. "Operation Borderline" was conducted from October 20, through October 27, 2014, to interdict the flow of illegal narcotics into Maricopa County. MCSO met all the requirements of this Paragraph during this operation.

MCSO has consistently reported in each subsequent reporting period that it has not conducted any significant operations meeting the requirements of this Paragraph. During this reporting period, MCSO again reported that it did not conduct any significant operations invoking the requirements of this Paragraph.

Based on a concern brought forward by the Plaintiffs' attorneys, and to provide clarification regarding the portion of this Paragraph that addresses the requirement for MCSO to notify the Monitor and Plaintiffs within 24 hours of any immigration-related traffic enforcement activity or significant operations involving "the arrest of 5 or more persons," we requested during our October 2015 site visit that MCSO provide a statement regarding this requirement each month. MCSO began including this information in its November 2015 submission.

During this reporting period, MCSO again reported that no arrests of five or more persons occurred in any significant operation or other qualifying event.

**Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

## Section 6: Training

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### COURT ORDER VII. TRAINING

#### *a. General Provisions*

**Paragraph 41.** *To ensure that the Policies and Procedures provided for by this Order are effectuated, the MCSO shall implement the following requirements regarding Training.*

**Paragraph 42.** *The persons presenting this Training in each area shall be competent instructors with significant experience and expertise in the area. Those presenting Training on legal matters shall also hold a law degree from an accredited law school and be admitted to a Bar of any state and/or the District of Columbia.*

On January 25, 2016, we received the first revisions to GG-1 (Peace Officer Training Administration). Our initial review found that in general, MCSO considered the comments we and the Parties previously provided. The policy includes a definition of “serious offenses” and what constitutes an offense warranting serious discipline. MCSO also laid a foundation for instructor selection and retention, with the inclusion of an instructor selection and review process. PSB will now conduct an annual review of instructors. MCSO revised the direction for tests and acceptable passing scores. It also adopted a limited seven-step “Training Cycle.” We expressed a concern with the limited, partial application of this methodology to only the Bias-Free Policing Training; Detentions, Arrests, and Immigration-Related Law Enforcement Training; and Court Order-related Supervisory Training. We believe the application of the Training Cycle to non-Order-related training should not be discretionary; a discretionary application of best practice methodology will undermine the training reform effort. Assessment Criteria continues to require further revision. The draft policy exhibits a clear misunderstanding of information provided by assessments, critiques, and evaluations, and their relationship to training program development and revision.

Our Team and the Parties reviewed two different versions of GG-1 (Peace Officer Training Administration) during this reporting period. We and the Parties provided comments and recommendations in response to new or modified content. This policy has not yet been approved. We recommend that MCSO prioritize the finalization of this policy. Organizationally, standardized development and delivery of training provides the very foundation for instituting industry best practices.

Policy GG-2 (Training Administration) was not reviewed during this reporting period. GG-2 was the first training policy provided to us. There appears to now be a distinct bifurcation of training mandates for sworn and detention personnel. A review of GG-2 is required to ensure that organizationally training development and delivery, instructor selection and retention, and documentation of training are consistent and standardized.

The Training Division Operations Manual was not reviewed during this reporting period. During our February site visit, the Director of Training informed us that on January 26, 2016, he had signed a revised version of this operations manual. This revelation was troubling. Defense counsel advised that she had no prior knowledge of the document. We reinforced with the Director of Training and Defense counsel that this operations manual, as directed by Section IV of the Order, must be reviewed for consistency with GG-1. MCSO must refrain from

unilaterally implementing policy or companion documents and delivering training that has not been subject to the review and approval processes required by the Order. All training policies and procedures must accurately direct MCSO's training processes. The Training Division Operations Manual, GG-1 (Peace Officer Training Administration), and GG-2 (Training Administration) remain in draft form and were not approved during this reporting period.

During our February and April 2016 site visits, we reaffirmed the Section IV review process of the Order and directed MCSO to continue including the Monitor, Plaintiffs, and Plaintiff-Intervenors in the instructor selection process for all Order-related training.

On November 13, 2015, the Training Division requested a review by PSB of 20 proposed instructors for the 2016 Supervisory Responsibilities: Effective Law Enforcement Training. This review was conducted nearly five months previous to the current reporting period end date. We advised MCSO that the PSB review was significantly premature, as the training program has not yet been approved. As a result, PSB will be required to conduct a second review to ensure there were no occurrences in the intervening months warranting deselection. The initial review exposed areas of policy and practice in need of further attention by both PSB and Training. We provided additional policy recommendations for the direction and timing of PSB reviews. We also expressed concern with the response document generated by PSB through the IPro system. The disciplinary query exceeded the scope as defined by GG-1, and captured disciplinary infractions outside of those defined in the policy. As a result, some of the instructors initially suggested for consideration have been removed from the list, reducing the number of instructors to 11. We agree with the deselections, but the action exposed a potential policy flaw with GG-1. We recommend that the next iteration of the policy either expands the deselection criteria, or adds a clause allowing the deselection at the discretion of the Training Director.

During our February 2016 site visit to the Training Academy we audited 10 instructor folders. Folders were established in a uniform manner. Each included an Instructor Selection Criteria Checklist, Skills Manager employee profile, curriculum vitae or resume, certificates received, and a PSB review. Included certificates supported the proposed instructor selection criteria of new policy GG-1. As a result of the PSB review conducted in accordance with GG-1, two instructors were identified as ineligible and removed from instructor status. However, it was also discovered that PSB reviews were not conducted on three instructors we reviewed. We cautioned MCSO that selective application of policy-mandated instructor selection criteria would result in non-compliance assessments. We informed MCSO that we would conduct further reviews of instructor files. Most, if not all, instructors for Court-ordered training are not assigned to the Training Division as a permanent assignment.

During our recent site visit, we learned that MCSO had initiated a new class for Field Training Officers (FTOs) in February. Field Training Officers are instructors in the purest sense. We requested a roster of all Field Training Officers. We also requested the PSB reviews that MCSO should have conducted prior to the selections of the FTOs. On May 6, 2016, we received a roster identifying 54 individuals as "active sworn Field Training Deputies." This memo indicates that 17 individuals attended the February Basic Field Training Officer School – yet none of these individuals received the requisite PSB review. MCSO had previously informed us the draft policy was being utilized as the guiding process for FTO review. The review process has been utilized for all Order-related training instructor selections. However, the PSB check was not

initiated until after our April site visit and our request to review the results. We were advised that the Director of Training is currently reviewing the results of the PSB review but clearly the selection and review of FTOs did not follow MCSO's proposed policy. MCSO continues to fail to operationally implement and follow policy guidance.

Instructor selection for the 2016 Supervisor Responsibilities: Effective Law Enforcement training was not completed during this reporting period. A review and approval of proposed instructors will be required. A current PSB review will also be required.

We renewed our recommendation to MCSO to mandate train-the-trainer sessions for training that necessitates multiple instructors. There is significant value in the use of these sessions for instructors, participants, and the organization. The Training Division continues to lack acceptable instructor critique tools.

During this reporting period, MCSO required additional instructors to conduct the 2015 Annual Combined Training. On January 26, 2016, MCSO requested a review of three additional instructors. Our Team and the Parties conducted an expedited review, and approved the instructors on January 27, 2016. MCSO did not identify any new instructors for other Court Ordered training during this reporting period.

Instructors for EIS were included with proposed instructors for the 2016 Supervisor Responsibilities: Effective Law Enforcement Training. These instructors are assigned to EIU and BIO. Their instructor folders have been reviewed for consistency. They will be required to receive the renewed PSB review and approval of the Parties.

The Training Division did not conduct annual PSB reviews of incumbent instructors during this reporting period.

MCSO is not in compliance with this Paragraph.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

***Paragraph 43.** The Training shall include at least 60% live training (i.e., with a live instructor) which includes an interactive component and no more than 40% on-line training. The Training shall also include testing and/or writings that indicate that MCSO Personnel taking the Training comprehend the material taught whether via live training or via on-line training.*

MCSO previously provided us with a draft version of the proposed new policy, GG-1 (Peace Officer Training Administration). We reviewed this policy and provided comments and recommendations to develop testing criteria and administration. The draft policy includes the Paragraph 43 requirements of no fewer than 60% live training and no more than 40% online training. We also recommended modifications to the passing grade requirements and testing evaluations. MCSO has displayed a propensity for the use of open book tests. Although the methodology has merit, we recommend that MCSO refrain from universal use.

During this reporting period, MCSO did not deliver the 2014 Detention, Arrests, and Immigration Related Laws, and Bias Free Policing training.

MCSO delivered 47 classes of the 2015 Annual Combined Training between January and February. We previously reported that our Team and the Parties were not afforded the review processes established by the Order for the test. MCSO continued to utilize a 15-question test, administered to each student immediately following class completion. MCSO uses Scantron to grade the test and provide basic test analysis. Previously we recommended that MCSO conduct test analysis. Our test analysis identified a problematic question related to investigative detentions. An analysis by MCAO and the Training Division identified the same results. We reminded MCSO that it should conduct a further comprehensive analysis upon completion of the training. The analysis should provide insight on the adequacy of the lesson plan content, the delivery of the content by individual instructors, and the knowledge transfer that occurred with each student. Clearly, MCSO has already recognized the value of these actions. In January 2016, nine Posse personnel failed the initial and remedial tests. Of the nine personnel, six returned for subsequent classes and passed the accompanying tests. The remaining three personnel resigned from Posse status.

As of March 31, 2016, the lesson plan and testing criteria for the 2016 Supervisor Responsibilities: Effective Law Enforcement had not been developed. The Plaintiffs' attorneys, the Plaintiff-Intervenors, and we received several revisions of the lesson plan during this reporting period. We jointly advised MCSO that the draft tests and retest documents indicate a heavy reliance on true-false questions that appear to be self-evident. The test lacks the depth to ensure learning of critical topics has occurred. Although the test need not be too difficult, the test does not adequately test a supervisor's knowledge or ensure that critical topics have been learned. The testing processes have not been completed and approved.

MCSO did not deliver EIS "Blue Team Entry System for IAPro" training during this reporting period. We have not approved EIS training in its entirety. Previously we reviewed and commented on the 2015 Early Identification System (EIS2) lesson plan that was designed for inclusion in the 2016 Supervisor Responsibilities: Effective Law Enforcement Training. We provided recommendations in several areas, including Threshold Alert Notification and Intervention, Employee Responsibilities, Supervisor Responsibilities, and Command Staff Responsibilities. Previously and jointly, the Plaintiffs' and Plaintiff-Intervenors set forth a number of serious concerns about the foundation for the EIS training. They provided recommendations to develop a more motivated and proactive supervisory approach to EIS. These included improving accountability mechanisms to ensure the proper function of EIS, and addressing technical capabilities to ensure that issues such as use of force reports and body-worn camera recordings are available to supervisors through the EIS system. Our Team and the Parties provided additional comments on March 23, 2016. The lesson plan fails to incorporate what we consider to be critical recommendations. We also remain critical of the testing tool, which remains a three-question test. We did not receive any revisions to the test during this reporting period. We believe the testing tool does not properly assess whether or not supervisors have learned how to initiate interventions and counseling. Neither this lesson plan nor the testing tool was approved during this reporting period.

MCSO delivered TraCS training once during this reporting period. Also during this reporting period we received the final lesson plan and PowerPoint presentation. The documentation that we received reinforced our previous concern about the written test. Initially we received and reviewed the TraCS E-Learn 10-question test, which was consistent with the lesson plan objectives. Yet after training delivery occurred, we discovered that the test MCSO actually utilized was an alternative eight-question test that neither our Team nor the Parties had reviewed or approved. Had MCSO not made the unilateral decision to deliver this training absent the review processes provided for in the Order, it is unlikely this situation would have occurred. MCSO continued its use of the eight-question test throughout this reporting period.

MCSO delivered Body-Worn Camera Training once during this reporting period. Previously, we noted a lack of competency-based tasks with Body-Worn Camera Training testing. MCSO did not implement any of our recommendations, to include competency testing of this subject. Students are required to push the camera activation button one single time as demonstration of competency. Now that supervisors have begun reviewing body-worn camera recordings, they may identify deputies' failure to appropriately capture and document incidents in the field. MCSO continues to utilize a 20-question test that neither the Parties nor we reviewed prior to its use. Fifty percent of the questions are true/false and self-evident in nature.

MCSO is not in compliance with this Paragraph.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

***Paragraph 44.** Within 90 days of the Effective Date, MCSO shall set out a schedule for delivering all Training required by this Order. Plaintiffs' Representative and the Monitor shall be provided with the schedule of all Trainings and will be permitted to observe all live trainings and all on-line training. Attendees shall sign in at each live session. MCSO shall keep an up-to-date list of the live and on-line Training sessions and hours attended or viewed by each officer and Supervisor and make that available to the Monitor and Plaintiffs.*

MCSO previously provided us with a draft version of the proposed new policy, GG-1 (Peace Officer Training Administration). We reviewed this policy and provided comments and recommendations to develop and maintain the Order-mandated Master Training Calendar. The use of a Master Court-Ordered Training Calendar and standardized sign-in sheets is included in the new draft training policy, GG-1 (Peace Officer Training Administration). We note that section Procedures: 4. C. 5. a.-c. addresses the Paragraph requirements for sign-in rosters; and Procedures: 6. A. B. addresses the use of a Master Training Calendar. These sections will adequately address the requirements of this Paragraph when the policy is approved.

For each month of this reporting period, we received a 12-month version of the Master Training Calendar projected into 2017. However, none of the versions included projected delivery dates for the 2016 Supervisor Responsibilities: Effective Law Enforcement Training, the 2016 Annual Combined Training or for any other projected Order-related training. We believe that MCSO has not grasped the value of the Master Training Calendar as a mechanism to plan and execute

training development and delivery. The March Master Training Calendar erroneously displays the delivery of the 2015 Annual Combined Training throughout the month of March. This training ended on February 27, 2016.

The calendars also did not include the Body-Worn Camera, TraCS, and Administrative Investigations Checklist Trainings that were delivered during this reporting period. We discussed this issue with MCSO during our recent site visit. Training Division personnel advised us that because the Administrative Investigations Checklist Trainings were delivered at remote locations and were scheduled, coordinated, and delivered by PSB personnel, they did not display them on the Master Calendar. We do not agree with this logic, particularly in regards to components of Supervisory Training that directly affect compliance determinations with the Court Order. We believe this is a failure by the Training Division to appropriately oversee the delivery of all organizational training. The inaccuracy of the Master Training Calendar is troubling and will continue to adversely affect compliance determinations for this Paragraph.

MCSO did not deliver the 2014 Bias-Free Policing and Detention, Arrests and Immigration-Related Laws Training during this reporting period.

The Deputy Master Roster – March Report indicates that MCSO has a total of 723 sworn personnel who are required to receive Court Order-related training. This number reflects a decrease of three personnel.

The Reserve Master Roster – March Report indicates that a total of 34 Reserve personnel are required to receive Court Order-related training. This represents a decrease of three personnel.

The Retired Reserve Master Roster – March Report indicates that a total of 21 retired Reserve personnel will be required to receive Court Order-related training. This represents a decrease of nine personnel.

The Posse Roster – March Report indicates that a total of 831 Posse personnel will be required to receive Court Order-related training. This represents a decrease of 54 personnel.

The Sworn Sgt. and above Master Roster – March indicates a total of 186 supervisors (17 Captains, five Deputy Chiefs, 37 lieutenants, and 127 sergeants) are required to receive Court Order-related supervisory training programs.

2015 Annual Combined Training completed delivery on February 27, 2016. A total of 696 Sworn personnel, 36 Reserve personnel, 23 Retired Reserve personnel, and 744 Posse personnel received this training.

2016 Supervisor Responsibilities: Effective Law Enforcement Training was not delivered during this reporting period.

MCSO did not deliver 2014 Blue Team Entry System for IAPro during this reporting period.

MCSO delivered 2015 TraCS Training to five sworn personnel on March 29, 2016.

MCSO delivered 2015 Body-Worn Camera Training to two sworn personnel on March 29, 2016.

MCSO delivered 2016 Administrative Investigations Checklist Training 12 times during this reporting period to 121 supervisory personnel.

MCSO is not in compliance with this Paragraph.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

*Paragraph 45. The Training may incorporate adult-learning methods that incorporate roleplaying scenarios, interactive exercises, as well as traditional lecture formats.*

MCSO previously provided us with a draft version of the proposed new policy, GG-1 (Peace Officer Training Administration). We reviewed this policy and provided comments and recommendations. On January 25, 2016, we were provided with the first revisions to GG-1 (Peace Officer Training Administration). The language required by this Paragraph remains intact.

During this reporting period, we continued our review with attorneys for the Plaintiffs, the Plaintiff-Intervenors, and the Defendants, of the 2016 Supervisor Responsibilities: Effective Law Enforcement curriculum. The Parties have made several revisions to the lesson plan and supporting documents. MCSO, the Plaintiffs, and the Plaintiff-Intervenors were at an impasse on specific language recommendations for critical lesson plan points. We arranged a conference call with the Parties on March 7, 2016. In response to their joint request, we provided specific language determinations for the lesson plan. Throughout March, we provided MCSO with recommendations for test development, discussion guides, scenarios, videos, and PowerPoint presentation. The final approved curriculum will incorporate adult-learning methods and include PowerPoint presentations, interactive learning exercises, and lecture.

We have seen noteworthy, albeit delayed, progress with the development of the 2016 Supervisor Responsibilities: Effective Law Enforcement Training during this reporting period. Delivery of this training is significantly overdue. We affirmatively addressed this issue during our most recent site visit. We directed MCSO to begin delivery of the Supervisory Training on or before June 15, 2016. We also directed the required use of a train-the-trainer program to begin on or before June 1, 2016. The critical organizational need for this training has been repeatedly reinforced in our review of administrative internal investigations and the decision-making processes they reveal. We require MCSO to direct whatever resources are needed to develop and begin delivery of this training before the end of the next reporting period.

The Supervisory Training curriculum was not approved during this reporting period.

Plaintiffs, Plaintiff-Intervenors, and we believe the EIS2 lesson plan should aim to educate MCSO officers on the EIS policy; show MCSO officers how to engage with the EIS technology; and instruct MCSO officers how to effectively use the technology to proactively manage the performance and development of the officers they supervise. We have been especially critical of deficiencies with this lesson plan. One hour of training is insufficient to instruct on EIS as a leadership tool. The performance objectives focus on the mechanics of navigating the system. The lesson plan does not adequately address a supervisors' application of the data (e.g., warning signs or other indicators of possible misconduct). There is a slight mention of counseling and

development of action plans. This critical subject matter does not receive due consideration. Supervisors are not provided adequate information to assist in identifying negative behaviors. The lesson plan does not include information regarding the FILEBOUND system that supervisors must access for the review of investigation reports.

The EIS2 curriculum was not approved during this reporting period.

MCSO is not in compliance with this Paragraph.

**Compliance Status:**

Phase 1: Not applicable

Phase 2: Not in compliance

*Paragraph 46. The curriculum and any materials and information on the proposed instructors for the Training provided for by this Order shall be provided to the Monitor within 90 days of the Effective Date for review pursuant to the process described in Section IV. The Monitor and Plaintiffs may provide resources that the MCSO can consult to develop the content of the Training, including names of suggested instructors.*

MCSO previously provided us with a draft version of the proposed new policy, GG-1 (Peace Officer Training Administration). We reviewed this policy, and provided comments and recommendations to help MCSO adopt seven training cycle steps for all training developed; and include all lesson plans in the Training Division, as a central repository.

**Supervisory Training:**

- Despite incremental progress during this reporting period in the development of Supervisory Training, MCSO's supervisors have still not received this training.

**2015 Annual Combined Training:**

- MCSO completed delivery of the Order-mandated 2015 Annual Combined Training in February 2016.
- The 2015 Annual Combined Training (March 2016) sworn report indicates that 696 of 721 personnel have been trained.
- The 2015 Annual Combined Training (March 2016) Reserve report indicate that 36 of 36 personnel have been trained.
- The 2015 Annual Combined Training (March 2016) retired Reserve report indicate that 23 of 23 personnel have been trained.

**EIS Blue Team Training:**

- The EIS2 lesson plan is currently under review by the Parties and us. MCSO did not deliver Blue Team training during this reporting period.

**TraCS Training:**

- MCSO delivered TraCS training once during this reporting period.
- The TraCS (March 2016) sworn report indicates that five personnel were trained.
- The TraCS (March 2016) sworn report indicates that 717 of 722 personnel have been trained.
- The TraCS (March 2016) reserve reports indicate that 35 of 35 personnel have been trained.
- The TraCS (March 2016) retired Reserve reports indicate that 23 of 23 personnel have been trained.

**Body-Worn Camera Training:**

- MCSO delivered BWC training once during this reporting period to two sworn personnel.
- The Body-Worn Camera (March 2016) sworn report indicates that 719 of 722 personnel have been trained.
- The Body-Worn Camera (March 2016) Reserve report indicates that 35 of 35 personnel have been trained.
- The Body-Worn Camera (March 2016) retired Reserve report indicates that 23 of 23 personnel have been trained.

**Administrative Investigations Checklist Training:**

The Training Division reviewed this lesson plan on January 6, 2016. In February, this training program was approved. Administrative Investigations Checklist Training was delivered 16 times during this reporting period.

- The “Admin Inv Checklist Course Sworn Sgt and above” (compliance report) indicates that 121 of 186 supervisors have been trained.
- The development of Administrative Investigations Checklist Training began in March 2016.

MCSO is not in compliance with this Paragraph.

**Compliance Status:**

Phase 1: Not applicable

Phase 2: Not in compliance

**Paragraph 47.** *MCSO shall regularly update the Training to keep up with developments in the law and to take into account feedback from the Monitor, the Court, Plaintiffs and MCSO Personnel.*

Previously MCSO provided us with a draft version of the proposed new policy, GG-1 (Peace Officer Training Administration). We reviewed this policy and provided comments and recommendations.

A comprehensive annual review of lesson plans, supporting documents, and post-analysis of all training programs continues to lag. We reaffirm our prior recommendations that MCSO annually update each lesson plan with new developments in law, participant feedback and comments, training evaluations, and internal review processes.

Previously MCSO had unilaterally decided to remove a student comment section from the existing Course Assessment Tool. We remain critical of this action. The comment section provides the student an opportunity to make comments about the instructor's delivery and the content of the course curriculum. During our recent site visit, Training Division personnel advised us that MCSO had modified the Course Assessment Tool so that it again included this section. We did not review or approve this tool during this reporting period.

During our most recent site visit, we were advised that TraCS system updates taking effect on March 28, 2016, as identified in an Administrative Broadcast, would not require changes to the TraCS curriculum in 2016.

The newly issued Briefing Board on GJ-35 (Body Worn Camera) will require changes to the BWC curriculum during 2016.

MCSO can reasonably expect that members of the Monitoring Team shall observe training sessions for the purposes of rendering assessments to the Parties and the Court.

MCSO is not in compliance with this Paragraph.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

**b. Bias-Free Policing Training**

**Paragraph 48.** *The MCSO shall provide all sworn Deputies, including Supervisors and chiefs, as well as all posse members, with 12 hours of comprehensive and interdisciplinary Training on bias-free policing within 240 days of the Effective Date, or for new Deputies or posse members, within 90 days of the start of their service, and at least 6 hours annually thereafter.*

The Order-mandated 2014 Training on Bias-Free Policing was not delivered during this reporting period to basic Academy classes.

The 2015 Annual Combined training began on December 14, 2015 and ended on February 27, 2016. A total of 696 sworn personnel, 36 Reserve personnel, 23 retired Reserve personnel, and 744 Posse personnel received this training.

MCSO remains in compliance because of the initial 2014 Bias-Free Policing and Detentions, Arrests and Immigration Related Laws training that commenced in September 2014, and the initiation of the 2015 Annual Combined Training that commenced in December 2015.

**Compliance Status:**

Phase 1: Not applicable

Phase 2: In compliance

*Paragraph 49. The Training shall incorporate the most current developments in federal and Arizona law and MCSO policy, and shall address or include, at a minimum:*

- a. definitions of racial profiling and Discriminatory Policing;*
- b. examples of the type of conduct that would constitute Discriminatory Policing as well as examples of the types of indicators Deputies may properly rely upon;*
- c. the protection of civil rights as a central part of the police mission and as essential to effective policing;*
- d. an emphasis on ethics, professionalism and the protection of civil rights as a central part of the police mission and as essential to effective policing;*
- e. constitutional and other legal requirements related to equal protection, unlawful discrimination, and restrictions on the enforcement of Immigration-Related Laws, including the requirements of this Order;*
- f. MCSO policies related to Discriminatory Policing, the enforcement of Immigration-Related Laws and traffic enforcement, and to the extent past instructions to personnel on these topics were incorrect, a correction of any misconceptions about the law or MCSO policies;*
- g. MCSO's protocol and requirements for ensuring that any significant pre-planned operations or patrols are initiated and carried out in a race-neutral fashion; h. police and community perspectives related to Discriminatory Policing;*
- i. the existence of arbitrary classifications, stereotypes, and implicit bias, and the impact that these may have on the decision-making and behavior of a Deputy;*
- j. methods and strategies for identifying stereotypes and implicit bias in Deputy decision-making;*
- k. methods and strategies for ensuring effective policing, including reliance solely on non-discriminatory factors at key decision points;*
- l. methods and strategies to reduce misunderstanding, resolve and/or de-escalate conflict, and avoid Complaints due to perceived police bias or discrimination; m. cultural awareness and how to communicate with individuals in commonly encountered scenarios;*

- n. *problem-oriented policing tactics and other methods for improving public safety and crime prevention through community engagement;*
- o. *the benefits of actively engaging community organizations, including those serving youth and immigrant communities;*
- p. *the MCSO process for investigating Complaints of possible misconduct and the disciplinary consequences for personnel found to have violated MCSO policy;*
- q. *background information on the Melendres v. Arpaio litigation, as well as a summary and explanation of the Court's May 24, 2013 Findings of Fact and Conclusions of Law in Melendres v. Arpaio, the parameters of the Court's permanent injunction, and the requirements of this Order; and*
- r. *Instruction on the data collection protocols and reporting requirements of this Order.*

The Order-mandated 2014 Training on Bias-Free Policing was not delivered during this reporting period to basic Academy classes.

The 2015 Annual Combined training began on December 14, 2015 and ended on February 27, 2016. The revision of this training program met the requirements of this Paragraph. The Parties and we reviewed and approved the curriculum and all supporting documentation prior to delivery.

MCSO remains in compliance because of the initial 2014 Bias-Free Policing and Detentions, Arrests and Immigration Related Laws training that commenced in September 2014, and the initiation of the 2015 Annual Combined Training that commenced in December 2015.

**Compliance Status:**

Phase 1: Not applicable

Phase 2: In compliance

***c. Training on Detentions, Arrests, and the Enforcement of Immigration-Related Laws***

***Paragraph 50.*** *In addition to the Training on bias-free policing, the MCSO shall provide all sworn personnel, including Supervisors and chiefs, as well as all posse members, with 6 hours of Training on the Fourth Amendment, including on detentions, arrests and the enforcement of Immigration-Related Laws within 180 days of the effective date of this Order, or for new Deputies or posse members, within 90 days of the start of their service. MCSO shall provide all Deputies with 4 hours of Training each year thereafter.*

The Order-mandated 2014 Training on Fourth Amendment, Detentions, Arrests and the Enforcement of Immigration-Related Laws was not delivered to basic Academy classes during this reporting period.

The 2015 Annual Combined training began on December 14, 2015 and ended on February 27, 2016. A total of 696 sworn personnel, 36 Reserve personnel, 23 retired Reserve personnel, and 744 Posse personnel received this training.

MCSO remains in compliance because of the initial 2014 Bias-Free Policing and Detentions, Arrests and Immigration Related Laws training that commenced in September 2014, and the initiation of the 2015 Annual Combined Training that commenced in December 2015.

**Compliance Status:**

Phase 1: Not applicable

Phase 2: In compliance

**Paragraph 51.** *The Training shall incorporate the most current developments in federal and Arizona law and MCSO policy, and shall address or include, at a minimum:*

- a. *an explanation of the difference between various police contacts according to the level of police intrusion and the requisite level of suspicion; the difference between reasonable suspicion and mere speculation; and the difference between voluntary consent and mere acquiescence to police authority;*
- b. *guidance on the facts and circumstances that should be considered in initiating, expanding or terminating an Investigatory Stop or detention;*
- c. *guidance on the circumstances under which an Investigatory Detention can become an arrest requiring probable cause;*
- d. *constitutional and other legal requirements related to stops, detentions and arrests, and the enforcement of Immigration-Related Laws, including the requirements of this Order;*
- e. *MCSO policies related to stops, detentions and arrests, and the enforcement of Immigration-Related Laws, and the extent to which past instructions to personnel on these topics were incorrect, a correction of any misconceptions about the law or MCSO policies;*
- f. *the circumstances under which a passenger may be questioned or asked for identification;*
- g. *the forms of identification that will be deemed acceptable if a driver or passenger (in circumstances where identification is required of them) is unable to present an Arizona driver's license;*
- h. *the circumstances under which an officer may initiate a vehicle stop in order to investigate a load vehicle;*
- i. *the circumstances under which a Deputy may question any individual as to his/her alienage or immigration status, investigate an individual's identity or search the individual in order to develop evidence of unlawful status, contact ICE/CBP, await a response from ICE/CBP and/or deliver an individual to ICE/CBP custody;*
- j. *a discussion of the factors that may properly be considered in establishing reasonable suspicion or probable cause to believe that a vehicle or an individual is involved in an immigration-related state crime, such as a violation of the Arizona Human Smuggling Statute, as drawn from legal precedent and updated as necessary; the factors shall not*

- include actual or apparent race or ethnicity, speaking Spanish, speaking English with an accent, or appearance as a Hispanic day laborer;*
- k. a discussion of the factors that may properly be considered in establishing reasonable suspicion or probable cause that an individual is in the country unlawfully, as drawn from legal precedent and updated as necessary; the factors shall not include actual or apparent race or ethnicity, speaking Spanish, speaking English with an accent, or appearance as a day laborer;*
  - l. an emphasis on the rule that use of race or ethnicity to any degree, except in the case of a reliable, specific suspect description, is prohibited;*
  - m. the MCSO process for investigating Complaints of possible misconduct and the disciplinary consequences for personnel found to have violated MCSO policy;*
  - n. provide all trainees a copy of the Court's May 24, 2013 Findings of Fact and Conclusions of Law in Melendres v. Arpaio and this Order, as well as a summary and explanation of the same that is drafted by counsel for Plaintiffs or Defendants and reviewed by the Monitor or the Court; and*
  - o. Instruction on the data collection protocols and reporting requirements of this Order, particularly reporting requirements for any contact with ICE/CBP.*

MCSO did not deliver the Order-mandated 2014 Training on Bias-Free Policing to its Basic Academy classes during this reporting period.

The 2015 Annual Combined training began on December 14, 2015 and ended on February 27, 2016. The revision of this training program met the requirements of this Paragraph. The Parties and we reviewed and approved the curriculum and all supporting documentation prior to delivery.

MCSO remains in compliance with this Paragraph because of the initial 2014 Bias-Free Policing and Detentions, Arrests and Immigration Related Laws training that commenced in September 2014, and the initiation of the 2015 Annual Combined Training that commenced in December 2015.

**Compliance Status:**

Phase 1: Not applicable

Phase 2: In compliance

*e. Supervisor and Command Level Training*

**Paragraph 52.** *MCSO shall provide Supervisors with comprehensive and interdisciplinary Training on supervision strategies and supervisory responsibilities under the Order. MCSO shall provide an initial mandatory supervisor training of no less than 6 hours, which shall be completed prior to assuming supervisory responsibilities or, for current MCSO Supervisors, within 180 days of the Effective Date of this Order. In addition to this initial Supervisor Training, MCSO shall require each Supervisor to complete at least 4 hours of Supervisor-specific Training annually thereafter. As needed, Supervisors shall also receive Training and updates as required by changes in pertinent developments in the law of equal protection, Fourth Amendment, the enforcement of Immigration-Related Laws, and other areas, as well as Training in new skills.*

MCSO previously provided us with a draft version of the proposed new policy, GG-1 (Peace Officer Training Administration). We reviewed this policy and provided a recommendation to include within the document the language of Paragraph 52. On January 25, 2016, we were provided with the first revisions to GG-1 (Peace Officer Training Administration). An initial review by our Team found that, in general, MCSO considered the comments we had provided previously. Specific requirements related to this Paragraph were addressed in 3. Law Enforcement Training: E.1-3.

During this reporting period, we continued our review of the 2016 Supervisor Responsibilities: Effective Law Enforcement lesson plan. We have seen progress with the curriculum development during this reporting period. We also recognize that delivery of this training is significantly overdue. Unfortunately, unnecessary delay can be attributed to the actions of MCSO. On January 21, 2016, at the request of MCSO, we organized a conference call with the Parties to discuss the most recent comments to the lesson plan. Upon completion of that call, a revised version of the lesson plan was to be circulated by MCSO for review before our February site visit. This document was not provided until our site visit commenced, denying the Parties the opportunity for a comprehensive review before the visit, and necessitating changes to our site visit schedule. This was yet another indication of the lack of importance MCSO places upon their organizational training.

We affirmatively addressed the failure to provide Supervisory Training during our recent site visit. MCSO was directed that delivery of the Supervisory Training would begin on or before June 15, 2016. We also mandated the use of a train-the-trainer program that will begin on or before June 1, 2016. The critical organizational need for this training has been repeatedly reinforced in our review of administrative internal investigations and the decision-making processes they reveal. We require MCSO to direct whatever resources are needed to develop and begin delivery of this training before the end of the next reporting period.

We continue to collaborate with attorneys for the Plaintiffs, the Plaintiff-Intervenors, and the Defendants on the review of what is now the 2016 Supervisor Responsibilities: Effective Law Enforcement curricula. The final approved curriculum will incorporate adult-learning methods and include PowerPoint presentations, interactive learning exercises, and lecture. This lesson plan has now been reviewed several times in response to submissions from MCSO. The review process is ongoing.

We have not approved the Supervisory Training program.

MCSO is not in compliance with this Paragraph.

**Compliance Status:**

Phase 1: Not applicable

Phase 2: Not in compliance

**Paragraph 53.** *The Supervisor-specific Training shall address or include, at a minimum:*

- a. *techniques for effectively guiding and directing Deputies, and promoting effective and constitutional police practices in conformity with the Policies and Procedures in Paragraphs 18–34 and the Fourth and Fourteenth Amendment Training in Paragraphs 48–51;*
- b. *how to conduct regular reviews of subordinates;*
- c. *operation of Supervisory tools such as EIS;*
- d. *evaluation of written reports, including how to identify conclusory, “canned,” or perfunctory language that is not supported by specific facts;*
- e. *how to analyze collected traffic stop data, audio and visual recordings, and patrol data to look for warning signs or indicia of possible racial profiling or unlawful conduct;*
- f. *how to plan significant operations and patrols to ensure that they are race-neutral and how to supervise Deputies engaged in such operations;*
- g. *incorporating integrity-related data into COMSTAT reporting;*
- h. *how to respond to calls from Deputies requesting permission to proceed with an investigation of an individual’s immigration status, including contacting ICE/CBP;* i. *how to respond to the scene of a traffic stop when a civilian would like to make a complaint against a Deputy;*
- j. *how to respond to and investigate allegations of Deputy misconduct generally;*
- k. *evaluating Deputy performance as part of the regular employee performance evaluation;* and
- l. *building community partnerships and guiding Deputies to do the Training for Personnel Conducting Misconduct Investigations.*

Between January 1, and March 31, 2016, our eighth reporting period, MCSO continued making incremental progress on the 2016 Supervisor Responsibilities: Effective Law Enforcement Training program. A multi-day training schedule has been proposed for this training session.

We continue to recognize a consistent theme in the misconduct investigations we are reviewing as part of our other Court-assigned responsibilities, and that is a lack of Supervisory Training for anyone with supervisory authority, regardless of rank. No comprehensive Supervisory Training was delivered during this reporting period.

**Compliance Status:**

Phase 1: Not applicable

Phase 2: Not in compliance

## **COURT ORDER VIII. TRAFFIC STOP DOCUMENTATION AND DATA COLLECTION AND REVIEW**

### **Section 7: Traffic Stop Documentation and Data Collection**

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For Paragraphs 54 and 55, in particular, it was necessary for the Monitoring Team to request traffic stop data from MCSO. The following describes how we made that request and how we handled the data once we received it. These data may also be referred to in other areas of Section 8 and the report as a whole.

In selecting traffic stop cases for our compliance review, we modified our statistical technique in that, rather than selecting a representative random sample of 100 cases per quarter, we instead pulled a sample of about 35 cases per month (or 105 cases per quarter). Our original selection of a sample size of 35 cases was based on information from MCSO TraCS data that reported the average number of traffic stops per month was fewer than 2,000 during the April 2014 through June 2015 time period when TraCS data were first available. The selection of 35 cases reflects a sample based on this average per month. This gave us a 95 percent confidence level (the certainty associated with our conclusion).

The monthly sample of traffic stop cases continues to be pulled from the six districts (Districts 1, 2, 3, 4, 6, and 7) and Lake Patrol (the “areas”). By way of background, MCSO reported a total of 6,827 cases of traffic stop events for these areas between January 1, and March 31, 2016 (averaging 2,275 per month). We noticed an increase in traffic stops during 2015 and explored the reason(s) for the increase during that timeframe (July-November), and monitored the trend to see if it remained or was transitory. We individually interviewed three commanding officers about the significant increase in the citation rate and their answers were similar. They indicated that the anxiety with the Order’s additional requirements and the implementation of the new TraCS system were major contributors to the initial reduction in traffic stops. When TraCS came online, MCSO advised us that there was initial training; however, it was not documented. As deputies, with time, became more proficient with the system, their stop rates increased. We have observed that the previous increase in traffic stops has now leveled off and apparently was transitory. As it now stands, however, even with this increase in the number of traffic stops, the current sample size is quite sufficient to provide us with a 95% confidence level. We will continue to monitor the trend in traffic stops to determine if changes in the sample size are warranted at some future date.

Once we received files each month containing these traffic stop case numbers from MCSO, denoting from which area they came, we selected a sample of up to 35 cases representing the areas and then selected a subsample averaging 10 cases, from the 35 selected cases, to obtain CAD audiotapes. Our sampling process involved selecting a sample of cases stratified by the areas according to the proportion of specific area cases relative to the total area cases. Stratification of the data was necessary to ensure that each area was represented proportionally in our review. Randomization of the cases and the selection of the final cases for CAD review were achieved using a statistical software package (IBM SPSS Version 22), which contains a specific function that randomly selects cases and that also allows cases to be weighted by the areas. Our utilization of SPSS required that we first convert the MCSO Excel spreadsheet into a format that would be readable in SPSS. We next pulled the stratified sample each month for the areas and

then randomly selected a CAD audio subsample from the selected cases. In February 2016, we pulled cases for our body-worn camera review from the audio subsample. The unique identifiers for these two samples were relayed back to MCSO personnel, who produced documentation for the selected sample (including the CAD documentation for the subsample).

On October 10, 2014, the Court issued an Order Granting Stipulation to Amend Supplemental/Permanent Injunction/Judgment Order (Document 748). The stipulation affects Paragraphs 57, 61, 62 and Paragraph (1) (r) (xv); and has been incorporated in the body of this report. The stipulations referenced amends the Court's Order of October 2, 2013, and will be addressed in Chapter VIII.

**a. Collection of Traffic Stop Data**

**Paragraph 54.** *Within 180 days of the Effective Date, MCSO shall develop a system to ensure that Deputies collect data on all vehicle stops, whether or not they result in the issuance of a citation or arrest. This system shall require Deputies to document, at a minimum:*

- a. *the name, badge/serial number, and unit of each Deputy and posse member involved;*
- b. *the date, time and location of the stop, recorded in a format that can be subject to geocoding;*
- c. *the license plate state and number of the subject vehicle;*
- d. *the total number of occupants in the vehicle;*
- e. *the Deputy's subjective perceived race, ethnicity and gender of the driver and any passengers, based on the officer's subjective impression (no inquiry into an occupant's ethnicity or gender is required or permitted);*
- f. *the name of any individual upon whom the Deputy runs a license or warrant check (including subject's surname);*
- g. *an indication of whether the Deputy otherwise contacted any passengers, the nature of the contact, and the reasons for such contact;*
- h. *the reason for the stop, recorded prior to contact with the occupants of the stopped vehicle, including a description of the traffic or equipment violation observed, if any, and any indicators of criminal activity developed before or during the stop;*
- i. *time the stop began; any available data from the E-Ticketing system regarding the time any citation was issued; time a release was made without citation; the time any arrest was made; and the time the stop/detention was concluded either by citation, release, or transport of a person to jail or elsewhere or Deputy's departure from the scene;*
- j. *whether any inquiry as to immigration status was conducted and whether ICE/CBP was contacted, and if so, the facts supporting the inquiry or contact with ICE/CBP, the time Supervisor approval was sought, the time ICE/CBP was contacted, the time it took to complete the immigration status investigation or receive a response from ICE/CBP, and whether ICE/CBP ultimately took custody of the individual;*

- k. *whether any individual was asked to consent to a search (and the response), whether a probable cause search was performed on any individual, or whether a pat-and-frisk search was performed on any individual;*
- l. *whether any contraband or evidence was seized from any individual, and nature of the contraband or evidence; and*
- m. *The final disposition of the stop, including whether a citation was issued or an arrest was made or a release was made without citation.*

MCSO developed several policies that, in concert, incorporate the requirements of these Paragraphs. These include: EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) dated September 22, 2014; EB-2 (Traffic Stop Data Collection) dated September 22, 2014 and amended December 17, 2015; EA-5 (Enforcement Communications), amended October 29, 2015; and CP-8 (Preventing Racial and Other Bias-Based Profiling), dated September 5, 2014. We note that these four policies underwent several revisions, and all were finally approved in September 2014 and disseminated during the Fourth and Fourteenth Amendment training conducted from September through December 2014. According to documents received, 99% of the sworn, compensated personnel were trained, and all existing Posse members attended the training as of the close of the reporting period.<sup>2</sup>

To capture the information required for this Paragraph, MCSO created, and we reviewed, the Vehicle Stop Contact Form, the Vehicle Stop Contact Form Supplemental Sheet, the Incidental Contact Receipt, and the Written Warning/Repair Order, all in electronic form, for those motorists who commit a traffic violation or are operating a vehicle with defective equipment and provided with a warning. We also reviewed the Arizona Traffic Ticket and Complaint Forms issued for violations of Arizona Statutes, Internet I/Viewer Event Unit printout, Justice Web Interface printout, and any Incident Report associated with the event. We selected a sample of 105 traffic stops conducted by MCSO deputies from January 1, through March 31, 2016 for purposes of this review; and assessed the collected data from the above-listed documents for compliance with Subparagraphs 54.a.-54.m. All of the listed documentation was used for our review of the following subsections of this Paragraph.

The Paragraph requires that MCSO create a system for data collection. The data collected pursuant to this Paragraph will be captured in the Early Identification System, which we discuss further in subsequent sections of this report. We previously participated in a ride-along with a deputy in the Lake Patrol to observe, firsthand, the process utilized by MCSO in conducting traffic stops.

Paragraph 54.a. requires MCSO to document the name, badge/serial number, and unit of each deputy and Posse member involved. Our review indicated that in the 105 vehicle traffic stops, there were 24 cases where the deputy's unit had another deputy assigned to the vehicle or one or more other deputy units or Posse members were on the scene (134 total deputies on the scene). In three cases involving secondary units who arrived on the scene, the deputies' names, and serial and unit numbers were not listed on the VSCF. In another case, the secondary unit did not have a unit number listed; and in another case, both deputies in the same unit had identical serial

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<sup>2</sup> Failure to attend the training resulted in de-selection from the Posse Program.

numbers listed on the VSCF. For this reporting period, the primary deputies indicated their own unit and serial numbers for every stop they initiated. We review the Vehicle Stop Contact Form, I/Viewer Event document, the Justice Web Interface, and the CAD printout to determine which units are on the scene. We should note that if back-up units arrive on a scene and do not announce their presence to dispatch, CAD does not capture this information. We previously recommended that MCSO create a drop-down box to identify additional passengers in a vehicle, and it has worked well. We recommended that MCSO place a mandatory field on the Vehicle Stop Contact Form that indicates the number of units on the scene that would automatically create a drop-down box for additional units to be listed. CID personnel advised that they would look into this technical change during our July 2015 site visit, and made the change during the subsequent reporting period.

On every traffic stop, the deputy completes the Vehicle Stop Contact Form whether s/he writes a citation or issues a warning. During our September 2014 site visit, CID advised us that a programming change had been made to the Vehicle Stop Contact Form; and if the deputy fails to indicate his/her unit number in the appropriate box, the system will not allow the deputy to complete the form. Similarly, MCSO made the serial and unit numbers of secondary units mandatory fields if a deputy's name is listed on any form as a back-up unit. Deputies must be diligent by inputting correct serial and unit numbers in the system, as it will not detect incorrect numbers. During our April 2015 site visit, MCSO advised us that it had been working on a technical fix with TraCS that would allow deputies to input the ethnicity (Hispanic) of the violator on the Arizona Traffic Complaint. This change was implemented during the third quarter of 2015. In its prior iteration, the Arizona Traffic Complaint Form did not recognize Hispanic as an ethnicity.

The identity of personnel on such scenes is a core issue in this case, and we shall consistently evaluate the agency's measure of compliance with this requirement. We found that the deputies' names, and serial and unit numbers, were listed, with few exceptions, on all required forms and identified on the Vehicle Stop Contact Form. The Order requires that all deputies on the scene be identified with their names, serial and unit numbers on the appropriate forms. We noted five instances where the name, serial number or unit number was not listed on the VSCF by the primary deputy. MCSO's compliance rate is 95% for this reporting period. MCSO was in compliance with this Subparagraph during the previous quarter and is now demonstrating some consistency with its ability to remain compliant with this Subparagraph.

Paragraph 54.b. requires MCSO to document the date, time, and location of the stop, recorded in a format that can be subject to geocoding. Our reviews of the CAD printout for all 105 traffic stops in our sample indicated that the date, time, and location is captured with the time the stop is initiated and the time the stop is cleared. In previous reporting periods, we noted instances where the GPS coordinates could not be located on the documentation received (CAD printout/I/Viewer). We contacted MCSO about this issue and MCSO is now providing us with the GPS coordinates by way of a separate document that lists the coordinates for the traffic stop samples we provide. MCSO uses GPS to determine location for the CAD system. GPS collects coordinates from three or more satellites to enhance the accuracy of location approximation. The data from the satellites can be decoded to determine the longitude and latitude of traffic stop locations should that be necessary. We have recommended that BIO conduct an inspection of

GPS coordinates during its monthly audits of the traffic stop data. The CAD system was upgraded in 2014 to include geocoding of traffic stops. CID will provide us with a printout of all case numbers in the sample containing the associated coordinates. The CAD or I/Viewer system contains the coordinates in about 85% of the cases. MCSO provided all GPS coordinates for the 105 cases we reviewed, for 100% compliance.

Occasionally the CAD time of stop and end of stop time do not exactly match those listed on the Vehicle Stop Contact Form due to extenuating circumstances the deputy may encounter. During this reporting period, we found four instances where the start or end time on the Vehicle Stop Contact Form differed by five minutes or more from the CAD printout without any explanation from the deputy involved in the stop. The CAD system is more reliable than the VSCF in determining stop times, as it is less prone to human error. When the deputy verbally advises dispatch that s/he is conducting a traffic stop, the information is digitally time-stamped into the CAD system without human input; and when the deputy clears the stop, s/he again verbally advises dispatch. We had discussions with ASU and MCSO about utilizing the CAD printout instead of the TraCS data to determine stop times. It was determined that utilizing the CAD system to determine stop times created additional challenges and at this juncture ASU will continue to utilize the TraCS system to determine the stop and end times of traffic stops. MCSO's compliance rate is 96% for this portion of the Subparagraph.

Paragraph 54.c. requires MCSO to document the license plate and state of the subject vehicle. In our last five quarterly reports, we noted improvement in deputies' ability to capture this information. During this reporting period, we found that deputies properly recorded the vehicle tag number and state of issuance in 104 cases; in one case, the deputy initially entered an incorrect tag number but later discovered his error and entered the correct number. Five of the stops were of vehicles titled in another state. We found that many of the stops made by deputies were for speeding, invalid license plates, or expired vehicle registrations. MCSO is in compliance with this Subparagraph with a compliance rate of 100%.

Paragraph 54.d. requires MCSO to document the total number of occupants in the vehicle when a stop is conducted. In 49 of these stops, more than one occupant occupied the vehicle (82 total passengers). The Vehicle Stop Contact Form, completed by the deputy on every traffic stop, is utilized to capture the total number of occupants and contains a separate box on the form for that purpose. There was one traffic stop where the deputy listed one passenger on the VSCF, but failed to identify the ethnicity or gender of the occupant of the vehicle. In another stop, the deputy ran a warrant check on a person who was not the driver, and did not indicate this on the VSCF. (See Para 54f). We determined that this individual was not a passenger in the vehicle. In this case, the vehicle was to be towed, but the deputy allowed the Latina female driver to call a friend to take possession of the vehicle; and the deputy ran a records check on the friend. MCSO's compliance rate was 100% for this Subparagraph.

Paragraph 54.e. requires MCSO to document the perceived race, ethnicity, and gender of the driver and any passengers, based on the deputy's subjective impression. (No inquiry into the occupant's ethnicity or gender is required or permitted.) In 49 of the 105 stops, there was more than one occupant in the vehicle. In our review of the traffic stops, all drivers were identified on the VSCFs. The compliance rate for identifying the race/ethnicity and gender of the driver is 100%.

Our review indicated that there were 49 stops where 82 passengers were identified as occupants of the vehicles. In one case, the deputy failed to identify the race/ethnicity or gender of a passenger although the drop-down box for passenger information was clearly visible on the VSCF. In another case involving two passengers (one in the rear seat), the deputy advised that he could not see the rear seat passenger and advised on the VSCF that his vision was obstructed. The vehicle was a large Nissan Armada SUV with dark tinted glass on the rear windows. (The second deputy in the unit had a body-worn camera that was activated and we reviewed the footage.) From the video, we could identify that there were two persons in the front seats so the primary deputy should have been able to identify the front seat passenger as the driver's window was down. In order to see the passenger in the rear seat, the deputy would have to intrude into the vehicle for identification. Tactically, for the safety of both deputies, identification of both passengers should have occurred. When a deputy indicates two or more passengers in the vehicle on the Vehicle Stop Contact Form, a drop-down box automatically displays additional boxes for the deputy to document the passengers' information. MCSO has advised us that it has instructed deputies not to indicate the word "unknown" when describing the race/ethnicity of drivers or passengers. The compliance rate for identifying the race/ethnicity and gender of the passengers is 99%.

The persons stopped included 40 white male drivers, 30 white female drivers, 19 Latino male drivers, seven Latina female drivers, four Black male drivers, two Indian/Alaskan male drivers, one Asian/Pacific Islander male driver, and two Asian/Alaskan female drivers. We did not find any indications of apparent bias in the sample of traffic stops we reviewed. In addition, when BIO conducts audits of the traffic stop data, it issues memorandums to the individual districts so that they can learn of any deficiencies and provide corrective action. Most of the deficiencies involving identification of the race/ethnicity and gender of passengers have been corrected. We have observed continued improvement in deputies' abilities to identify the ethnicity and gender of passengers. The district captains are required to respond to BIO with comments on violations, or with corrective action if required. We review the internal audits and associated matrices conducted by MCSO, and occasionally we will disagree with their findings.

There were 34 instances where deputies chose to issue warnings to drivers instead of issuing citations. Thirty-three percent of the 105 traffic stops we reviewed resulted in a written warning. The ethnic breakdown of those receiving warnings somewhat reflected the numbers indicated in the number of total stops. The breakdown of those motorists issued warnings is as follows: 11 white males (27%); 13 white females (43%); three Latino males (16%); three Latina females (43%); one Black male (25%); two Asian/Pacific Islander females (100%) and one Asian/Pacific Islander male (100%). There was a significant drop in the percentage of Latino males receiving warnings this quarter; we will monitor this decrease in the next reporting period. Nineteen Latino males were stopped for traffic violations during this reporting period.

We reviewed documentation where BIO forwards memorandums to the District Commanders when their audits found that deputies were not following protocol when completing required documentation for traffic stops. Previously, deputies did not indicate the race, ethnicity, or gender of passengers when no contacts were made with them. The Order requires MCSO deputies to document the perceived race, ethnicity, and gender of any passengers whether contact is made with them or not. MCSO is aware of the deputies' failure to indicate the race/ethnicity

of passengers when no contact is made with them, and has made a technical change to TraCS that now includes a drop-down box on the VSCF to automatically add additional passenger fields on the form when the deputy indicates the total number of occupants in the vehicle. We have observed that the efforts put forth by MCSO staff have improved the capture of the ethnicity and gender of passengers. The Order does not require the names of passengers unless a passenger is contacted and the reason for the contact is documented. In those instances where contact is made, the passenger's name should be listed on the Vehicle Stop Contact Form.

MCSO previously achieved compliance with this Subparagraph. There were a total of 187 occupants (105 drivers and 82 occupants), with three passengers not being identified by race, ethnicity, or gender, for a compliance rate of 98%. MCSO will remain in compliance with this Subparagraph.

Paragraph 54.f. requires that MCSO record the name of any individual upon whom the deputy runs a license or warrant check (including the subject's surname). When we reviewed traffic stop documentation for our first quarterly status report, there were only two individuals identified during the 94 traffic stops that had queries (warrant checks) indicated on the CAD printout or the I/Viewer system. When we visited one of the districts during our September 2014 site visit, we interviewed a deputy who indicated that license plate or driver record checks are made on almost every traffic stop. We inquired further and the deputy produced a copy of a record check on the Intergraph "I/Viewer." However, we did not receive the information from the Intergraph "I/Viewer system for our first report. We did review 'I/Viewer' checks deputies had run beginning with our second quarterly report. In addition, on the deputy's Mobile Data Computer (MDC), there is an icon that allows the deputy to run checks on the Justice Web Interface (JWI). This system provides deputies additional tools that Intergraph CAD does not, such as photographs, criminal history and booking history. MCSO provided a mechanism to verify the existence and access to the JWI in the samples we request. MCSO indicated in a memorandum dated October 8, 2014 that it would provide the documentation beginning with our October sample request. MCSO provided the Intergraph I/Viewer System and the JWI documentation for the October-December 2014 quarter for our review, and provided it in all of our subsequent monthly requests.

For this reporting period, we found that in the 105 traffic stops conducted all stops included a check on the license plate and there were 83 stops where the driver or passengers had a warrant check run. There were three stops that involved the deputy running a warrant check on passengers. In one of the cases, the passenger was arrested for an outstanding warrant; in another case, the passenger was checked for a valid driver's license due to the deputy releasing the vehicle to the passenger in lieu of towing the vehicle. In the remaining case, two passengers occupied the vehicle; and the deputy could smell the odor of marijuana coming from the vehicle. In addition to running a warrant check on the driver, the deputy also ran a warrant check on the two passengers. There was one other case, not involving a passenger, where a deputy ran a warrant check. In this case, the Latina female driver was driving with a suspended license and the vehicle was to be towed. There was an infant in the vehicle. The deputy allowed the woman to call a friend to drive the vehicle in lieu of towing. The friend was not a passenger and not listed on the VSCF, but was documented on the CAD printout, the Incident Report, and I/Viewer system.

The percentages of warrant checks run by deputies by ethnicity of drivers stopped for traffic violations is as follows: white males, 75%; white females, 76%; Latino males, 84%; Latina females, 100%; Black males (100%); Indian/Alaskan males (50%) and two Asian/Pacific Islander females (100%). We did note a decrease from the previous reporting period of warrant checks on Latino drivers, and we will continue to pay particular attention to this issue in the future. MCSO's compliance rate is 100%, and it is compliant with this Subparagraph.

Paragraph 54.g. requires the deputy to document whether contact was made with any passengers, the nature of the contact, and the reasons for the contact. Due to the low number of cases where contact is made with passengers in our sample of 105 traffic stop cases per quarter, we pulled an additional sample for those cases involving passenger contacts. For this reporting period, we reviewed 33 cases where passengers initiated contact with the deputy or the deputy contacted the passenger. In 17 cases, the deputy verified the drivers licenses of the passenger, so the vehicle would not be towed; in three cases, the deputy advised the passenger the vehicle was being towed; in two cases, the passenger asked the deputy for a courtesy ride or to arrange transportation; in one case where the odor of marijuana was present, an investigation was conducted; in one case, contact was made with the passenger to assist in locating insurance documents; in one instance, the passenger interpreted for the driver; in one case, a stolen vehicle was recovered; in one case, the passenger was advised of a seat belt violation; in one case, the passenger was advised that the driver was arrested on a warrant; in one case, the passenger was contacted due to an open container of alcohol; in one case, the deputy indicated "general conversation"; in one case, the passenger asked the deputy how to obtain a temporary license plate; and in the remaining case, the deputy spoke with the passenger who was assisting the driver in locating insurance documents for the vehicle.

There was an additional stop where the deputy indicated the reason for the passenger contact was routine investigation. The traffic stop was for an expired registration where the violator received a warning. There was no indication from the deputy as to why this passenger was contacted or what investigation the deputy was conducting that would involve the passenger. The passenger in this case was a Latino male. Deputies must be explicit in their descriptions of why passengers are contacted. MCSO continues to make changes to the Vehicle Stop Contact Form to make the forms easier for the deputies to complete and capture the information required by the Order.

To ensure that deputies are accurately capturing passenger information and verify if passengers are contacted, we compare the number of passengers listed by the deputy with the number of passengers entered in the passenger drop-down box on the Vehicle Stop Contact Form. We also review the deputies' notes on the VSCF, the Arizona Citation, and the CAD printout for any information involving the passengers. We reviewed MCSO's I/Viewer System and the Justice Web Interface (JWI) to verify if a record check was requested for the driver or any passengers.

Deputies must ensure that they explain why they made contact with any passengers. Indicating moving, non-moving violation, or contact during a traffic stop as a reason for the stop describes *why* they stopped the driver, but not *why they made contact* with any passengers.

In our experience, the vast majority of traffic stops do not require contact with a passenger unless the driver is arrested, the vehicle will be towed, or there are minor children in the vehicle that will need care. If contact with a passenger is made, deputies should indicate the name of the person contacted. Due to the infrequent contact of passengers during traffic stops, deputies must be diligent in documenting passenger contacts as one or two violations have a direct impact on compliance. During previous meetings with MCSO staff, we explored the possibility of developing a mechanism to increase the number of samples we review for compliance with the requirements of this Paragraph. MCSO advised us that the TraCS system had the ability to segregate all stops where passengers were contacted. For the first quarter of 2016, we pulled additional samples of these cases (passenger contacts) for a more complete review. MCSO's compliance rate for this Subparagraph is 99%, an increase over the previous reporting period's 84%.

Paragraph 54.h. requires deputies to record, prior to the stop, the reason for the vehicle stop, including a description of the traffic or equipment violation observed, and any indicators of criminal activity developed before or during the stop. For this review, we took a random sample of 10 cases from the 35 cases we initially requested each month for a CAD audio review. We listened to 30 CAD dispatch audio recordings and reviewed 17 body-worn camera recordings from the sample of 105 traffic stops used for this review; and found that the deputies advised Communications of the reason for the stop, location of the stop, and license plate and state of registration for the 30 stops. The audio recordings we reviewed were clear, and the deputy advised of the reason for the stop in all 30 of these cases.

We found one case, which was not in the sample of CAD audio recordings, where the deputy was not specific in describing the traffic violation on the VSCF. There were no deputy notes on the VSCF or the Arizona Traffic Complaint that would clarify the reason for the stop.

There were 75 instances in our sample where we did not listen to the CAD audiotapes, but reviewed the CAD printout where the reason for the stop, if advised by the deputy, is documented by the dispatcher. The VSCF and the CAD printout documents the time the stop begins and when it is concluded – either by arrest, citation, or warning. Deputies need to be precise when advising dispatch of the reason for the traffic stop and likewise entering that information on the appropriate forms. Both MCSO's internal audits and our reviews in the past have identified issues with deputies entering inaccurate information on the forms; for the most part, this issue has been corrected.

MCSO's compliance rating for this Subparagraph remains at 99%. MCSO remains compliant with the requirement of this Subparagraph.

Paragraph 54.i. requires deputies to document the time the stop began; any available data from the E-Ticketing system regarding the time any citation was issued; the time a release was made without a citation; the time any arrest was made; and the time the stop/detention was concluded either by citation, release, or transport of a person to jail or elsewhere or the deputy's departure from the scene. In our review of the documentation provided, the CAD printouts, the Vehicle Stop Contact Forms created by MCSO along with the E-Ticketing system and the Arizona Ticket and Complaint form capture the information required. As we noted in Subparagraph 54b, the stop times on the CAD printout and the Vehicle Stop Contact Form varies slightly on occasion.

We understand that this may occur due to extenuating circumstances, and we reported on those that were five minutes or more in duration from either the initial stop time or end time. We found four traffic stops where the stop or end time of the stop differed by more than five minutes between the Vehicle Stop Contact Form and the CAD printout. Two of these cases involved a Latino male. In one case the Latino male was driving a vehicle with an expired tag (tag was seized). The driver also had a suspended driver's license; the deputy cited and released the driver. In the second case involving a Latino male the driver was cited for failing to maintain lanes. The other two instances where stop or end times differed involved a white female warned for speeding and an Indian/American male who was cited for a suspended license plate.

Some stops vary in time for any number of reasons that may, or may not, be justified. We looked at all stops in our sample, and found one traffic stop where the duration of the stop was excessive and not justified. The stop involved a white female driver who was stopped for driving without headlights at night. From the documentation we reviewed a supervisor subsequently arrived on the scene and spoke with the deputy for some length of time. The driver was issued a warning and released; however, the times indicated by the deputy on the VSCF and CAD printout show a stop length of 36 minutes. The deputy did advise of an explanation for his failure to clear the call. He stated that he was speaking with his supervisor and he forgot to check back in service. There were 14 other extended stops that were justified due to the circumstances of the stops. (See 25.g. and 25.h. for details of the extended stops.) When we review the extended stops, we examine issues such as whether or not a crime was involved, was an arrest made, was property seized, whether the vehicle was towed, or whether there were other extenuating circumstances that caused the delay.

When we compared the traffic stop beginning and ending times for all cases reviewed during the quarter, we found four percent of the stops where the times indicated on the CAD printout and Vehicle Stop Contact Form differed by more than five minutes without any explanation by the deputy. In our experience reviewing MCSO's traffic stop forms, these instances are attributed to input error. Supervisors, during their review of their subordinates' traffic stops, should correct these deficiencies or ensure that additional training is provided. Deputies accurately entered beginning and ending times of traffic stops in 96% of cases reviewed.

All traffic stops resulting in citations contained the time of issuance. In previous reviews we would find one or two cases where the time the citation was issued would be incorrect; for this review the deputies accurately recorded the time of issuance in all cases. The supervisors conducting the review of the deputies' traffic stops should be able to discover deputy input error prior to our reviews. When the Body-Worn Cameras are fully implemented, they will provide another tool for MCSO supervisors to monitor stop times of subordinates. MCSO correctly entered the time citations were issued in all 105 cases for a compliance rate of 100%.

MCSO is in compliance with this Subparagraph.

Paragraph 54.j. requires MCSO to document whether any inquiry as to immigration status was conducted and whether ICE/CBP was contacted, and if so, the facts supporting the inquiry or contact with ICE/CBP, the time supervisor approval was sought, the time ICE/CBP was contacted, the time it took to complete the immigration status investigation or receive a response from ICE/CBP, and whether ICE/CBP ultimately took custody of the individual. Our review of the collection of the traffic stop data for this reporting period did not reveal any immigration status investigations. MCSO has advised us that it is no longer conducting immigration investigations when deputies initiate traffic stops. We will continue to verify this assertion in our reviews.

On November 7, 2014, a United States District Court Judge issued an Order permanently enjoining enforcement of Arizona Revised Statute (A.R.S.) 13-2319, commonly referred to as the Arizona Human Smuggling Act. On November 17, 2014, MCSO issued Administrative Broadcast 14-75, prohibiting deputies from enforcing the above state statute, including arresting, detaining, or questioning persons for suspected (or even known) violations of the act and from extending the duration of traffic stops or other deputy-civilian encounters to do so. There were no traffic stops during this reporting period that indicated deputies were conducting immigration inquiries. MCSO is in compliance with this Subparagraph.

Paragraph 54.k. requires MCSO to document whether any individual was asked to consent to a search (and the response), whether a probable-cause search was performed on any individual, or whether a pat-and frisk search was performed on any individual. In our review, we did not find any indications where an individual was asked for a consent search or of any individual who was frisked during the stop. We identified 17 instances where an arrest was made for a criminal traffic offense and 15 of the violators were cited and released. One of the traffic stops resulted in a physical arrest; in this case, the passenger of the vehicle was arrested on an outstanding warrant after the deputy ran a warrant check and a search incident to arrest occurred. There were five other cases where a search incident to arrest occurred and four of those were properly documented. In the remaining case, involving a white male driver, the criminal traffic arrest was for driving with a suspended license. The deputy indicated on the VSCF that a search of the driver was not conducted. We reviewed the body-worn camera recording of this stop and could clearly observe the deputy conducting a search of the individual who was positioned against the patrol vehicle. The search was legal as the offense was for a criminal charge and the driver advised the deputy he had a firearm in the vehicle. MCSO's compliance rate is 80% for this Subparagraph. Two consecutive quarters of non-compliance will remove MCSO from compliance. In the majority of cases where MCSO charges violators for a criminal traffic violation, the violator is cited and released. MCSO remains in compliance with this Subparagraph due to its compliance in the previous quarter.

Paragraph 54.l. requires MCSO to document whether any contraband or evidence was seized from any individual, and the nature of the contraband or evidence. During our review of the collected traffic stop data during this reporting period, we noted nine cases where deputies made a criminal traffic arrest and seized the offending driver's license or license plate and placed it in evidence. Five of the cases involved white males, three cases involved white females, and one case involved a Latino male. There were no other stops where contraband or evidence was seized. MCSO is in compliance with this Subparagraph.

Paragraph 54.m. requires the documentation of the final disposition of the stop, including whether a citation was issued or an arrest was made or a release was made without a citation. In the 105 cases we reviewed, we found documentation indicating the final disposition of the stop, whether an arrest was made, a citation issued, a warning was given, or a release was made without a citation. MCSO is in compliance with this Subparagraph with a compliance rating of 100%.

To be compliant with Paragraph 54 of the Order, all Subparagraphs must be in compliance. MCSO is in compliance for this reporting period, but risks falling out of compliance during the next reporting period if all Subparagraphs are not in compliance for two successive quarters.

**Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

***Paragraph 55.** MCSO shall assign a unique ID for each incident/stop so that any other documentation (e.g., citations, incident reports, tow forms) can be linked back to the stop.*

We reviewed policy EA-5 (Enforcement Communications), amended October 29, 2015, which complies with the Paragraph requirement.

During our June 2014 site visit, we met with the Deputy Chief of the Technology Bureau, who confirmed that the unique identifier went live when MCSO implemented the CAD system in September 2013. This number provides the mechanism to link all data related to a specific traffic stop. The number is automatically generated by the CAD software and is sent to the deputy's MDT at the time of the stop. We have visited the Communications Center (Dispatch) or met with the Communications Commander in all of our previous site visits and again during our April 2016 visit. The unique identifier is visible and displayed at the top of the CAD printout and also visible on the Vehicle Stop Contact Form, the Arizona Traffic Citation and the Warning/Repair form. During our April 2015 visit, we asked how the CAD printout is coded if a deputy is dispatched as a back-up and is then cancelled prior to arrival. These situations do occur occasionally, and for our assessment of numbers of personnel on the scene of traffic stops, we requested clarification. Communications provided us with a code sheet for all numerical codes listed on the CAD printout.

We visited two districts during our April 2016 site visit, and there were no indications from any personnel that there were recurring issues with the unique identifier (MCSO's Event Number that is dispatched out of Communications for every traffic stop).

Once the deputy scans the motorist's driver license, the system automatically populates most of the information into one or more forms required by the Order. If the data cannot be entered into TraCS from the vehicle (malfunctioning equipment), policy requires the deputy to enter the written traffic stop data electronically prior to the end of the shift. We found that the start and end times of the traffic stop does not populate to the Vehicle Stop Contact Form from the CAD system.

Since our first visit for monitoring purposes in June 2014, TraCS has been implemented in all districts and the unique identifier (CFS number) is automatically entered from the deputy's MDT; no user intervention was required. TraCS administrators discovered that the Event Number (unique identifier) was being duplicated on the Vehicle Stop Contact Forms. The Event Number was previously auto-populated by CAD; however, when connection to CAD was lost because of dead zones, CAD populated the last known number, which assigned an incorrect number to the stop. To overcome this deficiency, deputies now manually enter the CAD-supplied unique Event Number on the Vehicle Stop Contact Forms and a warning alert is given, prompting the deputy to confirm the number.

To determine compliance with this requirement, we reviewed 105 traffic stop cases and reviewed the CAD printouts and the Vehicle Stop Contact Forms for all stops. We reviewed the Warning/Repair Forms, when applicable, for those stops where a warning was issued or the vehicle had defective equipment. The unique identification number assigned to each event was listed on all CAD printouts for every stop. We found the original event numbers (MC numbers) listed on the CAD printout matched the event numbers listed on the VSCF, citation, and the Warning/Repair Forms. In most cases, when deficiencies occur they can be attributed to the deputy inputting incorrect data. MCSO is compliant with this Subparagraph with a compliance rate of 100%.

**Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

***Paragraph 56.** The traffic stop data collection system shall be subject to regular audits and quality control checks. MCSO shall develop a protocol for maintaining the integrity and accuracy of the traffic stop data, to be reviewed by the Monitor pursuant to the process described in Section IV.*

Policy EB-2 (Traffic Stop Data Collection), effective September 22, 2014, addresses the issue of regular audits and quality control checks. We recommended in our first quarterly report that the policy distinguish between the two. While audits require in-depth analysis, quality control checks serve as more of an inspection or spot-check of the data. MCSO made the required distinction between the two and changed the policy to comply.

We received the protocol developed by MCSO for maintaining the integrity and accuracy of the electronic traffic stop data contained in the TraCS system. The TraCS system allows deputies to open any traffic stop form available to them and create a new instance of data for the type of form selected (Citation, Incidental Contact, Warning, or Vehicle Stop Contact Form). For example, if a deputy makes a traffic stop and intends to issue a citation he would open the citation form and a new instance of the citation data would be created during the data entry process. In all cases, the deputy creating a new data form is the only user that can update the data via the TraCS application. All forms lock the data entry process when the form has been marked "Issued" or "Completed," prohibiting any other user access.

Outside the TraCS application, Technology Bureau staff manage the servers and database that run the system and consequently, the staff have access to the information in the system. Currently there are a small number of users – the System Administrator, Application Development Supervisor, Reports Developer, and TraCS Administrator – who have access to this information. MCSO's protocol for maintaining the integrity and accuracy of the traffic stop data contained in electronic form is compliant.

During our 2015 inspections of the traffic stop records located at the districts, we discovered that the paper records of traffic stops generated prior to TraCS implementation were not secure. We spoke with CID personnel on how to remedy this situation while we were onsite. The paper records are maintained at the districts and follow assigned personnel when they are transferred to other assignments. MCSO did have a protocol that requires written traffic stop data to be located at the districts, but it did not include maintaining the integrity and accuracy of the paper records. We advised MCSO during our April 2015 site visit that these issues must be addressed by a written protocol or modification of the policy. During our July 2015 site visit, we visited four districts and inspected the security of the written traffic stop data in three; two of the districts' data was secure, and one was not secure and in violation. On September 8, 2015, MCSO issued Administrative Broadcast 15-96, which addressed the security of paper traffic stop forms. The new procedure requires that paper forms (prior to April 1, 2014) be kept in a locked cabinet box at the district. Any personnel who require access to those files must contact the division commander or his designee who will unlock the cabinet. Once the deputy accesses his file a TraCS file log must be completed and signed by the deputy. During our April 2016 site visit, we visited District 4 and the Lake Patrol; and inspected the written (paper) files and the TraCS file log. All records were locked and secure. We conducted a random review of written traffic stop data (dating back to 2014) in both of the above-mentioned districts to ensure that the written (paper) traffic stop data was maintained for five years. Staff was able to provide the appropriate documentation in every case we requested.

MCSO advised us that it audited traffic stop data in January 2014 and again beginning in April 2014. After the January 2014 audit, new handwritten forms were created to collect the data required by policy until full electronic data entry began on April 1, 2014. CID personnel advise that they have conducted spot audits that were directed at portions of data or the actions of individual deputies. CID provided us with an audit during our September 2014 site visit, and continues to provide us monthly audits of a sample of traffic stops that we select. We reviewed BIO's monthly audits of the traffic samples from January 1, through March 31, 2016, and found them to be satisfactory. To achieve compliance with this Paragraph, MCSO provided the protocol specifically addressing the requirements for maintaining the integrity and accuracy of the written traffic stop data. During our October 2015 site visit, MCSO advised us that it was in the process of amending policy EB-2 (Traffic Stop Data Collection) to include the requirements set forth in Administrative Broadcast 15-96. EB-2 (Traffic Stop Data Collection) was amended on December 17, 2015. The approved policy also requires regularly scheduled audits on a monthly, quarterly, and annual basis. MCSO is now in compliance with this Paragraph.

**Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

*Paragraph 57. MCSO shall explore the possibility of relying on the CAD and/or MDT systems to check if all stops are being recorded and relying on on-person recording equipment to check whether Deputies are accurately reporting stop length. In addition, MCSO shall implement a system for Deputies to provide motorists with a copy of non-sensitive data recorded for each stop (such as a receipt) with instructions for how to report any inaccuracies the motorist believes are in the data, which can then be analyzed as part of any audit. The receipt will be provided to motorists even if the stop does not result in a citation or arrest.*

The system for providing “receipts” is outlined in EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) and EB-2 (Traffic Stop Data Collection). MCSO initially developed and submitted a body-worn camera policy that did not meet all the requirements of the Order. MCSO submitted copies of the original policy to the Monitor and Plaintiffs on December 24, 2014 for comments. MCSO incorporated our comments into the new policy, GJ-35 (Body Worn Cameras), issued on June 24, 2015. GJ-35 addresses the part of the Order that requires supervisors to review the recordings to check whether deputies are accurately reporting stop length. In addition to the new policy, BIO developed a Body-Worn Camera Matrix for their inspectors to review camera recordings. It would be appropriate for supervisors conducting their reviews of subordinates’ videos to use the same form.

Every person contacted on a traffic stop will be provided with an Arizona Traffic Ticket or Complaint (Citation), a Written Warning/Repair Order (Warning), or an MCSO Incidental Contact Receipt. During this reporting period, there were 34 incidents where the deputy gave a warning to the motorist for a traffic violation; and in four cases, the deputy failed to have the violator sign the Warning/Repair Form. The deputies wrote “SERVED” in the box requiring a signature for the warning. In two other cases where warnings were issued, the involved deputies completed the Warning/Repair Order Passenger Contact form in error. We met with CID personnel during our April 2016 site visit, and advised that we had observed that some deputies completed an incorrect form when issuing warnings for drivers. One form is specifically for drivers who commit a traffic violation and is issued a warning; the other form is utilized when a deputy makes a traffic stop and has a verbal interaction with a passenger. The confusion occurred when the deputy pulled up the Warning/Repair form in TraCS and both the above-mentioned forms were displayed. CID personnel advised they would issue a bulletin to clarify the issue. We reviewed one traffic stop where a citation was issued and the deputy failed to have the violator acknowledge receipt.

To verify compliance that the violator received the required “receipt” from the deputy, a signature is required, or, if the violator refuses to sign, the deputy may note the refusal on the form. We cannot verify that motorists have been issued a receipt without a signature on the form or the deputy advising of the refusal of the receipt from the driver. Placing “SERVED” in the signature box without any explanation does not comply with the requirement. We acknowledge

that, on some occasions during previous reviews, deputies have made an effort to document why a receipt was not obtained. In previous reports there were complaints by deputies that scanners would not scan driver's signatures on the Arizona Citation or the Warning/Repair form issued when the deputy decides a warning would suffice. For this quarter we did not receive any complaints that deputies' ability to scan signatures was an issue. During our October 2015 site visit, MCSO personnel advised us that there were alternatives that deputies can use to capture the required signatures, such as photographing the signature and adding it as an attachment. There was one Incidental Contact Form provided by MCSO during this reporting period. MCSO's compliance for this portion of the Subparagraph is 80%. We note that deputies have made progress completing the VSCF, Arizona Traffic Complaint and the Warning/Repair Form.

There were 70 citations, 34 warnings, and one incidental contact form issued during this quarter. In the case involving the incidental contact, the deputy ran a query on a tag and it came back as expired. The deputy approached the vehicle, examined the registration, determined that he had inputted an incorrect tag number in the system, and therefore issued an Incidental Contact Form.

The approved policy dictates that the CAD system will be used for verification of the recording of the initiation of the stop. The deputy verbally announces the stop's termination on the radio, and then CAD permanently records this information. Once MCSO fully implements body-worn recording equipment, MCSO will have developed and approved policies that will address its use in verifying stop duration. We will review the video recordings once the body-worn camera system is fully operational to verify whether deputies are accurately reporting stop length and if motorists are issued a receipt. The body-worn camera footage is not time-stamped. However, we receive a printout from Taser of every stop that indicates the exact time the body-worn camera was activated. There is a running time bar located at the bottom of video recording that indicates the length stop, so we can calculate the duration of the stop and compare it with the times indicated on the VSCF and CAD printout. During our October 2015 site visit, we learned in meetings with two Deputy Chiefs that 95% of the deputies had been trained on the body-worn cameras; and that implementation of the body-worn cameras was to begin in one district the first week of November 2015 and be completed in all districts by the end of the year.

However, MCSO's implementation plan was somewhat optimistic. District 6 was the only district in which the body-worn camera program was fully operational by the end of 2015. During our April 2016 site visit, we were informed that all deputies who conduct traffic stops have been issued body-worn cameras and they are fully operational in all but two districts (District 4 and Lake).

Compliance with this Paragraph is dependent upon MCSO's rectifying the verification of motorist receipts of the traffic stop, and utilizing the body-worn camera recordings in all districts to verify stop length. MCSO is not in compliance with this Paragraph.

**Compliance Status:**

Phase 1: In compliance

Phase 2: Not in compliance

*Paragraph 58. The MCSO shall ensure that all databases containing individual-specific data comply with federal and state privacy standards governing personally-identifiable information. MCSO shall develop a process to restrict database access to authorized, identified users who are accessing the information for a legitimate and identified purpose as defined by the Parties. If the Parties cannot agree, the Court shall make the determination.*

Policies GF-1 (Criminal Justice Data Systems), effective November 7, 2006; and GF-2 (Criminal History Record Information and Public Records), effective January 7, 2000, state that all databases containing specific data identified to an individual comply with federal and state privacy standards and it limits access to only those employees who are authorized to access the system.

The policies go further to include that the dissemination of Criminal History Record Information (CHRI) is based on federal guidelines, Arizona Statutes, the Department of Public Safety, and the Arizona Criminal Justice Information System; and that any violation is subject to fine. No secondary dissemination is allowed. We reviewed an internal MCSO memorandum of April 12, 2014 that required all TOC (Terminal Operator Certification) personnel in these positions to be re-certified on a new testing procedure developed by the Training Division and the Systems Security Officer. During our April 2016 site visit, we met with the Deputy Chief of the Technology Bureau who indicated that MCSO had been vigilant in security of the data systems and had previously prosecuted violators. The Deputy Chief indicated no unlawful intrusion into their systems had been detected during this reporting period.

We reviewed two separate and independent external audits, the most recent Arizona Department of Public Safety (December 24, 2012) and the FBI's audit (November 12, 2011) of the integrity and restrictions required for database security. In January 2014, the FBI advised MCSO that a previously scheduled audit of MCSO databases would not occur; and that a similar scheduled audit by Arizona DPS was also cancelled. MCSO has not been advised by either of these entities when their databases will be audited in the future. We met with the Deputy Chief of Technology during our April 2016 site visit who advised us that no unlawful breaches of the databases had occurred during this reporting period. Every new recruit class receives three hours of training on this topic during initial Academy training. We will continue to observe the security issues outlined in Paragraph 58 of this Order; but at present, MCSO is in compliance with this Paragraph.

**Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

**Paragraph 59.** *Notwithstanding the foregoing, the MCSO shall provide full access to the collected data to the Monitor and Plaintiffs' representatives, who shall keep any personal identifying information confidential. Every 180 days, MCSO shall provide the traffic stop data collected up to that date to the Monitor and Plaintiffs' representatives in electronic form. If proprietary software is necessary to view and analyze the data, MCSO shall provide a copy of the same. If the Monitor or the Parties wish to submit data with personal identifying information to the Court, they shall provide the personally identifying information under seal.*

Electronic traffic stop data capture began on April 1, 2014. The forms created by MCSO capture the traffic stop details required by MCSO policy and Paragraphs 25 and 54 of the Order. BIO provided the traffic stop data, which included a spreadsheet of all traffic stops from October 1, through December 31, 2015, listing event numbers as described at the beginning of Section 8. We then requested a stratified sample from all traffic stops. All marked patrol vehicles used for traffic stops are now equipped with the automated TraCS system and all patrol deputies have been trained in TraCS data entry. MCSO has provided full access to all available electronic and written collected data since April 1, 2014. Electronic data were not collected before this time. MCSO has provided full access to the traffic stop data and is in compliance with this Paragraph.

**Compliance Status:**

Phase 1: Not applicable

Phase 2: In compliance

***b. Electronic Data Entry***

**Paragraph 60.** *Within one year of the Effective Date, the MCSO shall develop a system by which Deputies can input traffic stop data electronically. Such electronic data system shall have the capability to generate summary reports and analyses, and to conduct searches and queries. MCSO will explore whether such data collection capability is possible through the agency's existing CAD and MDT systems, or a combination of the CAD and MDT systems with a new data collection system. Data need not all be collected in a single database; however, it should be collected in a format that can be efficiently analyzed together. Before developing an electronic system, the MCSO may collect data manually but must ensure that such data can be entered into the electronic system in a timely and accurate fashion as soon as practicable.*

We reviewed the approved MCSO policies EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), and EB-2 (Traffic Stop Data Collection), both effective September 22, 2014; and found them to be compliant with the provisions of the Paragraph. However, the system must be able to generate summary reports and analyses, as well as be used to conduct searches of the data. The requirement also includes that the system enable the deputies to enter the traffic stop data electronically from the field. If TraCS experiences a malfunction in the field, there is a protocol that requires the deputy to electronically enter the traffic stop data prior to the end of the shift.

We reviewed documents indicating that the Bureau of Internal Oversight (BIO) is conducting audits of the data and forwarding those instances of non-compliance to the districts for action. CID provided a memorandum on April 28, 2014, that indicated that MCSO was in the process of conducting its first audit to determine the validity of the data captured. MCSO continues to conduct monthly traffic stop audits of the traffic stops and forwards them for our review. To date, we have found the audits to be complete and thorough. Initially, the traffic stop data was captured on handwritten forms created by MCSO, completed by the deputy in the field, and manually entered in the database by administrative personnel located at each district. Now all traffic stop data is entered electronically, whether in the field or at MCSO Districts. For those situations where connectivity is lost in the field, policy dictates that the written traffic stop data created by the deputy be entered electronically by the end of the shift in which the event occurred. We will continue to review the written traffic stop data to ensure that it is entered in the system by the end of the shift in which it was created.

We reviewed a printout of all vehicles assigned to Patrol dated March 31, 2016. There were a total of 248 vehicles assigned to the districts. There were 179 marked vehicles equipped with the TraCS e-citation system (All marked cars are TraCS-equipped.) There are 54 unmarked vehicles equipped with TraCS and 15 unmarked vehicles not equipped with TraCS. We also inspected marked vehicles to verify that MCSO vehicles that conduct traffic stops on a routine basis are equipped with the ability to input traffic stop data electronically.

We continue to inspect units located at the districts during our site visits that are used to conduct traffic enforcement to ensure that deputies are able to enter the data electronically from the field. We removed from the vehicle population those vehicles that were obviously specialized or special purposed, and are not used to conduct traffic stops. Due to the size of the patrol fleet, the number of marked and unmarked patrol vehicles may fluctuate from month to month.

In addition, MCSO must provide documentation pertaining to the training of deputies who use electronic data entry systems for traffic stops. During our June 2014 site visit, MCSO informed us that training was conducted via train-the-trainer processes, whereby EIS personnel train supervisors who then train deputies under their command. However, no documentation of said training had been created; therefore, MCSO was not able to document who has received this training and who has not. During our December 2014 site visit, we spoke with a Deputy Chief who indicated that there was a new training program and documentation process being developed by the Training Division to identify those deputies who have received TraCS training. On May 5, 2015, MCSO prepared a draft copy of a lesson plan for TraCS training that we reviewed. MCSO completed the TraCS training during 2015, and we can now verify who attended the training as required by the Order. We observed the competency portion of the TraCS training, and the proficiency level of the deputies was more than satisfactory. MCSO deputies have demonstrated their ability to access and utilize TraCS, as evidenced by their total time on a traffic stop averages 15 minutes or less.

MCSO has made substantial progress and is now in Phase 2 compliance with Paragraph 60.

**Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

***c. Audio-Video Recording of Traffic Stops***

***Paragraph 61.*** *The MCSO will issue functional video and audio recording equipment to all patrol deputies and sergeants who make traffic stops, and shall commence regular operation and maintenance of such video and audio recording equipment. Such installation must be complete within 120 days of the approval of the policies and procedures for the operation, maintenance, and data storage for such on-person body cameras and approval of the purchase of such equipment and related contracts by the Maricopa County Board of Supervisors. Subject to Maricopa County code and the State of Arizona's procurement law, The Court shall choose the vendor for the video and audio recording equipment if the Parties and the Monitor cannot agree on one. Effective Date. MCSO shall equip all traffic patrol vehicles that make traffic stops with video and audio recording equipment within 2 years of the Effective Date. Subject to Maricopa County code and the State of Arizona's procurement law, the Court shall choose the vendor for the video and audio recording equipment if the Parties and the Monitor cannot agree on one.*

During our September 2014 site visit, we met with two MCSO Deputy Chiefs and other personnel to discuss the progress of acquiring in-car video and audio equipment for all patrol vehicles used to conduct traffic stops. MCSO had initially set out to purchase fixed in-car cameras as required by the Order, but expressed an interest in acquiring body-worn video and audio recording devices for their deputies. The Court issued an Order providing an amendment/stipulation on October 10, 2014 amending the Order to incorporate on-body cameras. We believe this is a prudent choice, in that it allows for capturing additional data, where a fixed mounted camera has limitations. The transition from in-car to body-worn cameras has been documented in our previous reports.

During our October 2015 site visit, MCSO advised that the implementation of the body-worn cameras would be complete by the end of 2015. However, MCSO did not meet its target date of full implementation of body-worn cameras.

During our April 2016 site visit we met with two Deputy Chiefs who informed us the body-worn cameras had been issued to all patrol deputies who enforce traffic violations. We verified this statement by inspecting a document we received from CID that listed each deputy's name and serial number and the date they were issued body-worn cameras. Records indicate the distribution of the body-worn cameras began on September 14, 2015. All deputies were not equipped with body-worn cameras during this reporting period.

The Deputy Chiefs advised us that the body-worn cameras were fully operational in five of the districts. District 4 and the Lake Patrol have been experiencing connectivity issues that are affecting downloading of the recordings to the cloud (evidence.com). The captain assigned to the Lake Patrol has issued two body-worn cameras to each of the district's deputies as a partial solution until the problems can be remedied. The Deputy Chief of the Technology Bureau advised us that MCSO would resolve the connectivity issues by mid-May 2016. MCSO will not be in compliance with this Paragraph until all districts are fully functional and we can evaluate a proper sample of the body-worn camera recordings.

MCSO has developed a policy to address the requirements for the use of the body-worn video/audio recording equipment for every traffic stop, and the security and maintenance of associated equipment. The policy addresses what deputies are required to do if equipment is malfunctioning, as well as the documented process of how such malfunctions are reported and serviced. MCSO previously provided a draft policy, EA-4 (Use of Body Worn Cameras), which did not meet all of the requirements. The Monitoring Team and the Plaintiffs' attorneys provided input on the draft; and the new policy, renamed GJ-35 (Body Worn Cameras) was issued on June 24, 2015, and meets the requirements of Section VIII. MCSO will not be in compliance with this Paragraph until all deputies and sergeants who make traffic stops are equipped with body-worn cameras, all districts are fully functional, and the cameras are used in accordance with the Order.

**Compliance Status:**

Phase 1: In compliance

Phase 2: Not in compliance

***Paragraph 62.** Deputies shall turn on any video and audio recording equipment as soon the decision to initiate the stop is made and continue recording through the end of the stop. MCSO shall repair or replace all non-functioning video or audio recording equipment, as necessary for reliable functioning. Deputies who fail to activate and to use their recording equipment according to MCSO policy or notify MCSO that their equipment is nonfunctioning within a reasonable time shall be subject to Discipline.*

MCSO evaluated on-person body cameras from other jurisdictions and selected a vendor (TASER International). We had recommended that MCSO deputies conduct a functionality test at the beginning and end of their tour of duty, and it was included in the policy revision GJ-35 (Body Worn Cameras) along with the other requirements in this Paragraph. The policy states the requirement that deputies are subject to discipline if they fail to activate the video and audio equipment as soon as the decision to initiate the stop is made and continue recording through the end of the stop. The policy also addresses how non-functioning equipment will be repaired or replaced. We will review these requirements when the body-worn cameras are fully implemented.

For our selection of a sample to review the body-worn camera videos, we used the same sample we select for the CAD audio request. There were 39 cases where the body-worn cameras were not yet implemented in all of the districts during the quarter. Sixty percent of these occurred in the month of January 2016. This was due to the delay in rolling out the program in all districts. Beginning in February, the number dropped significantly. We reviewed 17 cases where body-worn camera footage was available. Fourteen cases were compliant with the deputy activating the video and audio recording equipment as soon as the decision to initiate the stop was made and continued recording through the end of the stop. There were three cases that did not meet the requirements of the Order. In one case, the deputy documented on the VSCF that he forgot to turn on the BWC at any time during the stop. In the second case, the VSCF and the CAD printout indicated the stop was 11 minutes in length, but there was only three minutes of recording. In the third stop, the deputy activated the recording equipment but failed to activate it at the beginning of the stop. Initially we expected some difficulty with deputies activating the equipment, as it will take some time for them to become accustomed to this new tool.

MCSO has already discovered the value of body-worn cameras – including in instances where community members made accusations against deputies. During this reporting period, a community member alleged that a deputy unnecessarily shot the owner’s dog. The video footage clearly showed the circumstances of the case, and MCSO exonerated the deputy. In another case, a community member made a complaint against a deputy for rudeness. The captain of the deputy’s district reviewed the video, which substantiated the complaint.

**Compliance Status:**

Phase 1: In compliance

Phase 2: Not in compliance

***Paragraph 63.** MCSO shall retain traffic stop written data for a minimum of 5 years after it is created, and shall retain in-car camera recordings for a minimum of 3 years unless a case involving the traffic stop remains under investigation by the MCSO or the Monitor, or is the subject of a Notice of Claim, civil litigation or criminal investigation, for a longer period, in which case the MCSO shall maintain such data or recordings for at least one year after the final disposition of the matter, including appeals. MCSO shall develop a formal policy, to be reviewed by the Monitor and the Parties pursuant to the process described in Section IV and subject to the District Court, to govern proper use of the on-person cameras; accountability measures to ensure compliance with the Court’s orders, including mandatory activation of video cameras for traffic stops; review of the camera recordings; responses to public records requests in accordance with the Order and governing law; and privacy protections. The MCSO shall submit such proposed policy for review by the Monitor and Plaintiff’s counsel within 60 days of the Court’s issuance of an order approving the use of on-body cameras as set forth in this stipulation. The MCSO shall submit a request for funding to the Maricopa County Board of Supervisors within 45 days of the approval by the Court or the Monitor of such policy and the equipment and vendor(s) for such on-body cameras.*

Policy EB-2 (Traffic Stop Data Collection) includes the requirement that MCSO retain written traffic stop data completed on the Vehicle Stop Contact Form for a minimum of five years after it is created, unless a case involving a traffic stop remains under investigation by the Office or is subject of a Notice of Claim, civil litigation or criminal investigation, in which case MCSO shall maintain such data or recordings for at least one year after the final disposition of the matter, including appeals. The retention period for body-worn camera recordings is three years in compliance with this Paragraph, subject to the same exceptions listed above (investigation or litigation).

MCSO has developed and issued a protocol and policy that requires the original hardcopy form to be kept at the district level and filed separately for each deputy. When a deputy is transferred, his written traffic stop information will follow him to his new assignment. The Technology Bureau maintains electronic traffic stop data, and we reviewed the bureau's protocol for maintaining the integrity of the data. MCSO has developed a protocol for reviewing the on-body camera recordings and for responding to public records requests in accordance with the Order. During our July 2015 site visit, MCAO advised us and the Plaintiffs' attorneys that MCAO would develop the manual for the release of body-worn camera recordings, and that the draft would be completed by September 30, 2015. MCAO subsequently provided a draft of the operational manual, described below. MCSO developed and submitted a draft policy EA-4 (Body-Worn Cameras), which did not meet the requirements of the Paragraph. We, along with the Plaintiffs, provided MCSO with suggestions to correct the deficiencies in the initial draft. MCSO advised us that it incorporated our concerns into the new draft (EA-4 was renumbered to GJ-35) that was submitted and approved on June 24, 2015. The new policy governing the use of on-person cameras considers accountability measures to ensure compliance and activation of video cameras for traffic stops. MCSO completed a draft of MCSO's Body-Worn Camera Operational Manual in September 2015 and presented it for our review. The manual requires two supervisory reviews of on-body camera recordings per deputy per month and how responses to public records requests relating to the recordings will be administered. MCSO will achieve Phase 1 compliance with this Paragraph when the Body-Worn Camera Operational Manual is finalized, approved, and issued. During our April 2016 site visit, MCSO and MCAO advised us that the Body-Worn Camera Operational Manual had not yet been approved or disseminated and thus, MCSO is not in compliance with this Paragraph. MCAO advised it has made some additional amendments to the Manual, and it will be submitted for approval during the next reporting period. Accordingly, MCSO will not be in Phase 2 compliance with this Paragraph until the retention requirements of the written traffic stop data are implemented, the body-worn camera recordings can be verified, and the Body-Worn Camera Operational Manual is approved.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

#### ***d. Review of Traffic Stop Data***

***Paragraph 64.*** *Within 180 days of the Effective Date, MCSO shall develop a protocol for periodic analysis of the traffic stop data described above in Paragraphs 54 to 59 (“collected traffic stop data”) and data gathered for any Significant Operation as described in this Order (“collected patrol data”) to look for warning signs or indicia or possible racial profiling or other improper conduct under this Order.*

MCSO policies and procedures pertinent to this Paragraph include EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), dated September 22, 2014; EB-2 (Traffic Stop Data Collection), dated September 22, 2014; GJ-33 (Significant Operations), dated September 5, 2014; GH-5 (Early Identification System Policy), dated November 18, 2015; and GH-4 (Bureau of Internal Oversight Policy and Procedures), dated May 29, 2015. We also reviewed EIU monthly analyses of traffic stop data for the months of January through March 2016 provided to us as part of our ongoing monthly production request.

During our April 2016 site visit, we met with the EIU leadership to discuss, among other issues, if they had made changes to or were considering revising the procedures and thresholds for benchmarks they use to conduct monthly analyses of traffic stop data. EIU leadership informed us that there were no changes to the thresholds during the quarter, but requested our advice on how to improve the methodology for setting alerts. This is discussed in more detail below.

In a separate site visit meeting with EIU that included ASU staff, we discussed the serious problems with traffic stop data from TraCS that are used by EIU to identify possible cases of racial profiling and other biased-based policing. Our analysis of the 12-month data file containing traffic stop data for the July 2014 through June 2015 period that we received at the end of December 2015 revealed problems with the length of traffic stop calculation. This calculation is critical to the use of the benchmark described in Order Paragraph 67.b. below. We highlighted the problem with the length of a traffic stop calculation in a February 26, 2016 email to EIU in which we identified 41 traffic stops that were 1,400 minutes or more in length. We requested that EIU double-check the SPSS syntax used to calculate the length of a traffic stop.

On March 21, 2016, we received an email from EIU confirming the problem with the length of stop calculation being flawed. On April 5, 2016, EIU sent another email informing us that it had discovered more problems with duplicate contact forms in the data file; in other words, there were duplicate traffic stop events included in the data file that required correction before ASU could finalize its annual evaluation. During our April site visit meeting, ASU led a discussion about the numerous problems with the data that include calculation of the length of a traffic stop, duplicate traffic stop events affecting about 145 traffic stop records (or almost 300 traffic stops in the data file), and a new problem pertaining to missing vehicle contact end times (affecting 1,649 cases). Before the end of our site visit, we agreed to solutions addressing each of the problems, all with the goal of enabling ASU to expeditiously complete its analysis so that the annual comprehensive study could be provided to us on May 31, 2016. Ensuring that the data EIU uses is reliable is critical to the establishment of a protocol as required by this Paragraph. EIU indicated that it had drafted for our review an Administrative Broadcast instructing supervisors how to conduct a comparative analysis of traffic stops for cases involving duplicate

traffic stop records to provide timely data validation. The intent is to provide ongoing review of duplicate traffic stop records so as to not adversely impact analyses in the future.

In past reports, we have expressed concern about the lack of documentation describing how EIU established its thresholds and methodology used to set alerts for deputies possibly engaging in racial profiling or other biased-based policing. During our April site visit, we informed EIU that the methodology it uses to set alerts is flawed and inconsistent with the requirements of Order Paragraph 67, and that it must be discarded. (This is also discussed in Paragraph 67 below.) We agreed to EIU's request for our assistance in developing a practical solution to the flawed methodology. In light of this, we advised EIU that documenting how it developed its current methodology would be unproductive. However, moving forward, EIU understands that a protocol required by this Paragraph must include documentation of how thresholds are set, as well as the means to record future changes to them. It should also reflect the categories of benchmarks as prescribed by Paragraph 67, as well as any other benchmarks that the EIU may choose to use in its analyses per Paragraph 67.e.

To achieve Phase 1 compliance with this Paragraph, MCSO must develop a protocol for periodic analyses that is based on transparent, documented methodology to identify racial profiling or other biased-based policing. A protocol required by this Paragraph must also include documentation of thresholds as well as the means to memorialize changes to them over time. To achieve Phase 2 compliance with this Paragraph, MCSO must then utilize the methodology established in the protocol established for Phase 1 compliance in the monthly, quarterly, and annual analyses used to identify racial profiling or other biased-based problems in the monthly, quarterly, and annual analyses required by the Order.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

***Paragraph 65.** MCSO shall designate a group with the MCSO Implementation Unit, or other MCSO Personnel working under the supervision of a Lieutenant or higher-ranked officer, to analyze the collected data on a monthly, quarterly and annual basis, and report their findings to the Monitor and the Parties. This review group shall analyze the data to look for possible individual-level, unit-level or systemic problems. Review group members shall not review or analyze collected traffic stop data or collected patrol data relating to their own activities.*

MCSO issued GH-5 (Early Identification System Policy), dated November 18, 2015, that states that the EIU is part of the Bureau of Internal Oversight (BIO) and describes, among other things, the organizational structure and operational responsibilities of the EIU related to the requirements of this Paragraph. MCSO will achieve Phase 1 compliance with Paragraph 65 once it has trained to this policy. MCSO will only achieve Phase 2 compliance with this Paragraph after successful implementation of the policy and the sustained organization of EIU.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

***Paragraph 66.** MCSO shall conduct one agency-wide comprehensive analysis of the data per year, which shall incorporate analytical benchmarks previously reviewed by the Monitor pursuant to the process described in Section IV. The benchmarks may be derived from the EIS or IA-PRO system, subject to Monitor approval. The MCSO may hire or contract with an outside entity to conduct this analysis. The yearly comprehensive analysis shall be made available to the public and at no cost to the Monitor and Plaintiffs.*

MCSO policy EB-2 (Traffic Stop Data Collection), dated September 22, 2014, references periodic analyses of traffic stop data to occur on a monthly, quarterly, and annual basis to check for possible individual-level, unit-level, or systemic problems. MCSO policy GH-4 (Bureau of Internal Oversight Policy and Procedures), dated May 29, 2015, includes a discussion of non-audit services that shall be performed that include the monthly evaluation of traffic stop data and monthly, quarterly, and annual analyses of traffic stop data to look for possible individual-level, unit-level, or systemic problems related to racial profiling or biased-based policing. In addition, GH-5 (Early Identification System Policy), dated November 18, 2015, identifies the EIU as the unit within BIO responsible for conducting the annual agency-wide comprehensive analysis of traffic stop data, and specifies categories of thresholds incidents in IAPro approved by us.

GH-5 (Early Identification System Policy), dated November 18, 2015, defines the responsibilities of the EIU, which includes analyzing traffic stop data on a monthly, quarterly and annual basis (section 5.J) and criteria for searching for warning signs of other indicia of possible misconduct (section 5.D). The categories of benchmarks pertaining to traffic stops presented in GH-5 are consistent with the requirements of Paragraph 67 below. However, as noted above in Paragraph 65, MCSO needs to train to this new policy. Once this training has occurred, MCSO will achieve Phase 1 compliance with this Paragraph.

With regard to Phase 2 compliance, ASU is facilitating work on the annual comprehensive study. MCSO contracted with ASU on April 8, 2015 to collaborate with MCSO on work pursuant to this Paragraph. The contract with ASU states that it will partner with MCSO on end products to include the implementation of monthly, quarterly, and annual reports. During our February site visit, ASU presented a draft report containing preliminary findings of its evaluation of traffic stop data representing the July 2014 - June 2015 period. We were provided the draft evaluation report subject to the condition that it be returned at the end of the meeting. A "Preliminary Yearly Report for the Maricopa County Sheriff's Office, Years 2014-2015: (the Report) was subsequently provided in early March 2016. However, during a March 31, 2016 conference call, BIO/EIU informed us that the report would be revised due to serious data problems, particularly with the calculation of the length of a traffic stop.

EIU informed us in an April 5, 2016 email that the data problems we identified were further complicated by issues pertaining to duplicate traffic stop events in the data file used for the report. During our April site visit, the ASU research team noted that the discovery by us that 41 traffic stops lasting over 1,400 minutes actually exposed a larger error created by ASU in the SPSS syntax it used to calculate the length of traffic stop. The key variable in the calculation creating the problem was the contact end date. ASU reported that there were 1,649 cases with no contact end date, with most of them occurring in July 2014, when a new version of TraCS was being installed in vehicles.

During our site visit, we agreed to a methodological solution to the numerous data problems so that the ASU research team could proceed with its analysis of the traffic stop data. In addition, we also provided general comments on the report for ASU/EIU's consideration. We discussed topics including: disaggregating race/ethnicity to compare Latinos and non-Latinos; clarification about how ASU manages missing data in its analyses; the need for footnotes describing statistical tests and the number of observations used for each analysis; future plans to include more sophisticated inferential analyses, such as regression modeling; and our suggestion that ASU not limit its analyses to deputies making 10 or more traffic stop to select the subsample from which all other analyses are conducted. At the conclusion of the meeting, the BIO Chief committed that the annual report would be provided to us on May 31, 2016.

Phase 2 compliance with this Paragraph requires that MCSO finalize and implement annually a valid statistical methodology that is based on the scientific literature; and that the methodology include the use of benchmarks and thresholds reviewed by the Monitor, pursuant to the process described in Section IV of the Order.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

*Paragraph 67. In this context, warning signs or indicia of possible racial profiling or other misconduct include, but are not limited to:*

- a. racial and ethnic disparities in deputies', units' or the agency's traffic stop patterns, including disparities or increases in stops for minor traffic violations, arrests following a traffic stop, and immigration status inquiries, that cannot be explained by statistical modeling of race neutral factors or characteristics of deputies' duties, or racial or ethnic disparities in traffic stop patterns when compared with data of deputies' peers;*
- b. evidence of extended traffic stops or increased inquiries/investigations where investigations involve a Latino driver or passengers;*
- c. a citation rate for traffic stops that is an outlier when compared to data of a Deputy's peers, or a low rate of seizure of contraband or arrests following searches and investigations;*

d. *indications that deputies, units or the agency is not complying with the data collection requirements of this Order; and*

e. *other indications of racial or ethnic bias in the exercise of official duties.*

We reviewed pertinent MCSO policies and procedures including EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), dated September 22, 2014; EB-2 (Traffic Stop Data Collection), dated September 22, 2014; and GJ-33 (Significant Operations), dated September 5, 2014. We note that EB-2 (Traffic Stop Data Collection), dated September 22, 2014, uses the language of Paragraph 67 as part of its policy for periodic analyses of traffic stop data collection. GH-5 (Early Identification System Policy), dated November 18, 2015, also uses the language of Paragraph 67. Therefore, MCSO is in Phase 1 compliance with this Paragraph.

Regarding Phase 2 compliance with this Paragraph, the EIU provides monthly analyses and documents describing the benchmarks used to set alerts for possible cases of racial profiling or other misconduct using traffic stop. EIU operationalizes the benchmarks with thresholds that are defined in GH-5 as the “point at which a sufficient number of incidents have occurred to alert the Early Identification Unit of conduct or performance that could become problematic for an employee.” Thresholds, in effect, are numeric values that identify outliers that warrant an alert being set in EIS. The monthly analyses and documents generated by the EIU demonstrate how thresholds are used for each benchmark to look for individual, unit, or systemic problems to set alerts in EIS.

Paragraph 67.a. identifies three benchmarks pertaining to racial and ethnic disparities. The first benchmark references disparities or increases in stops for minor traffic violations. The second benchmark addresses disparities or increases in arrests following a traffic stop. The third benchmark addresses disparities or increases in immigration status inquiries. With regard to the threshold that EIU has established for the first benchmark in Paragraph 67.a – disparities in stops for minor traffic violations – EIU uses three thresholds and applies them to only to deputies making more than 10 traffic stops in their beats.

The three thresholds are: 1) greater than 30 percent perceived pre-stop race/ethnicity; 2) significant deviation from other deputies working a beat for post-stop perceived race/ethnicity – the EIU analysis selects deputies for further review when there is a 20 percent difference or greater to the average based on deputies of the same beat; and 3) significant deviation by ZIP code where there is a 30 percent difference from Census population data or a 30 percent difference from other deputies working that ZIP code for post-stop perceived race/ethnicity. As noted in our analyses of thresholds presented to EIU during our February 2016 site visit, limiting the pool of deputies for analysis to those with more than 10 traffic stops excludes less active deputies from consideration of possible cases of racial profiling or biased policing. There is no scientific basis for excluding deputies making 10 or fewer stops.

Furthermore, the selection of the 30 percent criterion for the first threshold is arbitrary and unsubstantiated by statistical analysis. This statement is also true for the 20 percent and 30 percent thresholds used by EIU for the second and third thresholds. In addition, with regard to the third threshold for this benchmark, the peer-reviewed literature demonstrates that comparisons of the driving population to the resident population to look for bias is unreasonable, as the driving population can differ markedly from the resident population for a host of reasons.

For these reasons, none of these thresholds used by EIU to operationalize this benchmark are in compliance. At the request of the BIO Chief, we are working on recommendations to enable EIU to bring the thresholds and the methodology utilized into compliance. We discuss this further below.

With regard to the second benchmark in Paragraph 67.a. pertaining to arrest following a traffic stop, EIU references a threshold discussed in Paragraph 67.c below. We find that the threshold is not in compliance. See the discussion below.

Considering the third benchmark in Paragraph 67.a. assessing immigration status, EIU confirmed during our site visit that it sets an alert whenever there are two or more immigration status inquiries. We directed EIU to change the threshold to set alerts for any immigration inquiry by a deputy during a traffic stop results in an alert being set in EIS. Once this change has occurred, this benchmark and its threshold will be in compliance.

Paragraph 67.b. identifies a benchmark pertaining to evidence of an extended traffic stop involving Latino drivers or passengers. For this benchmark, EIU uses the threshold whereby deputies are selected for further review if they have a two-minute or longer civil traffic stop averaged by race/ethnicity per deputy and calculated for those deputies who make a minimum of five traffic stops per race/ethnicity. As is the case with the thresholds discussed in Paragraph 67.a., this threshold excludes those deputies on the basis of the frequency of stops (in this instance, fewer than five stops per race/ethnicity) and then subjects those who do meet the five stop rule to an arbitrarily selected extended stop time (two or more minutes) compared to other deputies' average length of a traffic stop. Our attempt to conduct a statistical analysis of the length of a traffic stop to develop an acceptable approach to the use of this benchmark has been repeatedly frustrated by data problems in TraCS pertaining to contact start and stop times. (See the discussion in Paragraph 64 above.) Due to the arbitrary nature of the selection of the length of time and the frequency of stops, this threshold used to operationalize this benchmark is not in compliance. At the request of the BIO Chief, we are working on a recommendation to bring the threshold and the methodology utilized into compliance. We discuss this further below.

Paragraph 67.c. identifies three benchmarks. The first benchmark pertains to the rate of citations. Here MCSO is to identify citation rates for traffic stops that are outliers when compared to a deputy's peers. The second benchmark pertains to seizures of contraband. MCSO is required to identify low rates of seizures of contraband following a search or investigation. The third benchmark is similar to the second, but it assesses arrests following a search or investigation. MCSO is to identify a low rate of arrests following a search or investigation. EIU operationalizes the citation rate benchmark using a citation rate difference of 20% or greater by race/ethnicity per deputy for those deputies involved with a minimum of five traffic stops. It operationalizes the seizures of contraband benchmark using a similar threshold. In this case, the threshold is defined as searches where no items are seized for a race/ethnicity per deputy, for deputies involved with a minimum of four searches per deputy. The EIU monthly report summarizing its use of thresholds makes no mention of this benchmark by operationalizing the third benchmark for arrest. EIU, however, reports that it includes this information in IA Pro as, "Disparity in arrests following traffic stops by race/ethnicity" (GH-5, Early Identification System Policy, dated November 18, 2015). While this benchmark is reflected in IA Pro, the specifics about its threshold are undocumented and there is no reference to it in EIU's monthly data

analysis reports. The thresholds for the first two benchmarks for Paragraph 67.c suffer from similar shortcomings as the measurements discussed in Paragraph 67.a., meaning they lack a statistical basis and are inherently biased toward the most active deputies. In light of these shortcomings, none of these thresholds used by EIU to operationalize this benchmark are in compliance. At the request of the BIO Chief, we are working on recommendations to enable EIU to bring the thresholds and the methodology utilized into compliance. We discuss this further below.

Paragraph 67.d. establishes a benchmark pertaining to agency, unit, or deputy noncompliance with the data collection requirements under the Order. This benchmark requires that any cases involving noncompliance with data collection requirements results in an alert in EIS. As was discussed in Paragraph 64 above, EIU has drafted an Administrative Broadcast instructing supervisors how to conduct a comparative analysis of traffic stops for cases involving duplicate traffic stop records to deliver timely data validation for our review. The intent is to provide ongoing review of duplicate traffic stop records so as to not adversely impact analyses in the future. Expanding the scope of the Administrative Broadcast to include supervisory review of traffic stops with missing data would help resolve matters with data collection. Given the lack of any procedure to identify noncompliance, this area is not in compliance. At the request of the BIO Chief, we are working on a recommendation to bring the thresholds and the methodology utilized into compliance. We discuss this further below.

Paragraph 67.e. allows for other benchmarks to be used beyond those prescribed by Order Paragraph 67.a.-67.d. One benchmark pertains to the number of traffic stops. For this benchmark, EIU uses a threshold whereby all deputies making 10 or more traffic stops are subject to further review. This benchmark is used in the EIU methodology as a first step in the selection of deputies subject to analysis using the benchmarks described in Paragraph 67.a.-67.c. During our February and April site visits, we discussed the serious problems created by limiting analyses of racial profiling or biased-based policing to only the most active deputies – i.e., those making 10 or more traffic stops during the evaluation period. We noted that this is a major contributing factor to the lack of alerts currently set based on traffic stops. For example, during March 2016, EIU reported that there were a total of 2,338 traffic stops, but alerts were only set for four deputies. During our April site visit, we instructed EIU to stop using this benchmark and threshold.

EIU used two other benchmarks per Paragraph 67.e. The first pertains to searches. While the category for this benchmark is reasonable, its threshold is not. EIU operationalizes this benchmark by identifying deputies for further analysis whenever there are searches greater than 20 percent for a race/ethnicity whenever deputies are involved in a minimum of five searches per deputy. The arbitrary selection of the 20 percent rate, and the limitation of the analysis to deputies involved in five or more searches, excludes deputies with fewer searches. This threshold is therefore not in compliance. The second benchmark used by EIU pertains to passenger contacts. Again, this benchmark category is reasonable, but its threshold suffers from similar shortcomings. EIU operationalizes this benchmark by selecting deputies with a passenger contact rate of 30 percent or higher of those stops involving a minimum of three passenger contacts. The arbitrary nature of the 30 percent criterion and the restriction on the number of passenger contacts is too exclusive to make it useful for purposes of Paragraph 67.

Due to these shortcomings, none of these thresholds used by EIU to operationalize this benchmark are in compliance. At the request of the BIO Chief, we are working on recommendations to enable EIU to bring the thresholds and the methodology utilized into compliance. We discuss this further below.

In past quarterly status reports and site visits, we have expressed our concern that the thresholds and the methodology EIU uses to set alerts are arbitrary and based on opinion rather than statistical validation. As was highlighted in our comments pertaining to Paragraph 64, our own analysis of thresholds conducted in January 2016 found them to be not grounded in MCSO's own experience with traffic stops and lacking a statistical foundation. Furthermore, the methodology used to select cases for further review was not adequately robust to set alerts for deputies potentially engaged in racial profiling or other biased-based policing. During our March 31, 2016 conference call with EIU, we learned that it had conducted a very limited review of our recommendations. We had recommended that MCSO establish thresholds using MCSO's own traffic stop data and set alerts for deputies operating at or above the statistical mean, plus one or two standard deviations for the level of analysis. Data problems (discussed in Paragraph 66 above) have reportedly hampered EIU's review of our analysis.

During our April 2016 site visit, we expressed our objection to the current methodology and thresholds EIU uses and referenced this Paragraph to show that the Order did not contemplate such an approach whereby deputies involved in more than 10 traffic stops are subject to further review using the benchmarks and thresholds discussed above. Currently, alerts are set in EIS whenever two or more criteria (thresholds) are met. During our April site visit, we discussed the fact that each benchmark is to be used independently in setting alerts. There is no requirement that they be linked with others in setting alerts. To reiterate, the methodology EIU uses is flawed and must be discarded. The BIO Chief requested that we delineate a methodology and benchmarks that we believed reflect the requirements of this Paragraph. We agreed and stated that we would provide a document with our recommendations following our site visit.

To achieve Phase 2 compliance with this Paragraph, MCSO must establish and memorialize in a protocol benchmarks and thresholds that are not arbitrary or static, but instead are statistically based, reflect local area variation in traffic stop behavior, and are subject to Monitor approval pursuant to the process described in Section IV of the Order. Therefore, MCSO is not in Phase 2 compliance with this Paragraph.

**Compliance Status:**

Phase 1: In compliance

Phase 2: Not in compliance

*Paragraph 68. When reviewing collected patrol data, MCSO shall examine at least the following:*

- a. the justification for the Significant Operation, the process for site selection, and the procedures followed during the planning and implementation of the Significant Operation;*
- b. the effectiveness of the Significant Operation as measured against the specific operational objectives for the Significant Operation, including a review of crime data before and after the operation;*
- c. the tactics employed during the Significant Operation and whether they yielded the desired results;*
- d. the number and rate of stops, Investigatory Detentions and arrests, and the documented reasons supporting those stops, detentions and arrests, overall and broken down by Deputy, geographic area, and the actual or perceived race and/or ethnicity and the surname information captured or provided by the persons stopped, detained or arrested;*
- e. the resource needs and allocation during the Significant Operation; and*
- f. any Complaints lodged against MCSO Personnel following a Significant Operation.*

As referenced in prior quarterly reports regarding significant operations (Paragraph 36), MCSO has finalized, distributed, and trained personnel to GJ-33 (Significant Operations). Therefore, MCSO is in Phase 1 compliance with this Paragraph.

We have also previously noted that MCSO informed us that the last significant operation, Operation Borderline, had occurred during the period from October through December 2014. Operation Borderline was a drug interdiction effort described completely in Section 6 (Pre-Planned Operations) of our prior reports. However, through press reports on March 3, 2016 we became aware of an Operation called “No Drug Bust Too Small.” The news conference indicated large amounts of illicit drugs were confiscated and over 100 arrests were conducted. We asked the Special Investigations Division of MCSO to clarify whether this Operation met the qualification of this Paragraph and those of Section 6 (Pre-Planned Operations) of the Order. MCSO sufficiently explained on March 17, 2016 that this Operation “focused efforts on low level drug dealers, users, and primarily hand to hand transactions as well as making arrests on people who had drug warrants.” Moreover, the number of detectives involved in this operation did not meet the “10 or more deputy” rule and did not involve traffic patrol or stops in any substantive way. We are satisfied that this Operation should not have triggered prior notification to us or the development of pre-operation paperwork required by the Order.

During the current reporting period, January through March 2016, MCSO responded to our monthly document request regarding significant operations with a memorandum from each district's command staff, in addition to the Investigations Bureau, outlining their significant operation activity. In that vein, each district's command staff has notified us by memorandum that their deputies have not been involved in any significant operations or immigration-related traffic enforcement activity during these months. Also, during our February and April 2016 site visits, both BIO and CID staff confirmed that there had not been any significant operations conducted since Operation Borderline. Finally, during visits to district offices in February and April 2016, command staff for Districts 1, 2, 3, 4, and 6 and Lake Patrol corroborated that no significant operations had been conducted within their districts. Therefore, MCSO is in both Phase 1 and Phase 2 compliance with this Paragraph.

**Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

***Paragraph 69.** In addition to the agency-wide analysis of collected traffic stop and patrol data, MCSO Supervisors shall also conduct a review of the collected data for the Deputies under his or her command on a monthly basis to determine whether there are warning signs or indicia of possible racial profiling, unlawful detentions and arrests, or improper enforcement of Immigration-Related Laws by a Deputy. Each Supervisor will also report his or her conclusions based on such review on a monthly basis to a designated commander in the MCSO Implementation Unit.*

MCSO published GH-5 (Early Identification System) policy and procedure on November 18, 2015. Training on EIS, including orientation to the new policy, will occur during the upcoming Supervisory Training. Until such training takes place, MCSO is not in Phase 1 compliance with this Paragraph.

As noted in our previous quarterly reports, MCSO's response to the request for information for this Paragraph described a new drop-down menu for supervisors making notations about their subordinates that allow the supervisor to choose from a list of MCSO policies regarding the notations they are making. These include: EA11 (Arrest Procedures); CP2 (Code of Conduct); CP3 (Workplace Professionalism); CP8 (Preventing Racial and Other Bias-Based Profiling); EB1 (Traffic Enforcement, Violator Contact, and Citation Issuance); and EB2 (Traffic Stop Data Collection); among other criteria.

The EIS policy describes an EIPro screen allowing supervisors to review all information regarding the persons under their command. There remain several exceptions to this list that are significant. These include, but are not limited to: the details of internal and external complaints (which, at the close of the quarter, remains in testing stages); and an indicator in the EIS system that an deputy has made an arrest or investigatory stop, that a supervisor can then use as a prompt to review the associated Incident Reports. (These reports are currently located in the FILEBOUND system, and are not currently available in EIS.) As described above, supervisors are able to use a drop-down menu to trigger concerns the supervisor has about deputies'

“workplace professionalism,” “preventing Racial and Other Bias-Based Profiling,” and the like as enumerated in the policy. During our February site visit, the EIS lieutenant and supervisors from several districts that we visited showed us the drop-down menus and how supervisors can remain updated on the activity of their assigned personnel.

Also during our February and April site visits, we discussed two TraCS fields that have existed for some time but MCSO had not concluded how they would allow the supervisors to use them. We, the Plaintiffs’ attorneys, and the Plaintiff-Intervenors offered several suggestions on this issue; and MCSO committed to evaluate the best practices that existed and return with a proposal. During our April site visit, and a follow-up conference call on May 17, 2016, MCSO personnel described their proposal to use these two fields. The first field will be a Review field in which supervisors will note the date when they finished the review of individual traffic stops conducted by their subordinates. The second field will be a Discussion field in which supervisors will note when they reviewed the traffic stop contacts of their subordinates with them. Any additional notes about these meetings will be included in Blue Team Supervisory Notes. BIO and CID personnel explained how supervisors will be trained to use these fields once the EIS Training is approved. In addition, MCSO is developing an Administrative Broadcast that will describe these fields, for dissemination throughout the organization. This dissemination will occur after we, the Plaintiffs’ attorneys, and the Plaintiff-Intervenors have an opportunity to review and comment on the Broadcast’s content and materials. The compilation of these efforts should result in a more timely review of traffic stop activity by supervisory personnel, as well as a more consistent method of checking the memorialization of the meeting between supervisors and subordinates regarding the traffic stops of their subordinates.

MCSO personnel have been working with their vendor for the past several months to create a mechanism for line supervisors to view some details of open and completed internal and external complaints involving their subordinates within the EIS environment. At present, line supervisors can view the number of internal and external complaints involving their subordinates, but must still contact PSB staff for access to more complete information. We have repeatedly noted this deficiency in our onsite meetings with MCSO personnel as well as in our past quarterly reports. Each of the fixes attempted to the current system has allowed access to these complaint summaries beyond immediate supervisors and command staff. We will continue to evaluate the progress being made and have notified MCSO that we will invite the vendor’s representatives to participate during our July 2016 site visit meetings so that all parties can inquire about the progress of solutions being proposed.

An additional requirement of this Paragraph is that supervisors conduct a monthly review of collected data for deputies under their command. We have noted the Review and Discussion fields in the planning stages above. BIO has also been conducting analyses of Supervisory Notes contained in Blue Team: specifically regarding notations that supervisory personnel have made regarding traffic stops, potential biased policing, and the like, regarding their subordinates. These reports show dramatic fluctuations in average compliance scores by supervisors ranging from a low of 53% in August, to a high of 100% in April and October. Both BIO and CID personnel stated that districts are sent monthly reports noting these fluctuations and include suggestions to increase compliance. These suggestions do not appear to be having the intended effect as the average compliance scores for January and February 2016 are 71% and 73%,

respectively. In two of the five areas tracked by BIO, the supervisors across the organization are performing within acceptable standards, with anti-racial profiling messages at 97% and discussion of MCSO policies at 100% in January and 97% in February. However, in the three remaining areas tracked (performance notes, traffic stop review, and collective data review), supervisors have been well below acceptable standards during the first two months of 2016.

While there was significant improvement in performance notes made by supervisors in Blue Team, increasing from 66% to 87% from January to February, there was a significant decline of Supervisory Notes regarding traffic stops and collective data review – 74% to 66%, during these same months. We have suggested in several meetings that BIO has to take a more active role when such deficiencies are found and cannot solely rely on suggestions in the monthly reports they generate. The lack of Supervisory Training, which is still under development, includes a number of warnings regarding these mandatory monthly reviews. It is clear that using Administrative Broadcasts and Briefing Boards regarding supervisory responsibilities have not been sufficient. We will continue to work with MCSO to improve the consistency of these findings.

In addition, EIU personnel process all alerts triggered by the thresholds set within the EIS database. In the months of January through March 2016, there were approximately 600 alerts each month reviewed by EIU personnel. Based upon their review, nearly 80% of alerts each month are not sent to field supervisors for further processing. MCSO provides us with a copy of these alerts, and we generally concur that requiring supervisors to conduct investigations into all of these issues would be ineffective and overwhelming. For example, the largest category of alert was for “unscheduled absences,” with 432 being triggered. However, only 48 of these cases were sent to supervisors for review as the remainder consisted of duplicate alerts, were rolled in to other alerts, or for other reasons fell into the “false/artificial” category. Our examination of these records each month lead us to believe that EIU personnel, given their current established parameters, are correctly differentiating between alerts that require further examination by supervisors and those that do not. Even among those cases that are sent to supervisors for review, there are a significant number that are eventually closed because supervisors found no behavior to address and this finding was supported through a review by the chain of command. We believe that the standards of review used by EIU personnel in determining whether alerts should be sent to field supervisors are sufficient at this time.

A second aspect of the alert process is triggered when EIU sends out alert investigations to district supervisors. During the fall of 2015, the supervisor alert investigation process was moved from an “email based system” to Blue Team. This dramatically improved the efficiency of processing alert investigations. Supervisors are regularly prompted about the outstanding alerts regarding their deputies when they log in to Blue Team. Supervisors must also explain how they conducted their investigation, including documentation of conversations with their deputies, as well as how and why these alerts are closed. These reports then make their way back through the chain of command where each person must review and approve the actions taken by the line supervisor. Following this, the alert is returned to EIU. For several months, we have been requesting and reviewing a random sample of these investigations. In the majority of cases, we have been satisfied with the way supervisors have addressed a wide range of behavior, from “unexplained absences” to “traffic stops whose characteristics trigger alert thresholds.”

However, as discussed later in Paragraph 70, we continue to find instances where supervisors' notes closing these investigations are not thorough enough for an outside observer to be assured that enough time was spent investigating, or articulating the closure of, an alert. We are continuing to work with EIU personnel to refine both alert thresholds, which trigger the alert, as well as the definition of ways alerts can be cleared by both EIU and supervisory personnel.

EIU personnel have also developed a set of self-populating supervisory tables that provide supervisors throughout the agency with the ability to pull up all traffic stops for a single deputy for review; as well as the ability to compare significant traffic stop details such as length of traffic stop, citation rates, arrest rates, and the like across their entire squad of deputies or any subset therein. These are significant advancements for supervisory personnel. The BIO inspections reports for supervisory notes also include reminders to district personnel that supervisors are responsible for conducting individual discussions with their personnel about the stops they are making, and supervisors must document these discussions to meet the requirements of the Order. We anticipate that as supervisors become more familiar with these tools, and are trained to the requirements of their position, that the compliance rate for supervisor activities will improve over time.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

*Paragraph 70. If any one of the foregoing reviews and analyses of the traffic stop data indicates that a particular Deputy or unit may be engaging in racial profiling, unlawful searches or seizures, or unlawful immigration enforcement, or that there may be systemic problems regarding any of the foregoing, MCSO shall take reasonable steps to investigate and closely monitor the situation. Interventions may include but are not limited to counseling, Training, Supervisor ride-alongs, ordering changes in practice or procedure, changing duty assignments, Discipline, or of other supervised, monitored, and documented action plans and strategies designed to modify activity. If the MCSO or the Monitor concludes that systemic problems of racial profiling, unlawful searches or seizures, or unlawful immigration enforcement exist, the MCSO shall take appropriate steps at the agency level, in addition to initiating corrective and/or disciplinary measures against the appropriate Supervisor(s) or Command Staff. All interventions shall be documented in writing.*

As discussed in response to Paragraphs 64 and 65, we reviewed EB-1 (Traffic Enforcement, Violator Contacts and Citation Issuance), as well as EB-2 (Traffic Stop Data Collection). Most recently, MCSO published GH-5 (Early Identification System). Training on EIS, including orientation to the new policy, will occur during the upcoming Supervisory Training. Until such training takes place, MCSO is not in Phase 1 compliance with this Paragraph.

MCSO is making strides toward a more complete implementation of EIS processes. We have received new alert “clearance” definitions and approved an Administrative Broadcast detailing the responsibilities of supervisors regarding alert investigations as outlined in GH-5 (Early Identification Systems). During future site visits, we will interview field supervisors regarding their understanding of these new processes and roles.

As a result of our past recommendations to address the lack of specificity regarding the clearing of alerts triggered in the EIS, MCSO has improved several features of their monthly alert report. These include a more complete description of how alerts have been handled or assigned, definitions of categories of triggered alerts and improved tabular presentation of alert summaries. MCSO is continuing to work on documentation to clarify all of the agency’s activities surrounding the handling and disposition of alerts, including definitions of key terms. In December 2015, EIU requested feedback on clearance types for EIS alerts through a memorandum. We responded with additional questions regarding these alert definitions, and discussed these issues in more detail during our February 2016 site visit.

As a result of these discussions, MCSO personnel proposed the expansion of a new category of alerts they have called “artificial” alerts. Artificial alerts are the category that is used to capture previous false alerts with additional detail and refinements. In creating the “artificial” category, MCSO is attempting to improve the type of information that is available about the alerts generated within the EIS system. With the addition of other alert clearance types and a further delineation of what will be captured in the artificial category – entry errors, duplicate records, and the like – MCSO anticipates that the overwhelming majority of issues surrounding false alerts that dominated these reports in past months will be reduced. However, these alerts will continue to exist, but will be more easily separated from those alerts that are of primary importance in the supervisory process. As a result of some refinements already in place, EIU was able to clear over 80% of alerts in the months of January to March 2016. Coupled with the ongoing changes being developed by EIU, we anticipate a transparent process that allows for supervisors in the field to focus on the behaviors of deputies that may be problematic.

EIU staff provided information on the methodology used to analyze traffic stop data on a weekly and monthly basis. These documents, and communication during the latest site visit with ASU personnel, have clarified how EIU tries to identify “outliers,” “racial profiling,” and “improper conduct.” ASU personnel presented a preliminary data analysis of the annual report during our February site visit which was followed by telephone conferences and discussion during our April 2016 site visit regarding ongoing problems either they or we had found with the data from the first annual report. We made decisions about how to overcome those problems during these meetings, and ASU committed to provide a final report that we will comment on once the document is finalized and accepted by MCSO. However, as a result of these discussions during our April 2016 site visit, we requested that EIU conduct an audit of the outliers found in the initial ASU report and examine how many of those deputies had triggered alerts in the EIS system. Our preliminary reading of this report indicates that very few “outliers” from the ASU analysis triggered alerts in EIS.

We also presented in a separate meeting during our February site visit an analysis we conducted using the annual dataset (2014-2015) provided by MCSO. In this analysis, we showed how MCSO might use more statistically defensible thresholds. We provided MCSO and its contractor copies of these analyses. As we have discussed in earlier reports, the alerts outlined in the EIS Supervisory Manual are based upon the experience of EIU personnel and may, therefore, not uncover all aspects of biased policing not captured by these definitions and protocols. Following our April site visit, we provided MCSO with a methodology based upon all of the foregoing discussion and analyses. The suggested methodology of the threshold limits should also decrease the “false or artificial” alerts currently included in the monthly EIU reports as well as provide a more complete way to ensure that alerts are being appropriately triggered.

The EIU has now produced several reports and spreadsheets pertaining to alerts during this and prior reporting periods. The reports summarize the alerts and how they were handled; while the spreadsheets add additional details regarding the investigations by EIU staff or the assignment of these alerts to district supervisors for a more thorough review, including an interview with the deputy whose behavior triggered the alert. The spreadsheet analysis provides context to the activity of EIU staff decisions. Our review of these documents provide strong support for the way EIU personnel have differentiated between the majority of alerts that do not need further investigation from those that are sent to immediate supervisors for additional examination. For the past several months we have requested a random sample of completed alert investigations that have been forwarded to supervisors so that we can review the processes that supervisors use during their investigations. In the past, the transmission of alert investigations to the supervisors occurred via email. One of the problems with this system was that there was no reminder process built in; it depended upon the diligence of EIU personnel to follow up repeatedly. This often resulted in investigations languishing for long periods of time, even in cases where supervisors had conducted their investigations and applied a remedy but had failed to email those results back to EIU.

MCSO has now developed an approach to these investigations in Blue Team. When an alert is triggered, EIU personnel evaluate the issue to ensure that it has not already been handled, or falls within one of the false/artificial categories. If EIU determines that a district investigation is appropriate, EIU forwards the alert through Blue Team. When a supervisor logs in to Blue Team, the supervisor will see a notification that “x” number of incidents has been assigned to him/her for work-up. Supervisors, according to EIS policy, have 14 days to complete these assigned investigations. A description of the alert and any supporting documents are made available through this process. In the event that the alert references Incident Reports, those IR numbers are provided so that supervisors can evaluate those documents in the FILEBOUND system. At the conclusion of the investigation, following a discussion with the employee, the supervisors must document in Blue Team the actions they took in response to the alert including counseling, training, ride-alongs, etc. This information is forwarded back via Blue Team through the chain of command. Each step requires the command staff to approve the actions taken by the line supervisor. EIU closes the alert when all of these steps have been completed and the issues triggering the alert have been addressed.

This new process is a dramatic improvement over the email system that MCSO previously used. MCSO developed an initial Administrative Broadcast announcing these steps to supervisors. After incorporating our and Plaintiffs' earlier comments, MCSO now has an approved Administrative Broadcast. We will evaluate the dissemination of this Broadcast and the actual implementation by supervisors in future reports.

The random samples of alert investigations we have requested provide information about how well the Blue Team process is working, as well as how effective supervisors are in conducting their alert investigations. The Blue Team process streamlines the information system and makes all levels of the organization, EIU to supervisors to command staff, more accountable. For example, in our review of the 15 randomly selected closed alert investigations within March 2016 we found that four closures did not provide enough information to adequately evaluate whether a complete investigation had occurred. As a result, one of the meetings requested during our April site visit focused on alert investigations. During this meeting, we requested that the EIU supervisor coordinate a more thorough examination of these cases. The EIU forwarded this request to district personnel since they were responsible for conducting the initial investigations.

In addition, during our April site visit, we visited two of the districts from which these cases originated. The first case arose because there were six external complaints against subordinates for a single supervisory sergeant within a few months of each other. The investigation was given to the supervising lieutenant in the district who noted in closing the investigation that he spoke with the sergeant and determined "that he found no issues that need to be addressed." Likewise the captain of the district noted in his Blue Team entry, "The external complaints show no pattern of behavior that is alarming at this time." In talking to the lieutenant and captain during our April site visit both acknowledge that they had used routine language without providing detail. As a result of the request for additional follow through on this case, the lieutenant submitted a report that showed that the complaints involved different deputies on different days for very unique circumstances and five of the six complaints had not been sustained as a result of the complaint investigations. The sixth case remains active.

During our April site visit, we visited the district where another of the cases in which we requested additional follow-up investigation occurred. We discussed with the sergeant the investigation he conducted on a subordinate involving the racial disparity of his traffic stops and citations. The alert had been closed with the note that "upon thorough review of the collected data for the month of August 2015, there was no indication of any racial bias or wrongdoing by the deputy." However, the sergeant did not include anything further to support this conclusion. In fact, as anticipated, the captain's review of this closure noted that the sergeant should interview the deputy and ascertain why the disparity arose. The response of the sergeant was that he had conducted a discussion and review with the deputy and assured the captain that "we are complying with our court ordered duties." This closure was allowed to go through the chain of command and was noted by EIU. As a result of our request for further information the captain wrote a lengthy response indicating that the majority of citations for this deputy during this time period resulted from his involvement in a day-long traffic "Aggressive Driving" operation conducted with funds from the Arizona Governor's Office of Highway Safety. All but one of the citations was the result of "drive through" traffic near Luke Air Force Base. Moreover, all of the

stops were for speed enforcement using the Raptor Radar system. Included in the captain's report were copies of the VSCFs completed by the deputy. The additional report provided valid reasons for the number of stops in such a concentrated period of time and showed why this deputy was found to exceed the activity of his peers.

The remaining two cases for which we requested MCSO conduct an additional review were returned with detailed reports that supported the closure of these alert investigations. However, the fact that a minority of cases in this month required additional clarification further supports the need for additional training for supervisors regarding their roles and duties in the supervisory process.

The more transparent documentation being provided by MCSO has improved our ability to evaluate the activity of MCSO personnel. We will continue to raise our concerns with MCSO, and its subcontractors who are assisting with these data elements. In addition, we will be communicating with line supervisors during upcoming site visits to ensure that the EIS system is used for maximum effect and efficiency.

At present, MCSO is not in compliance with this Paragraph.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

***Paragraph 71.** In addition to the underlying collected data, the Monitor and Plaintiffs' representatives shall have access to the results of all Supervisor and agency level reviews of the traffic stop and patrol data.*

MCSO has provided us with access to all existing data. During our February and April 2016 site visits, we were briefed on the annual review of data being conducted by MCSO's contractor, ASU. During our February site visit, ASU personnel presented tables of analyses they had completed, ranging from the processes they went through to clean the data provided by MCSO to the analysis of traffic stop data based upon the criteria provided by MCSO. All Parties were able to ask questions regarding the ongoing evaluation. During our April site visit, ASU personnel discussed at length several ongoing problems with the annual data, specifically pertaining to the start and stop times of traffic stops, duplicate cases for the same events, and other missing data elements. We discussed several strategies, and once all parties agreed, we collectively developed a means to incorporate as much of the data as possible and address the problems of duplicate cases. Following this, ASU and EIU produced interim reports about how they successfully implemented the agreed-upon strategies. ASU committed to providing its report by May 31, 2016. We will comment on the report in our next quarterly report.

In addition, ASU provided us with a copy of the raw data ASU is using for its analyses. We conducted additional analyses to show MCSO different options it may consider in setting thresholds and conducting analyses seeking any evidence of behavior that is outside the norm. The value of these sessions is that it provides an open dialogue about the alternatives available to MCSO to refine how they analyze the traffic stop data. Subsequent to our April site visit, we

provided MCSO with a methodology that is currently under review by the agency and its subcontractor. We will continue working with MCSO and its contractor to make the most out of the information available. We will comment on these reports more thoroughly as the information becomes available.

As noted in Paragraph 70, the additional spreadsheet analysis tracking the alert status of cases of concern has improved our ability to review and comment on the supervisory processes that exist in MCSO. We find continuing problems with supervisors not fully employing all tools available to them for review of their subordinates – or imprecisely closing alert investigations without a rigorous and thorough explanation regarding why these investigations were closed. The proposal by MCSO to use two specific TraCS fields that allow supervisors to acknowledge Review of traffic stops and the date of the Discussion that occurs between supervisors and subordinates about those stops alleviate some concerns that we have raised in the past. In addition, the inspections conducted by BIO – the Patrol Supervisory Note Inspections, Incident Report Inspections, County Attorney Disposition Inspections, among others – have been informative and raise issues that will be investigated in future document requests and site visits. We have already noted that the prior method of reporting the County Attorney Disposition Report on “turndowns” had provided limited detail, and MCSO responded by providing all of the information we requested to come to a better understanding of these processes. Following our April site visit, we requested five cases of County Attorney Turndowns from the March 2016 monthly report and found that the conclusions of BIO – that probable cause existed in each case – was valid. There were several reasons provided through this review that had not been clear previously. For example, in one case, the County Attorney turned down prosecution because the suspect had agreed to act as a confidential informant. In another, the defendant was allowed to complete pre-trial programs to address his drug addiction, which led to the current arrest. A third case involved highly circumstantial evidence that may not have convinced a jury beyond a reasonable doubt. The remaining two cases also met acceptable standards for why a Prosecuting Attorney may not wish to proceed. However, in each instance, it was not the result of a faulty report or inadequate probable cause for the initial arrest.

We also will continue to observe and evaluate the introduction of new software systems that impact the ability of supervisors to effectively supervise their subordinates. During our July 2015 site visit, EIU personnel informed us that they had developed a new set of self-populating supervisory tables that will provide supervisors throughout the agency with the ability to review all traffic stops for a single deputy; as well as the ability to compare significant traffic stop details such as length of traffic stop, citation rates, arrest rates, and the like across their entire squad of deputies. These are significant advancements for supervisory personnel. During our October 2015, February 2016, and April 2016 site visits, we met with supervisors of several districts who stated that they routinely employed the self-populating tables in their monthly evaluation of subordinates. We will continue to meet with line supervisors to gauge how they are using these tools, keeping in mind that they may not be employed across the entire agency until such time as the new Supervisory Training curriculum is approved and finalized.

During a conference call in December 2015 regarding EIS issues and the inclusion of arrest and Incident Reports into the EIS database, MCSO informed us that it began using an independent system, FILEBOUND, which stores Incident Reports and could be used by supervisory personnel to search for reports involving the deputies under their command. After some discussion regarding the capabilities of the system, we made plans to receive more information during the upcoming site visit. FILEBOUND works off of an Optical Character Recognition (OCR) system that allows MCSO to scan Incident Reports into a database with a storage capacity that appears limited only by the amount of money MCSO is willing to spend on it. MCSO has used earlier versions of FILEBOUND to track Orders of Protection. In 2014, MCSO began investigating the use of this program for Incident Reports. The FILEBOUND system went live in July 2014. At present, MCSO has all Incident Reports from 2015 stored in the database. MCSO plans to continue to maintain the database (by scanning all new IR reports into the system), and work backwards to incorporate the paper IR documents from 2008 and forward in time. Prior to 2008, everything was on microfilm and cannot be scanned into the system. In 2015, MCSO scanned approximately 30,000 IRs into the system.

FILEBOUND allows users to search via IR numbers, names of deputies, or any other text that may be pertinent to the type of issue that users wish to investigate. This makes it a flexible system for supervisors. However, there is no mechanism to link FILEBOUND directly to the EIS system. While the EIS system can reference an IR number, supervisors are required to access FILEBOUND to review the actual report. While this is not the ideal situation, we observed during our site visit how a supervisor could access actual IRs while working in the EIS by switching to the FILEBOUND system. This alleviates the concerns we and the Parties had regarding supervisors having to physically relocate to obtain copies of reports referenced in the EIS. However, at this time, there is no indicator in the EIS system that informs the supervisor that their deputies have made arrests or investigatory stops. We have raised this issue repeatedly with EIU and the Technology Bureau of MCSO. We have provided them with a list of information that should exist in EIS for each arrest, investigatory stop and Incident Report. MCSO is working to meet these requirements; however, the feedback we have received so far is not adequate to ascertain to what lengths MCSO has investigated options to incorporate this information into EIS. We have returned inadequate responses from MCSO for further clarification.

Since the onset of the Blue Team alert investigation process during the fall of 2015, MCSO has clarified that if an alert investigation is sent to a supervisor that involves an Incident Report, the alert will also include a list of IR numbers, where applicable, and supervisors can pull up the full text of any IR that has been scanned into the FILEBOUND system. We have verified this process repeatedly over the past several months, through onsite inspections and document analysis of past alert investigations. However, since it will take some time to actually scan historical documents into the system, it is unclear how useful it will be for supervisors to look back into the history of their deputies for the next couple of years. As a contemporary investigative tool, it appears to meet the needs of the organization. During our site visit, we found that command staff were familiar with FILEBOUND and were able to readily pull up Incident Reports involving their subordinates.

The issues with the data notwithstanding, to this point, we have received access to all data that we have requested. We will continue to expect access to these reviews as they are completed.

**Compliance Status:**

Phase 1: Not applicable

Phase 2: In compliance

## Section 8: Early Identification System (EIS)

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### COURT ORDER IX. EARLY IDENTIFICATION SYSTEM (“EIS”)

#### *a. Development and Implementation of the EIS*

**Paragraph 72.** *MCSO shall work with the Monitor, with input from the Parties, to develop, implement and maintain a computerized EIS to support the effective supervision and management of MCSO Deputies and employees, including the identification of and response to potentially problematic behaviors, including racial profiling, unlawful detentions and arrests, and improper enforcement of Immigration-Related Laws within one year of the Effective Date. MCSO will regularly use EIS data to promote lawful, ethical and professional police practices; and to evaluate the performance of MCSO Patrol Operations Employees across all ranks, units and shifts.*

On November 18, 2015, MCSO published policy GH-5 (Early Identification System). This policy has undergone several drafts over the prior 18 months. Training on EIS, including orientation to the new policy, will occur during the upcoming Supervisory Training. Until such training takes place, MCSO is not in Phase 1 compliance with this Paragraph.

The Early Intervention Unit (EIU) staff continue to provide data, conduct audits, and develop an EIS system that incorporates pieces of information from across the organization. However, several technological issues have hampered MCSO’s ability to create a database that incorporates all requirements of the Order. BIO personnel have also shown through routine audits such as Supervisory Note Inspections how quickly MCSO can respond to a finding that fewer than 70% of supervisors were effectively using many of the EIS tools available for supervision during the early months of 2015. BIO staff noted these deficiencies, and recommended supervisory training and instruction to facilitate the use of the tools that were being made available for supervisory functions. As a result, we have seen months where the average compliance among supervisors exceeded 95%, in April, May, June, and October 2015. However, there were also five months in 2015 where the average compliance rate by supervisors went below 80% as it has in the first two months of 2016: 71% and 73%, respectively. This inconsistency suggests that we have not yet witnessed a wholesale adoption of the tools available to supervisors. This may be partly due to the fact that MCSO just recently received approval of the Administrative Broadcast for supervisors’ processing of alert investigations. MCSO also continues to develop its Supervisory Training.

EIU has created a much more efficient alert investigation process for supervisors by moving from the previous email system to the current one housed in Blue Team. Once it is determined by EIU personnel that additional investigation of an alert is necessary, that alert – and any related document references – are transmitted via Blue Team to the immediate supervisor with instructions to conduct a review and report back through the chain of command. While this new process was initiated in the fall of 2015, EIU has been working to refine an Administrative Broadcast to show supervisors how to use the new Blue Team alert system. The final version of this Administrative Broadcast was approved in early May 2016. However, in the interim, hundreds of alert investigations have been sent out and closed. The majority of these investigations have been thoroughly and efficiently processed while others have been

perfunctorily closed with boilerplate language and unclear justification. The time between dissemination of a new tool and training for that tool has been far too long, creating the possibility for misunderstanding or misuse of those new instruments.

Additionally, EIU has continued to refine the definition of alert clearance types to make the “alert process” more transparent. These refinements have been communicated to all Parties and were the topic of discussion at several meetings during our February and April site visits.

MCSO must become more transparent in the way that it develops options for the EIS policy and database. In past reports we have noted that nearly a year elapsed between the time we began asking how MCSO was going to incorporate Incident Reports (IRs) into the EIS database and being informed about the FILEBOUND system that currently houses IRs. This system had gone live in July of 2014 but we were not informed of its existence until December 2015. Upon evaluation of the FILEBOUND system we approved its use as an independent tool to hold IRs and other reports but also required that these incidents still had to be represented in the EIS database for supervisory review. In response to our requests for progress reports on this matter, we received the same inexact message we heard during the prior 12-month lapse: “options are being investigated.” MCSO leadership must recognize the critical nature of timely information for effective supervision and oversight of its deputies. Advancements will only occur if they invest the time and resources to bring the Office into compliance with the Order. The Technology Bureau is crucial to meeting these requirements. Moreover, future reports on progress toward these goals must include evidence that options have actually been investigated, what problems may continue to exist, as well as the plans to overcome these obstacles.

The incorporation of internal and external complaints into the EIS is an example of testing options and keeping us informed about what is occurring. While supervisors still do not have the ability to review the details of closed complaint summaries in EIS, we understand the testing that occurred with the software vendor and the outcome of that testing. As a result, we have asked that a representative of the software vendor participate in our July 2016 site visit to clarify what needs to be accomplished, as well as the timeframe for completion. This remains an ongoing long-term issue, but one that has involved repeated updates and detailed information regarding the testing that took place and how those tests failed. While the pace is slow, this is the type of open communication we expect from MCSO.

We will continue to evaluate and discuss with MCSO the sufficiency of EIS. Our ongoing evaluation will include MCSO’s plans to incorporate arrests and investigatory stops into EIS as required by the Order.

MCSO is not in compliance with this Paragraph.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

*Paragraph 73. Within 180 days of the Effective Date, MCSO shall either create a unit, which shall include at least one full-time-equivalent qualified information technology specialist, or otherwise expand the already existing role of the MCSO information technology specialist to facilitate the development, implementation, and maintenance of the EIS. MCSO shall ensure that there is sufficient additional staff to facilitate EIS data input and provide Training and assistance to EIS users. This unit may be housed within Internal Affairs (“IA”).*

MCSO published the policy GH-5 (Early Identification System) on November 18, 2015. MCSO will conduct training on EIS, including orientation to the new policy, during the upcoming Supervisory Training. Until such training takes place, MCSO is not in Phase 1 compliance with this Paragraph.

EIU personnel have introduced a more efficient way of delegating alert investigations to field supervisors through Blue Team. Subsequently, we have worked with MCSO on drafts of an Administrative Broadcast describing this system to supervisors. The Broadcast materials have now been approved. In addition, EIU has refined definitions for alert clearance types that should improve the quality of information included in their monthly reports of alerts. We will evaluate the evolution and possible implementation of these during subsequent reporting periods.

The EIU has come together well to this point. A lieutenant coordinates the unit, with three sergeants working on investigations, one analyst, and one administrative staff member under the auspices of the Bureau of Internal Oversight. MCSO provided an updated organizational chart for the Bureau of Internal Oversight that incorporates the EIU personnel. EIU staffs continue to conduct data analysis using data they have compiled from sources across the organization – including CAD, RMS, Blue Team, TraCS, EIPro, and others. These analyses look for deputies who “hit” thresholds created by EIU personnel. As discussed previously, both MCSO’s contractor and we have conducted analyses on the annual dataset created by ASU. The ASU analyses uses the benchmarks and thresholds provided by MCSO. Our analyses use a statistically grounded mechanism to identify outliers. We have provided MCSO with our recommendations for a methodology to conduct analyses that might indicate racial profiling or bias and how these findings can be used to set alerts in EIS. We will continue to work with MCSO and its subcontractors as we refine these processes.

EIU personnel also regularly monitor alerts that are triggered by the thresholds they have set. MCSO has provided us with monthly reports of how these alerts are being handled. In addition, EIU has improved the alert transmission process with district supervisors by incorporating the alert investigations into the Blue Team system. This offers a tremendous advantage over the previous email system because it affords an easy way for supervisors to acknowledge receipt of alerts that they need to investigate, in the timeframe they need to be investigated, and make notations in Blue Team regarding any actions they may have taken. We have recently raised questions regarding the detail of supervisor’s concluding remarks in closing these investigations. EIU personnel also went through several iterations of definitions relevant to the EIS policy and practice. They sought our feedback and made modifications based upon this feedback. While none of these changes have been included in the current EIS policy, a revision that will address these issues is in development.

Several issues remain from past site visits or reports pertaining to the sufficiency of data entry and inclusion, even though EIU has been organized as outlined above. Some of these issues are technological in nature, and others result from inadequate training or personnel unable to enter or access data into/from the electronic system. The substance of these issues is detailed in response to other Paragraphs of the Order and therefore will not be repeated here. However, it is important to note that the EIU is operating well and applying the recommendations we have discussed both in and between site visit meetings.

Full compliance with this Paragraph requires an approved and trained to EIS policy. Therefore, compliance for Phase 2 of this Paragraph is deferred.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Deferred

*Paragraph 74. MCSO shall develop and implement a protocol setting out the fields for historical data, deadlines for inputting data related to current and new information, and the individuals responsible for capturing and inputting data.*

GH-5 (Early Identification System) was published on November 18, 2015. Training on EIS, including orientation to the new policy, will occur during the upcoming Supervisory Training. Until such training takes place, MCSO is not in Phase 1 compliance with this Paragraph.

Beginning with our site visits in September 2014, EIU personnel have provided insight into the ways that they used the data to conduct weekly and monthly analysis looking for “outliers,” “potential questionable behavior,” and “racial profiling.” As a result of these discussions, we requested more documentation to support the analysis conducted. EIU produces several monthly reports detailing the threshold rules they employ during these analyses. Our conclusions, since the beginning of 2015, have been that the processes employed by MCSO remain largely “qualitative” since they rely heavily on judgments of EIU personnel and there is little information as to how these thresholds were developed nearly two years ago. Furthermore, the monthly reports indicate that relatively few deputies actually reach these thresholds, further calling into question their value. It is important to note that having an alert set only triggers a closer look at the deputy’s collective stops and is not necessarily proof of bias or profiling. Therefore, we want to ensure that the thresholds are not excluding deputy review when it is appropriate.

MCSO has contracted with an outside vendor, ASU, to conduct the annual review of traffic stop data as well as assist with an examination of the thresholds used by EIU. Since our April 2015 site visit, we have met for extended periods of time with ASU personnel, and have found that they possess the expertise necessary to convert the qualitative alert process to a quantitative one. During our February 2016 visit, ASU personnel presented a draft of their analysis of the annual data. All Parties were able to ask questions and seek clarification based upon the presentation. However, we were not allowed to retain a copy of the report; therefore, we are unable to judge whether it can lead to a less qualitative process. During our April site visit, the majority of time spent discussing alert thresholds and data with ASU focused on data problems either ASU or we uncovered during our analyses. Resolutions were agreed upon and ASU committed to delivering a completed report by May 31, 2016.

Additionally, during our February and April 2016 site visit meetings, we presented our own analyses of the data and provided information to both MCSO and ASU to facilitate a more robust discussion of options in the near future. Our methodology proposes a statistical model of finding “outliers” rather than relying on static alert thresholds. This more dynamic method can account for changes in volume from month to month, as well as the potential for refinement to compare Districts to one another and deputies working different times of the day. We will work with both the contractor and MCSO to evaluate and introduce these new methods to arrive at the most comprehensive system possible.

Additionally, following our April site visit, we requested that EIU conduct an analysis of the outlier findings presented in the draft by ASU to their own alerts triggered during the same period of time. This request affords an early cross-validation of the thresholds that EIU has been using.

The issue of how Incident Reports, required by the Order (Paragraph 75), would be included in the relational database has been at the core of many meetings since December 2014. During a December 2015 telephone conference regarding EIS issues, MCSO command personnel stated that MCSO was currently storing Incident Reports in the FILEBOUND system. This system was described as accessible to supervisory personnel, searchable with keywords, but not able to communicate with the software of the EIS system. We have subsequently approved this system as a means to store Incident Reports and arrests; however, MCSO must still have a mechanism in place in the EIS database that includes enough information for supervisors to know that they should review the fuller set of documents housed in FILEBOUND. It is clear that not all Incident Reports are required to be included in the relational database of EIS; however, those pertaining to arrests and investigatory detentions must be referred to, in an acceptable form.

During our April site visit, we, the Plaintiffs, and the Plaintiff-Intervenors provided MCSO with a list of information that should appear in the EIS database for the relevant Incident Reports and Arrest Reports housed in FILEBOUND. MCSO is researching how it will facilitate the indication of arrests and investigatory stops into the EIS system. MCSO must include the data necessary, on arrests and investigatory stops, in the EIS database so that it can be queried for any potential bias associated with those arrests or investigatory stops. Prior requests for information on this topic have resulted in insufficient responses from MCSO. MCSO is not in compliance with this Paragraph.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

**Paragraph 75.** *The EIS shall include a computerized relational database, which shall be used to collect, maintain, integrate, and retrieve:*

- a. *all misconduct Complaints or allegations (and their dispositions), excluding those made by inmates relating to conditions of confinement or conduct of detention officers (i.e., any complaint or allegation relating to a traffic stop shall be collected and subject to this Paragraph even if made by an inmate);*
- b. *all internal investigations of alleged or suspected misconduct;*
- c. *data compiled under the traffic stop data collection and the patrol data collection mechanisms;*
- d. *all criminal proceedings initiated, as well as all civil or administrative claims filed with, and all civil lawsuits served upon, the County and/or its Deputies or agents, resulting from MCSO Patrol Operations or the actions of MCSO Patrol Operation Personnel;*
- e. *all arrests;*
- f. *all arrests in which the arresting Deputy fails to articulate probable cause in the arrest report, or where an MCSO Supervisor, court or prosecutor later determines the arrest was not supported by probable cause to believe a crime had been committed, as required by law;*
- g. *all arrests in which the individual was released from custody without formal charges being sought;*
- h. *all Investigatory Stops, detentions, and/or searches, including those found by the Monitor, an MCSO supervisor, court or prosecutor to be unsupported by reasonable suspicion of or probable cause to believe a crime had been committed, as required by law;*
- i. *all instances in which MCSO is informed by a prosecuting authority or a court that a decision to decline prosecution or to dismiss charges, and if available, the reason for such decision;*
- j. *all disciplinary action taken against employees;*
- k. *all non-disciplinary corrective action required of employees;*
- l. *all awards and commendations received by employees;*
- m. *Training history for each employee; and*
- n. *bi-monthly Supervisory observations of each employee.*

MCSO published policy GH-5 (Early Identification System) on November 18, 2015. While more training and orientation on EIS will occur during the upcoming Supervisory Training, the policy has been disseminated agency-wide since its publication. This Paragraph outlines the minimum requirements of the database to ensure that bias and profiling do not go unnoticed. The policy adequately references each of the Subparagraphs. However, not all required information is currently stored in a useable format within EIS. Nor as configured does it meet the definition commonly accepted as a relational database that allows users to easily search for specific items without having to read each individual entry. Since this database is a crucial aspect of EIS, we have been working closely with MCSO to achieve compliance. However, several stumbling blocks remain.

Paragraph 75.a. requires that the database include “all misconduct Complaints or allegations (and their dispositions),” with some exclusions. At present, EIPro does include the number of misconduct complaints and allegations against deputies; however, the supervisor has no immediate access to information beyond that without contacting PSB for additional details. EI Pro is a web-based software application that allows employees and supervisors to view information in the IAPro case management system.

During our October 2015 site visit, EIU personnel showed the pilot testing of a software modification that would allow supervisors to view some details of completed internal and external complaint investigations. However, during testing with the software vendor, it became apparent that opening these details to supervisors also opened them to persons who should not have purview of these incidents. There have been subsequent fixes proposed, and tests conducted. However, each has resulted in some failure to meet the needs of the Order. These issues have been at the forefront of each site visit and teleconference on EIS for the past several months. MCSO continues to work with the vendor on a solution to this problem and has kept us up-to-date on proposed solutions and testing. In the meantime, supervisors must continue to contact PSB for information regarding complaints involving their subordinates. We will continue to monitor the inclusion of these elements through document review and examination during future site visits. We have asked that a representative from MCSO’s software vendor participate in the July site visit so that we can better understand what the prevailing problems are in arriving at a solution to these issues.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.b. requires that the database include “all internal investigations of alleged or suspected misconduct.” Similar to the above discussion of complaints, internal investigations exist in the IAPro system which is a management system used by EIU, PSB, and CID to track and analyze information inclusive of internal complaints and outcomes. However, for privacy concerns there must be limited access to this information. MCSO continues to work with the vendor to allow immediate supervisors access to this information without having to contact EIU or PSB.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.c. requires that the database include “data compiled under the traffic stop data collection and the patrol data collection mechanisms.” In Paragraph 54, we describe how MCSO created several electronic forms to capture all relevant data related to traffic stops: Vehicle Stop Contact Forms and Supplemental Sheets, the Incidental Contact Receipt, and the Written Warning/Repair Order. During the first year of the introduction of these electronic forms both we and MCSO were finding problems with regard to data issues. Over time, most of these issues were addressed by requiring that the fields of these forms be made mandatory before a form can be closed. While we have repeatedly discussed some of the data problems relevant to the annual report, our quarterly reports document consistency in capturing the traffic stop data and incorporating it into EIS. However, as noted below, MCSO still has not incorporated the required information regarding arrests or investigatory stops into the database.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.d. requires that the database include “all criminal proceedings initiated, as well as all civil or administrative claims filed with, and all civil lawsuits served upon, the County and/or its Deputies or agents, resulting from MCSO Patrol Operations or the actions of MCSO Patrol Operation Personnel.” According to EIU, this information is evaluated and processed by the Legal Liaison Unit of MCSO and entered into the system. Summaries of this information are available in the EIS database for review by supervisors. During recent site visits, EIU personnel and district supervisors demonstrated these reviews to us.

MCSO is in compliance with this Subparagraph.

Paragraph 75.e. requires that the database include “all arrests.” For some time, MCSO had taken the position that this referred only to arrests associated with traffic stops. We clarified that the Order is clear in its referral to *all* arrests. We have been advised that arrests are currently not included in the EIS database, but they do exist in the Jail Management System which is not directly linked to EIS. The Technology Bureau is tasked with creating a means to pull relevant information from JMS into EIS. During our site visit meetings in April 2016, we provided MCSO with a list of information that minimally must be contained directly in EIS.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.f. requires that the database include “all arrests in which the arresting Deputy fails to articulate probable cause in the arrest report, or where an MCSO Supervisor, court or prosecutor later determines the arrest was not supported by probable cause to believe a crime had been committed, as required by law.” EIU already captures this information through Incident Report Memorialization. Supervisors must file these reports by the end of the shift in which they are recognized. These notes currently exist in Blue Team as Supervisor Notes to the actions of their subordinates. However, at present, these entries are “free form” entries that do not allow supervisors to search for relevant key words or issues. EIU is attempting to develop a more coordinated and consistent approach that would be useful for the field supervisor. At present, any current supervisor of a deputy can access the prior supervisor’s notes and look for references to these incidents, but there is no way to conduct a relational search for similar events. Arrests for which the prosecutor or a court determines a lack of probable cause are discussed in Subparagraph 75.i below.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.g. requires that the database include “all arrests in which the individual was released from custody without formal charges being sought.” According to EIU, the ability to capture this information depends upon what actually occurred within the context of the interaction. If the suspect was taken into physical custody but released prior to booking, there would be a JMS record as indicated in Paragraph 75.e. above. Therefore, MCSO could use the same process of pulling the relevant information into EIS that is being developed under the earlier Subparagraph. However, if the incident does not get to the point of physical custody and detention then it would likely yield an Incident Report, covered under Subparagraph f. above or an Investigatory Stop under Subparagraph h. to follow. EIU is working to coordinate these processes with the assistance of the Technology Bureau. In each instance, MCSO has committed to incorporating relevant information pertaining to the parties involved, officers, supervisors, citizens, etc.; and the type of action taken by a deputy so that supervisors can scan this information to ensure that the deputy’s action does not appear to be triggered by racial or ethnic bias.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.h. requires that the database include “all Investigatory Stops, detentions, and/or searches, including those found by the Monitor, an MCSO supervisor, court or prosecutor to be unsupported by reasonable suspicion of/or probable cause to believe a crime had been committed, as required by law.” If the incident does not involve a traffic stop, it should be documented in an Incident Report, which is scanned into FILEBOUND. At present, the FILEBOUND system does not communicate with EIS. The Technology Bureau has been tasked with devising a means to retrieve minimal information into EIS for each relevant Incident Report or arrest.

If the detention or search was the result of a traffic stop, the information will already be in the system as a result of the electronic forms described in Subparagraph c. above. The EIU Lieutenant had been investigating the creation of a sub-routine for the TraCS system to capture those instances of investigatory stops that are not currently included in EIS. However, due to the other prevailing issues this has been put on hold at present.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.i. requires that the database include “all instances in which MCSO is informed by a prosecuting authority or a court that a decision to decline prosecution or to dismiss charges, and if available, the reason for such decision.” Some of these already exist in the database and are indeed searchable. All cases involving the County Superior Court system already reside in the system and are entered as a “County Attorney Action.” The employee receives a direct message once these outcomes are entered into the system. In addition, a notice is sent to the deputy’s supervisor, and both lieutenants and captains will be able to view these County Attorney Actions on their own supervisory dashboard screens. BIO already conducts monthly audits of County Attorney Turndowns to ensure that, at a minimum, probable cause existed for the initial action of the deputy. We have been reviewing these reports for several months and have requested more detailed information on the decision to not seek prosecution. We reviewed five full cases from the March 2016 collection of County Attorney Turndowns. We found that the reasons for the

decision to decline prosecution included the defendant acting as an informant; the defendant seeking treatment and having his case deferred after completing their program; and a predominance of circumstantial evidence. However, it did not appear in any of the cases that we reviewed that prosecution was turned down due to the deputy's improper action.

For any cases that fall outside of the Superior Court, which can include misdemeanors, minor felonies or cases that are referred to City or Justice Courts, the dispositions are not directly communicated to MCSO. MCSO must come up with a solution to receive feedback from these other Courts. The Technology Bureau is coordinating these efforts.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.j. requires that the database include "all disciplinary action taken against employees." MCSO currently tracks disciplinary actions in the IAPro system. However, MCSO is debating how to include "coaching" as an alternative that is trackable in this database. At present, coaching is incorporated into Blue Team Supervisory notes and therefore is not searchable after it is entered. This becomes problematic if one wants to find similar instances of coaching over time. EIU is exploring a variety of options but has not settled on a particular strategy at this time. EIU will develop a proposal and elicit our feedback so that this issue can be resolved.

MCSO is not in compliance with this Subparagraph until such time as it develops and implements the issues addressed above.

Paragraph 75.k. requires that the database include "all non-disciplinary corrective action required of employees." MCSO believes that at present, supervisory notes fulfill this requirement along with the bi-monthly reviews of a deputy's performance. These notes typically describe the discussions that supervisors and subordinates have about the work of a deputy. Most do not rise to the level of discipline, but there are times where supervisory notes are used to further examine the activity of deputies. However, while the supervisory notes are found within the system, they are not searchable for similar types of notes showing how supervisors may have corrected the actions of a subordinate in the past. MCSO is investigating ways to make the supervisory note fields searchable so that present and future supervisors can quickly investigate whether employees under their purview have had similar problems/issues in the past.

MCSO is not in compliance with this Subparagraph, due to the fact that non-disciplinary actions cannot be queried in any substantive fashion.

Paragraph 75.l. requires that the database include "all awards and commendations received by employees." The EIU is currently working with the Compliance Division to rework the awards policy. At present, the categories in the current policy do not provide the guidance to create the fields necessary in EIS to provide a searchable format. Therefore, the awards and commendations are in the EIS database, but one would have to sift through the system entry by entry in the awards field, as they are not searchable or easily collapsed into categories. MCSO is awaiting the revision of the Awards policy prior to developing the categories necessary to make these items more accessible to supervisors who might perform queries.

MCSO is not in compliance with this Subparagraph, due to the fact that awards and commendations cannot be queried in any substantive fashion.

Paragraph 75.m. requires that the database include the “[t]raining history for each employee.” MCSO uses a Skills Manager System (SMS) that is managed by the Training Bureau. According to the Technology Bureau, the SMS will not communicate with EIS. MCSO is currently investigating new database options like “Cornerstone” to replace the current skills management system. Since MCSO is not sure when they will be able to acquire this replacement system, they have not invested the time to make SMS and EIS compatible. The Technology Bureau has committed to updating us on the progress toward acquisition of this new database as well as their plans to coordinate this new system with the EIS database.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.n. requires that the database include “bi-monthly Supervisory observations of each employee.” Currently, the supervisors memorialize their meetings with employees in Supervisory Notes in Blue Team. However, BIO’s monthly Patrol Supervisory Notes report dated March 22, 2016 shows that supervisors are not using the supervisory tools to oversee their subordinates at the level necessary for compliance to be achieved. Supervisor oversight is measured with five indices. For three of these indices, the report found that supervisors underutilize these tools. For example, BIO found that supervisors made monthly Performance notes for their deputies in only 87% of the cases BIO reviewed. With regard to monthly notes about Traffic Stops and Collective Data Reviews of their deputies, supervisors made notations in fewer than 74% of cases. BIO has noted these deficits in its monthly reports, and we suspect that the use of these tools will improve once the Supervisory Training is delivered.

MCSO is not in compliance with this Subparagraph.

E. F. Codd, the person who coined the term relational database, defined it as a collection of data items organized as a set of formally-described tables from which data can be accessed or reassembled in many different ways without having to reorganize the original database tables. The above discussion of the data elements shows that MCSO is far from compliance with this Paragraph. MCSO has developed the policy (GH-5) regarding these elements and specified how deputies, supervisors, and command staff should use these data elements to fulfill their roles. However, for the most part, these elements do not exist in a manner that fits the definition of a relational database. MCSO must also train to the relevant policy to attain Phase 1 compliance. MCSO is not in compliance with this Paragraph.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

**Paragraph 76.** *The EIS shall include appropriate identifying information for each involved Deputy (i.e., name, badge number, shift and Supervisor) and civilian (e.g., race and/or ethnicity).*

EB-2 (Traffic Stop Data Collection) requires the capture of the information necessary for EIU personnel to link a deputy's traffic stops, along with the racial and ethnic make-up of those stopped, to the actions the deputies take in those stops. GH-5 (Early Identification System) was published on November 18, 2015. Training on EIS, including orientation to the new policy, will occur during the upcoming Supervisory Training. Until such training takes place, MCSO is not in Phase 1 compliance with this Paragraph.

For traffic stops, MCSO meets these requirements in several ways. For instance, EIU conducts a monthly alert analysis that indicates whether deputies are marking race as "unknown" in TraCS. This is an extremely rare occurrence. In addition, the integrity analyses conducted by our personnel have shown that this information is rarely missing from the TraCS data supplied by MCSO. Moreover, when discrepancies do arise, MCSO has developed solutions. For instance, during our July and October 2015 site visits, we discussed a few instances in which the CAD data indicated that back-up deputies arrived at the scene of a traffic stop but were not indicated on the original deputy's TraCS form. MCSO subsequently modified TraCS to provide drop-down boxes for back-up deputies that are automatically created when the number of deputies on the scene exceeds one. The same modification was made for vehicle passengers and has improved the information available for review in the EIS system. We will continue to monitor the modification of TraCS. However, as we noted in several Subparagraphs above – 75.e.f.g. all arrests in differing contexts; and 75.h. investigatory stops – MCSO is still working to incorporate the necessary information in EIS to fully meet the requirements of this Paragraph. MCSO is not in compliance with this Paragraph.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

**Paragraph 77.** *MCSO shall maintain computer hardware, including servers, terminals and other necessary equipment, in sufficient amount and in good working order to permit personnel, including Supervisors and commanders, ready and secure access to the EIS system to permit timely input and review of EIS data as necessary to comply with the requirements of this Order.*

Since our earliest site visits in 2014, we have addressed the issue of "necessary equipment, in sufficient amount and in good working order" with MCSO. As part of our monthly document requests, we receive an accounting, by district, of how many vehicles have functioning TraCS systems. At the close of 2015, all marked patrol vehicles were equipped properly. In addition, most unmarked vehicles located at the districts are also equipped with the TraCS equipment. Each district, excluding Lake, has some unmarked vehicles not equipped with TraCS that are available for non-traffic functions. However, in the rare event that a TraCS vehicle is not available, or the vehicle equipment is not functional, each district has equipment within its offices that would allow a deputy to input his/her traffic stop information before the end of their shift (EB-2, Traffic Stop Data Collection, 4A1).

In addition, the Deputy Chief of the Technology Management Bureau provided a letter in response to our document request that comprehensively shows the deployment of personal computers and printers across the districts and specialty units. During inspections of districts during our February and April 2016 site visits, we verified the availability of replacement squads equipped with TraCS and computers at each of the district offices should vehicle systems fail. The letter is also a testament to the security of the system. At present, it would appear that the technology and equipment available in the agency meets the requirements of the Order.

**Compliance Status:**

Phase 1: Not applicable

Phase 2: In compliance

***Paragraph 78.** MCSO shall maintain all personally identifiable information about a Deputy included in the EIS for at least five years following the Deputy's separation from the agency. Information necessary for aggregate statistical analysis will be maintained indefinitely in the EIS. On an ongoing basis, MCSO shall enter information into the EIS in a timely, accurate, and complete manner, and shall maintain the data in a secure and confidential manner. No individual within MCSO shall have access to individually identifiable information that is maintained only within EIS and is about a deputy not within that individual's direct command, except as necessary for investigative, technological, or auditing purposes.*

The EIS policy, GH-5, was published on November 18, 2015. Training on EIS, including orientation to the new policy, will occur during the upcoming Supervisory Training. Until such training takes place, MCSO is not in Phase 1 compliance with this Paragraph.

Prior to the publication of GH-5, the Deputy Chief of the Technology Management Bureau provided a letter in response to Paragraph 78. On the second page of this memorandum, there is a description of the security of the database and server. This information has been reiterated in the new EIS policy. MCSO has also included specific statements in the policy that limit access to individual deputy information to appropriate supervisory/administrative personnel. In addition, the policy states that personal information will be maintained in the database for at least five years following an employee's separation from the agency. The policy also explicitly stipulates that all other information will be retained in EIS indefinitely for purposes of aggregate statistical analyses. These appear to meet the requirements of the Order. Moreover, the discussion in relation to Paragraph 75.a.b., on complaints and internal investigations provides a practical example of how concerned MCSO is with the privacy of information regarding their employees. MCSO is still working with the vendor to provide supervisor access to this information without allowing those without purview the ability to view this information as well. This is an indicator of how important security of the system is to MCSO.

MCSO has also been working with a contractor, ASU, to ensure that the traffic stop data is in a format that allows for aggregate statistical analysis to be conducted. We have noted particularly in Paragraphs 64-67 the problems that have arisen in conducting the first annual review of traffic stop data. In addition, we have noted the limitations of information available in several Subparagraphs of Paragraph 75 above. MCSO is working to create methods to link remote databases, where feasible, or create alternative mechanisms to pull in the required information to allow supervisors and analysts the ability to review and employ this information as prescribed by this Paragraph.

Finally, until such time as applicable Supervisory Training is delivered, MCSO will not be in compliance with this Paragraph.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

*Paragraph 79. The EIS computer program and computer hardware will be operational, fully implemented, and be used in accordance with policies and protocols that incorporate the requirements of this Order within one year of the Effective Date. Prior to full implementation of the new EIS, MCSO will continue to use existing databases and resources to the fullest extent possible, to identify patterns of conduct by employees or groups of Deputies.*

MCSO published GH-5 (Early Identification System) on November 18, 2015. Training on EIS, including orientation to the new policy, will occur during the upcoming Supervisory Training. Until such training takes place, MCSO is not in Phase 1 compliance with this Paragraph.

MCSO does not have a fully “integrated” database. In the interim, MCSO personnel in the EIU and BIO have done a credible job pulling together data to conduct analyses and inspections looking for behavior that may appear to be outside the norm. However, at present, MCSO is not in Phase 1 compliance with this Paragraph. In previous Paragraphs, we have revealed several concerns that impact the operation of the EIS. Cumulatively, they preclude the EIS from being “fully implemented.” These include, but are not limited to: 1) the ability of supervisors to have immediate access to complaints involving their subordinates; 2) the ability of supervisors to access the training history of their subordinates within EIS; 3) a means of allowing supervisors to peruse pertinent information within EIS regarding Incident Reports for arrests and investigatory stops that have been conducted by their subordinates; 4) the data necessary for analysts to evaluate whether bias occurred during arrests and investigatory stops noted in number 3 above; 5) a searchable database that allows supervisors to query on any variety of measures or incidents.

EIU personnel have incorporated the alert investigation process by district supervisors into the Blue Team system. This has created a more transparent and accountable process for tracking behaviors that might be problematic. The findings from these investigations require approval from several levels of command before they are closed. However, the lack of written direction or substantive training up to this point has resulted in supervisors closing alert investigations without adequately describing the process they employed or conducting face-to-face meetings with their subordinates.

BIO inspections have shown how they use information drawn from a variety of sources to gauge whether supervisors are fulfilling their required roles (Patrol Supervisory Note and IR Inspections). When BIO identifies issues in the reports, BIO shares recommendations for improvement with the districts. We have recommended that BIO take a more active role once it uncovers deficiencies in training or operations. We will continue to monitor these developments as they arise.

EIU personnel have also developed a set of self-populating tables that will provide supervisors throughout the agency with the ability to review all traffic stops for a single deputy, as well as the ability to compare significant traffic stop details such as length of traffic stop, citation rates, arrest rates, and the like across their entire squad of deputies. These are significant advancements for supervisory personnel.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

***b. Training on the EIS***

***Paragraph 80.*** MCSO will provide education and training to all employees, including Deputies, Supervisors and commanders regarding EIS prior to its implementation as appropriate to facilitate proper understanding and use of the system. MCSO Supervisors shall be trained in and required to use EIS to ensure that each Supervisor has a complete and current understanding of the employees under the Supervisor's command. Commanders and Supervisors shall be educated and trained in evaluating and making appropriate comparisons in order to identify any significant individual or group patterns. Following the initial implementation of the EIS, and as experience and the availability of new technology may warrant, MCSO may propose to add, subtract, or modify data tables and fields, modify the list of documents scanned or electronically attached, and add, subtract, or modify standardized reports and queries. MCSO shall submit all such proposals for review by the Monitor pursuant to the process described in Section IV.

MCSO published GH-5 (Early Identification System) on November 18, 2015. Training on EIS, including orientation to the new policy, will occur during the upcoming Supervisory Training. Until such training takes place, MCSO is not in Phase 1 compliance with this Paragraph.

In response to our request for documentation, MCSO provided a training schedule for TraCS. The scheduled training for TraCS has been carried out routinely, and the Master Training Calendar and curriculum were provided in documents dated February 11, 2016. More importantly, MCSO has now put into practice a mechanism to memorialize who has received this training and when. However, the Supervisory Training required under Paragraphs 52 and 53 remains under development in consultation with us and the Parties.

Finally, we have discussed in previous Paragraphs the inability of supervisors to access complaints against their subordinates without the assistance of PSB. MCSO is working with the vendor to find a solution to this issue. We have also discussed the use of FILEBOUND (see Paragraph 71) to review Incident Reports for arrests, investigatory stops, and the like. While this system is available to supervisors, and allows them to search using a variety of levels, it is an independent system that cannot communicate with EIS. We believe the FILEBOUND system meets the needs of supervisory access to both arrests and investigatory stops; however, MCSO must include in EIS sufficient information for each incident so that supervisors can evaluate whether bias may have occurred as a result of an event or series of events

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

***c. Protocol for Agency and Supervisory Use of the EIS***

***Paragraph 81.*** MCSO shall develop and implement a protocol for using the EIS and information obtained from it. The protocol for using the EIS shall address data storage, data retrieval, reporting, data analysis, pattern identification, identifying Deputies for intervention, Supervisory use, Supervisory/agency intervention, documentation and audit. Additional required protocol elements include:

- a. *comparative data analysis, including peer group analysis, to identify patterns of activity by individual Deputies and groups of Deputies;*
- b. *identification of warning signs or other indicia of possible misconduct, including, but not necessarily limited, to:*
  - i. *failure to follow any of the documentation requirements mandated pursuant to this Order;*
  - ii. *racial and ethnic disparities in the Deputy's traffic stop patterns, including disparities or increases in stops for minor traffic violations, arrests following a traffic stop, and immigration status inquiries, that cannot be explained by statistical modeling of race neutral factors or characteristics of Deputies' specific duties, or racial or ethnic disparities in traffic stop patterns when compared with data of a Deputy's peers;*
  - iii. *evidence of extended traffic stops or increased inquiries/investigations where investigations involve a Latino driver or passengers;*
  - iv. *a citation rate for traffic stops that is an outlier when compared to data of a Deputy's peers, or a low rate of seizure of contraband or arrests following searches and investigations;*
  - v. *complaints by members of the public or other officers; and* vi. *other indications of racial or ethnic bias in the exercise of official duties;*

- c. *MCSO commander and Supervisor review, on a regular basis, but not less than bimonthly, of EIS reports regarding each officer under the commander or Supervisor's direct command and, at least quarterly, broader, pattern-based reports;*
- d. *a requirement that MCSO commanders and Supervisors initiate, implement, and assess the effectiveness of interventions for individual Deputies, Supervisors, and units, based on assessment of the information contained in the EIS;*
- e. *identification of a range of intervention options to facilitate an effective response to suspected or identified problems. In any cases where a Supervisor believes a Deputy may be engaging in racial profiling, unlawful detentions or arrests, or improper enforcement of Immigration-Related Laws or the early warning protocol is triggered, the MCSO shall notify the Monitor and Plaintiffs and take reasonable steps to investigate and closely monitor the situation, and take corrective action to remedy the issue. Interventions may include but are not limited to counseling, Training, Supervisor ride-alongs, ordering changes in practice or procedure, changing duty assignments, Discipline, or other supervised, monitored, and documented action plans and strategies designed to modify activity. All interventions will be documented in writing and entered into the automated system;*
- f. *a statement that the decision to order an intervention for an employee or group using EIS data shall include peer group analysis, including consideration of the nature of the employee's assignment, and not solely on the number or percentages of incidents in any category of information recorded in the EIS;*
- g. *a process for prompt review by MCSO commanders and Supervisors of the EIS records of all Deputies upon transfer to their supervision or command;*
- h. *an evaluation of whether MCSO commanders and Supervisors are appropriately using the EIS to enhance effective and ethical policing and reduce risk; and*
- i. *mechanisms to ensure monitored and secure access to the EIS to ensure the integrity, proper use, and appropriate confidentiality of the data.*

MCSO published GH-5 (Early Identification System) on November 18, 2015. Training on EIS, including orientation to the new policy, will occur during the upcoming Supervisory Training. Until such training takes place, MCSO is not in Phase 1 compliance with this Paragraph.

In the absence of comprehensive training EIU, BIO and individual supervisors have shown the ability to conduct comparative analysis of deputies, squads and districts employing the traffic data incorporated into EIS. EIU has routinely conducted monthly analyses looking for racial bias and profiling. While informative, these analyses have resulted in very few alerts being sent for further investigation to be conducted by supervisors. We have provided MCSO and its subcontractor with a methodology that is more statistically grounded and will allow a more complete analysis of deputy activity. BIO has also conducted several types of monthly analyses on both traffic stop data and supervisory use of EIS tools. Over the past year the use of these tools has ranged from approximately 55% of supervisors regularly employing these tools to several months where 100% of supervisors used the EIS tools available to them. BIO has shared this information agency-wide and made specific recommendations to command staff in Districts

where the fluctuations were most pronounced. We have recommended to BIO personnel that they go beyond the mere dissemination of reports to active intervention when such discrepancies arise. Finally, we have met with individual supervisory staffs that have employed the statistical tables provided by EIU in conducting their monthly meetings with their subordinates. For the past several months we have also reviewed random alert investigations conducted by supervisory staff as directed by EIU. In the majority of cases we have found that supervisors did an appropriate job of conducting and closing the alert investigations. Some of these investigations led to additional personal training or coaching, while others were closed after the supervisor found no pattern of bias or concern. In several investigations we reviewed, we could not tell whether the supervisor had adequately conducted an investigation before the alert was closed. In these cases we have asked for, and received, a more thorough description of the investigation conducted; and we were satisfied with the closure of those alerts.

However, we continue to question the validity of the thresholds used in some of the analyses to be discussed in the Subparagraphs to follow. The justification for the current thresholds may be moot since we have recommended that MCSO look toward more statistically grounded alert thresholds. We have provided analyses we conducted during our February site visit, as well as additional analyses focusing on racial profiling and biased policing. We will continue to pursue these alternatives with MCSO and the agency's data consultant.

Paragraph 81.a. requires that MCSO's EIS protocols include "comparative data analysis, including peer group analysis, to identify patterns of activity by individual Deputies and groups of Deputies." The EIU conducts monthly analysis looking for racial bias and profiling in accordance with Paragraphs 65, 66, 67, and 74. For instance, deputies are compared across beat, ZIP codes, and the organization as a whole using criteria developed by a prior EIU administrator to identify possible racial bias and profiling. However, from the time we were first apprised of these analyses, we voiced concern due to the fact that only deputies with 10 or more citations in a beat or ZIP code could be included in the analysis. Moreover, the additional rules required a certain proportion of difference by citation rate or searches by ethnicity to be considered problematic. We suggested early on that such static thresholds reduce the chance of finding anyone that would exceed these rules. The reports using data from January through March show alerts set for seven, three, and four deputies, respectively, for investigation of possible racial bias. However, the manner in which the reports are presented does not allow the reader to know which of the criteria these deputies were flagged for – only the number of EIU thresholds reached. Similarly, the analysis for racial profiling requires that the deputy conduct at least 10 or more stops in a ZIP code or beat which further limits the sample being analyzed. Not surprisingly, out of the three months of data analysis for 2016, only one deputy had an alert set for possible racial profiling. For these reasons, we recommended a methodology that does away with the 10-stop rule and includes all patrol deputies. This method will work off the average number of stops by all deputies and use standard deviations to identify outliers. A much more complete description can be found in Paragraphs 64-67. We believe this more inclusive method will result in better statistical models that have some precedent in the prevailing literature on bias and profiling. Moreover, in the testing of these models, we noted that many more deputies were identified as needing closer scrutiny. A description of this methodology has been shared with MCSO and the Parties.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.b. requires that MCSO's EIS protocols include "identification of warning signs or other indicia of possible misconduct." MCSO published GH-5 (Early Identification System) in November 2015 after months of revision and comments. The approved policy provides significant direction for employees and supervisors alike to understand what type of behaviors will be seen as problematic. EIU collects a host of indices electronically that most individual supervisors would never be able to track themselves. While we have discussed several limitations to the information available in Paragraph 75, the EIU has created an alert investigation process that facilitates the dissemination of information to supervisors and command staff when alert thresholds are met. The policy also directs supervisors to actively oversee their subordinates' performance through mechanisms like the EIS Dashboard, where they can not only see if an employee has reached a threshold, but can keep track of how close the employee may be to the myriad thresholds and check in with the employee before a trigger event occurs.

In addition, the EIU conducts monthly analyses looking for racial bias and profiling using a variety of indicators from citation rate comparisons to passenger rate contact comparisons. The analysis that the EIU conducts uses the total organization as well as lower levels of organizational analysis like ZIP codes and beats. The analyses lead to alerts being set when deputy activity rises to a level that exceeds that of their fellow deputies. However, we believe that this occurs too infrequently due to rules that limit the deputies that will be involved in the analysis, the 10 or more stops in a beat or ZIP code rule, or because of the arbitrary rate differences that are required for specific events – for example, a passenger contact rate of 30% above the comparison group when three or more passengers are contacted. We believe MCSO has created a strong foundation for the use of the EIS database; however, it is time to move toward a more statistically grounded set of rules to conduct these monthly comparisons. We have provided MCSO, the Plaintiffs, and the Plaintiff-Intervenors with a methodology we created from our own analyses.

MCSO is working on the provision of more complete information regarding arrests, investigatory stops, and the like for quick and efficient review by supervisors and command staff. As noted in Paragraph 75, some of this information is now stored in databases that do not communicate with EIS. MCSO is investigating strategies to capture officer, citizen, and context information from these incidents and make it available within EIS. This will allow supervisors to quickly peruse this information for any signs that may suggest improper patterns in arrests, investigatory stops, and the like. Once in place, the EIU will have to develop a strategy to analyze these fields in much the same way as the EIU has compared citation rates and passenger contacts.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.c. requires that MCSO's EIS protocols include "MCSO Commander and Supervisor review, on a regular basis, but not less than bimonthly, of EIS reports regarding each officer under the Commander or Supervisor's direct command and, at least quarterly, broader, pattern-based reports." MCSO has captured all the key requirements of the Order in GH-5 (Early Identification System). However, as noted in Paragraph 75, not all of the required information is easily accessible to supervisory and command staff. EIU conducts the monthly and quarterly analyses on information that is currently housed in EIS and disseminates those reports throughout the agency. During our February and April 2016 site visits, we found that both line supervisors and command staff had seen the EIU reports and could easily access them at the District. In addition, all levels of supervisors – sergeants, lieutenants, and captains – have discussed how they use aspects of the EIS system to conduct evaluations of their subordinates on a regular basis during these site visits. However, while the majority of supervisors appear to be using the EIS system as planned, the BIO reports on Patrol Supervisory Notes indicate that nearly 25% of supervisors do not adequately describe their use of EIS tools when evaluating their subordinates. BIO has repeatedly sent out reports to district command staff and recommended ways to improve. We have recommended that BIO become more actively involved in this process, to the point of triggering alerts and reviews for those supervisors who fail to employ the technology appropriately. However, we also anticipate that these levels will improve following the more comprehensive Supervisory Training that is still being planned. We will continue to evaluate these efforts in future reports.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.d. requires that MCSO's EIS protocols include "a requirement that MCSO Commanders and Supervisors initiate, implement, and assess the effectiveness of interventions for individual Deputies, Supervisors, and units, based on assessment of the information contained in the EIS." MCSO published GH-5 (Early Intervention System) in November 2015. This policy refers to supervisor responsibilities and the development of "intervention plans" to address the root cause for a threshold alert. Intervention options range from informal observation to the initiation of Internal Investigations as outlined in GC-17 (Employee Disciplinary Procedure) and GH-2 (Internal Investigations). Section 6 of GC-17 provides an effective description of early intervention for all MCSO employees as a mechanism to address inappropriate conduct and substandard job performance before it becomes an issue that may warrant discipline. In our earlier discussion of the EIS database, we addressed 75.j., Disciplinary Actions and 75.k., Non-Disciplinary Actions. We have noted that discipline is well tracked in the EIS database. However, anything short of that – such as coaching sessions, observations, ride-alongs, and the like – are entered into the EIS database as Supervisory Notes in Blue Team. These notes are available for review by all in the chain of command, but they are not searchable in the sense that you can query similar terms or concepts. Moreover, while the above policies recommend that supervisors regularly follow up their informal interventions with additional observations that can be noted through the same Blue Team process, these entries are also unsearchable notes. EIU recognizes this flaw in the system and is working with the policy division to address these issues in both the policies and the database. Finally, MCSO does not currently have an "after action evaluation" process where interventions are tracked and evaluated for their effectiveness. This may be addressed at the line level by individual supervisors, but there is no formal process in place. During our February and April 2016 site visits, lieutenants

and captains discussed how they follow up on subordinate interventions through the supervisory notes of sergeants, but they acknowledged that this is a painstaking process that requires significant attention. BIO personnel have noted these deficiencies and participated in discussions to improve both the policies and technology to track intervention practices.

MCSO is not in compliance with the Subparagraph.

Paragraph 81.e. requires MCSO's EIS protocols include "identification of a range of intervention options to facilitate an effective response to suspected or identified problems. In any cases where a Supervisor believes a Deputy may be engaging in racial profiling, unlawful detentions or arrests, or improper enforcement of Immigration-Related Laws or the early warning protocol is triggered, MCSO shall notify the Monitor and Plaintiffs and take reasonable steps to investigate and closely monitor the situation, and take corrective action to remedy the issue. Interventions may include but are not limited to counseling, Training, Supervisor ride-alongs, ordering changes in practice or procedure, changing duty assignments, Discipline, or other supervised, monitored, and documented action plans and strategies designed to modify activity. All interventions will be documented in writing and entered into the automated system." Both GH-17 (Employee Disciplinary Procedure) and GH-5 (Early Intervention System) provide a wide range of options for supervisor interventions as well as practical guidelines about how to employ those options. As mention above, both policies refer to options like "coaching" which should result in a Supervisory Note entry in Blue Team. In addition, the EIU produces monthly reports looking for instances of possible racial bias and profiling. We have noted our belief that the current thresholds used by MCSO limit the triggering of alerts for these two areas. However, we have seen alerts triggered as a result of the analysis conducted by EIU and transmitted to field supervisors. In our follow-up of these cases, there were instances where the supervisor accurately closed the alert without intervention because the findings of EIU were understandable given the context within which the events occurred – Aggressive Driving Operation, for example. There were also several instances where supervisors noted in Blue Team that they had coached, or recommended training, for subordinates and would monitor the future activity of the deputy. Finally, there were alert investigations in which the supervisor closed the alert without substantiating why the alert was closed. In these instances, we have asked for clarification and received adequate feedback. However, as noted in the Subparagraph above, MCSO does not have an "after action" tracking process for interventions. Command staffs have acknowledged this deficiency and are planning to address it.

Finally, during our February and April 2016 site visits, we raised the issue of threshold levels pertaining specifically to activity of deputies that may be perceived as racially/ethnically biased (ICE Contacts, Immigration Status Inquiries). The thresholds included in the Supervisors Manual for EIS indicate that an alert is triggered only if there are two such instances in a rolling 12-month period. We advised MCSO that this had to be changed so that each incident triggers an alert and both the Monitor and Plaintiffs are notified of the alert being triggered as well as the resultant investigation that will occur. MCSO stated they were compiling a list of modifications to both the EIS policy and the Supervisor's Manual. This change would be included in the revision; however, in the meantime, EIU will ensure that each single incident results in an alert. We will follow up on such developments with MCSO for each of these issues.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.f. requires that MCSO's EIS protocols include "a statement that the decision to order an intervention for an employee or group using EIS data shall include peer group analysis, including consideration of the nature of the employee's assignment, and not solely on the number or percentages of incidents in any category of information recorded in the EIS." MCSO has taken this into account in GH-5 (Early Intervention System). Additionally, MCSO has developed threshold levels that differ by assignment and included these in the Supervisors' Manual for EIS in addendums A and B. We have recommended ways in which MCSO could set thresholds using a more statistically grounded methodology. As this work continues, MCSO is not yet in compliance with this Paragraph.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.g. requires that MCSO's EIS protocols include "a process for prompt review by MCSO Commanders and Supervisors of the EIS records of all Deputies upon transfer to their supervision or command." MCSO has noted the need for a prompt review in both the Supervisor and Command Staff Responsibility sections of GH-5 (Early Intervention System). In addition, during our site visits in February and April 2016, we interviewed several supervisors and commanders who had recent transfers to their units. In three instances, the supervisor and two command personnel stated that they had reviewed the EIS dashboard and supervisory notes of transferees within the first week of their arrival. In two other instances, a lieutenant and a sergeant stated that they had not used EIS to look at the history of subordinates, but instead contacted their subordinates' last immediate supervisors. BIO and EIU personnel have recognized such disparities themselves and believe that there will be more uniformity once Supervisory Training is completed. Moreover, during the next revision of the EIS policy they are contemplating the addition of a required supervisory note regarding an EIS review of data by supervisors who have new transferees. We will monitor and comment on these changes as they arise.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.h. requires that MCSO's EIS protocols include "an evaluation of whether MCSO Commanders and Supervisors are appropriately using the EIS to enhance effective and ethical policing and reduce risk." BIO conducts monthly audits of Patrol Supervisory Notes and Quarterly Inspections of Incident Reports to assess whether supervisors are adequately using EIS supervisory tools. We have previously described the wide range of overall compliance scores for Patrol Supervisory Notes in 2015; ranging from 53.7% to 100%. In one of the latest reports, issued on March 22, 2016, BIO notes that in February, supervisors noted making collective data reviews and traffic stop reviews in fewer than 70% of the cases. On the other hand, the rate of performance notes increased to 87%. All three of these notes are mandatory. BIO forwards these reports to supervisors and command staff, and identifies the personnel who do not make the necessary notes. We have recommended that BIO become more active in this regard and set alerts for repeated failure to make the mandatory notes. We will continue to monitor this in future reports and engage in policy direction to facilitate such options.

BIO also conducts quarterly inspections of Incident Reports using a random sampling technique. Of particular interest for this Paragraph is that in the last inspection supervisors were in compliance regarding the memorialization of Incident Reports 98% of the time. The report also indicates that deputies often did not contact supervisors when required for Lack of Identity Reports (80%) or turning in their own memorialized IRs at the end of shift (83%).

We will continue to monitor the performance of supervisory staff following the completion of Supervisory Training.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.i. requires that MCSO's EIS protocols include "mechanisms to ensure monitored and secure access to the EIS to ensure the integrity, proper use, and appropriate confidentiality of the data." MCSO has addressed the security and integrity of data in GH-5 (Early Intervention System), as well as instituted facility inspections throughout the districts – including the security of terminals, access to information, and mobile displays. Further, we regularly inspect facilities during site visits. During our February and April 2016 site visits, we did not observe any abnormalities, and each district maintained the security of VSCFs in a locked file as we recommended in the past.

Finally, in our ongoing discussion of internal and external complaints being visible to immediate supervisors, MCSO has expressed its concerns whether the fixes to the system can limit the purview of these complaints to immediate supervisors and command staff of the respective employees. In each instance, continued problems were discovered and MCSO correctly chose not to allow these complaint summaries to be viewed electronically. EIU continues to work with the software vendor to address this deficiency. We will monitor and report on these issues in future reports.

MCSO is in compliance with this Subparagraph.

MCSO published policy GH-5 (Early Intervention System), but has not yet trained to this policy. Until such time as Supervisory Training is complete, MCSO will not be in Phase 1 compliance with this Paragraph. MCSO is meeting some requirements of Paragraph 81: security; evaluation of supervisory use of EIS; and the ability of EIU and BIO to conduct monthly analyses on existing data. However, MCSO also needs to attend to the majority of areas where it falls short: the ability to search Supervisor Notes; assessment of the effectiveness of interventions; and evaluation of comparative analytic methods that do not rely upon arbitrary thresholds. We will continue to work with MCSO in developing supervisory processes that meet the requirements of the Order.

At present, MCSO is not in compliance with Paragraph 81.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

## Section 9: Supervision and Evaluation of Officer Performance

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### **COURT ORDER X. SUPERVISION AND EVALUATIONS OF OFFICER PERFORMANCE**

***Paragraph 82.** MCSO and the County shall ensure that an adequate number of qualified first-line Supervisors are available to provide the effective supervision necessary to ensure that Deputies are following the Constitution and laws of the United States and State of Arizona, MCSO policy, and this Order. First-line Supervisors shall ensure that Deputies are policing actively and effectively, are provided with the instruction necessary to correct mistakes, and are held accountable for misconduct. To achieve these outcomes, MCSO shall undertake the following duties and measures:*

***Paragraph 83.** MCSO Supervisors shall provide the effective supervision necessary to direct and guide Deputies. Effective supervision requires that Supervisors: respond to the scene of certain arrests; review each field interview card and incident report; confirm the accuracy and completeness of Deputies' daily activity reports; respond to each Complaint of misconduct; ensure Deputies are working actively to engage the community and increase public trust and safety; provide counseling, redirection, support to Deputies as needed, and are held accountable for performing each of these duties.*

We reviewed all policy submissions, and the policy requirements for Paragraph 83 are covered under GC-17 (Employee Disciplinary Procedure), which was revised on September 5, 2014. MCSO's policy is in compliance with Paragraph 83.

During our April site visit, we met with the Deputy Chief of Patrol regarding several important topics that needed to be addressed. The first priority was an update on MCSO's adoption of Daily Activity Logs. In our February visit, we had expected MCSO to have a solution ready for implementation, as we had previously discussed this issue during our October site visit. Instead, MCSO reported that the software solution being tested was incompatible with its CAD system, so additional work was necessary. During our April site visit, MCSO presented to the Monitoring Team, the Plaintiffs, and the Plaintiff-Intervenors, a pilot program that, at that time, had been implemented in District 1. A sergeant and a squad of nine deputies were selected to beta-test a CAD-based solution for Daily Activity Logs. MCSO reported that the program had been in place for three weeks, and it had been working relatively well. The Monitoring Team reviewed the proposal and made several suggestions for the Daily Activity Log format. MCSO was given a deadline of June 1, 2016, for Patrol-wide implementation of Phase 1 of the two-part project.

We conducted interviews with supervisors and commanders from two districts during our April 2016 site visit to determine if there is compliance with MCSO policies and the requirements of the Order. We conducted interviews with a District 1 lieutenant and the District 1 Commanding Officer. District 1 offices are open to the public Monday-Friday from 8:00 a.m. – 4:00 p.m.

No Field Interview (FI) cards were completed in District 1 during this reporting period. In documents requested for the reporting period, we received no Incident Reports written in lieu of FI cards. During our site visit to District 1, we noted that citizen complaint forms, in Spanish and English, were available to the public. The complaint forms were available to any person desiring to file a complaint. We reviewed the property and evidence procedures, including an inspection of the room where property and evidentiary items are kept, and no deficiencies were noted.

During our meeting with the Deputy Chief of Patrol, we learned of the pilot program wherein District 1 had been testing a CAD-based solution for Daily Activity Logs. We met with the squad supervisor to discuss the project and get his assessment of the functionality and usefulness of the solution. We were pleased to find that the software has been working as expected, with only minor flaws. The supervisor was candid in his responses, and we spoke about some issues that needed to be addressed. For example, the CAD system runs on a 24-hour clock and cannot differentiate between shifts. This becomes problematic when querying the system for shift-related data with specific timeframes. MCSO is aware of this glitch. We inquired as to the usefulness of Daily Activity Logs, and the supervisor's response was favorable. He understood the value of the system and the usefulness of the data in determining productivity and efficiency. At the beginning of the pilot program, MCSO directed deputies to document all activities. Deputies were told to take a signal for every activity they performed during the shift, though some of these activities had never been previously tracked. The supervisor advised us that through this system, he could determine if deputies are using their time productively and efficiently. We agree that the Daily Activity Logs will be a useful management tool.

We requested input on the 4/10 plan from District 1 supervisors and command staff, and they generally agreed that converting to the 4/10 was a positive step that would lead to better coverage. There were concerns expressed over the need for an additional sergeant and nine deputies to implement the 4/10. This will likely lead to the reassignment of the administrative sergeant, which may present some difficulty in managing district administrative functions. District 1 supervisors and command staff acknowledged that the existing shift configuration has drawbacks. One of the biggest concerns with the current 13-hour shift is deputy fatigue. Not only are deputies tired at the end of the long shift, the recovery time from one workday to another is relatively short. Personnel who live in outlying areas of the County occasionally show up to work exhausted from the previous shift and back-and-forth travel. We concur that employee fatigue could lead to officer safety concerns; and we believe that MCSO's decision to convert to the 4/10 is prudent, although we are not privy as to how MCSO arrived at the decision, or if there was any supporting data analysis.

During our April site visit, we conducted a routine visit to District 7. District 7 serves the Town of Fountain Hills, and the district office is housed in the Town Hall facility. The Town Hall offices operate Monday through Friday during normal business hours. During our visit to District 7, we met with the Commanding Officer and a District 7 lieutenant. There were no FI cards and no Incident Reports in lieu of FI cards generated in the district during this reporting period. We discussed several issues including deficiencies in documentation of supervisory discussions related to traffic stops, supervisory notes, and deficiencies in Employee Performance Appraisals.

During our meeting with the District 7 Commander, we spoke about the importance of first-line supervision. The ratio of supervisors to deputies is 1:4 in District 7, and the crime rate is generally low. Since MCSO is converting to a 4/10 shift configuration, we asked the District Commander if he had any concerns with the 4/10. The only concern expressed was the availability of patrol vehicles. The Deputy Chief of Patrol identified the shortage of vehicles as the biggest challenge in the 4/10 plan.

MCSO advised us that the TraCS and EIS/Blue Team applications are working well, with only sporadic communications issues. The supervisor who we interviewed displayed a good working knowledge of the TraCS system, as well as the review and approval process for VSCF. Body-worn cameras have been working well, and there have been no significant problems. There was one instance where a deputy forgot to turn off the camera after a traffic stop and recorded several minutes of a bathroom break. MCSO followed an approval process to delete the undesired video.

We reviewed a representative sample of 127 Incident Reports for **January 2016**, for the randomly selected dates of January 5, and January 18, 2016. Five reports were not turned in by the end of the shift; one was due to a kickback. Five reports were not signed within the required seven days. Seventeen crash reports contained the printed or signed name of the supervisor but no date of review. All three Arrest Reports generated during this reporting period were memorialized by a supervisor within the required 72 hours. We conducted a quality review on a 10% random sample of the reports reviewed. One Incident Report involving an arrest by another agency had no MCSO deputy or supervisor signatures. One Incident Report involving a traffic arrest, where the individual was cited and released, had no deputy or supervisor signatures. One Incident Report involving a natural death was turned in six days late without explanation, and another Incident Report involving shots fired was also turned in six days late without explanation.

We reviewed a representative sample of 60 Incident Reports for **February 2016**, for the randomly selected date of February 7, 2016. All except one report were turned in by the end of the shift. There was one instance where the supervisor did not memorialize a report within the required seven days. Nine crash reports included the supervisor's name printed, but not the date of review. All Arrest Reports were reviewed and memorialized within the required 72 hours. We conducted a quality review on a 10% random sample of the reports reviewed; three of the eight reports reviewed had significant grammar and spelling deficiencies.

We reviewed a representative sample of 84 Incident Reports for **March 2016**, for the randomly selected date of March 12, 2016. Two Incident Reports were not signed by a supervisor. One Arrest Report was not memorialized within the required 72 hours. Fourteen vehicle crash reports had the name of the supervisor printed, but no date of review. We conducted a quality review on a 10% random sample of the reports reviewed. We noted some minor spelling errors, but in general the reports were comprehensive and well-written.

MCSO agreed to provide us with a list of jail bookings so that we may select a random sample of arrests reports for review. This process began in February 2016. MCSO had not worked out the document production process in time for us to review January Arrest Reports. We reviewed 23 Arrest Reports and associated documents. We found that on two domestic violence Incident Reports involving assault/injury to females, the reporting deputies used diagrams of male bodies to depict the areas of injury to victims. In previous reports reviewed, MCSO has used gender-specific body diagrams.

To avoid any possibility of misrepresentation or confusion, we recommend that correct gender diagrams be used, or that generic body diagrams be used consistently. In one report, the victim's date of birth did not coincide with the age listed on the report. We found one Incident Report involving an arrest that was not signed by either the reporting deputy or the supervisor. We also reviewed a probable cause statement, on what MCSO refers to as Form 4, wherein the victim was misidentified as the defendant. We found no evidence of the enforcement of immigration-related laws.

For March, we reviewed 27 randomly selected incidents involving arrest. Eleven of these were drug-related arrests, many of which were initiated by Border Patrol. One incident related to a disorderly conduct arrest had a weak probable cause statement on Form 4. In one domestic violence incident, where there were no injuries, and on a second domestic violence incident, where there were injuries to the victim, male diagrams were used to depict female victims. One Incident Report that was submitted did not have the corresponding Form 4. There were no immigration-related arrests.

In our April site visit, we advised MCSO that although we have found errors from time to time, Incident Reports have been generally comprehensive and well-written. In our reviews of incidents related to arrests, we have found deficiencies in other documents, such as Form 4. We believe that probable cause statements on Form 4 should summarize the facts leading to arrest, but the statements should stand on their own. In some incidents we have reviewed where an arrest was made, there has been sufficient probable cause for arrest, but the probable cause established in the Incident Report had not been clearly articulated in the probable cause statement on Form 4.

As to community engagement, MCSO submitted a list of events for each district, for each month of the reporting period. These events, such as Coffee with a Cop, Relay for Life, and pet adoption events are held throughout Maricopa County. In the first quarter of the year, MCSO reported that personnel spent over 2,700 hours in community engagement, in 147 public events, with an estimated total attendance of 15,000. In addition, MCSO reported that its deputies recorded 3,172 community-policing occasions – of which 3,136 were conducted by patrol deputies. Supervisors have the task of ensuring that deputies are actively working towards ensuring public safety and public trust. Once Patrol Activity Logs are submitted for review on a regular basis, we will have a better idea of how effective supervisors are in carrying out this mission. While we recognize the significant number of hours spent on the events MCSO has reported, ultimately, the success or failure of MCSO's community engagement initiatives will be determined by the communities it serves.

**Compliance Status:**

Phase 1: In compliance

Phase 2: Not in compliance

***Paragraph 84.** Within 120 days of the Effective Date, all patrol Deputies shall be assigned to a single, consistent, clearly identified Supervisor. First-line field Supervisors shall be assigned to supervise no more than twelve Deputies.*

During this reporting period, on January 12, 2016, MCSO published policy GB-2 (Command Responsibility). Paragraph 84 requires that all patrol deputies be assigned to a single, consistent, clearly identified supervisor and that first-line supervisors be assigned to supervise no more than 12 deputies. GB-2 meets the requirements of Paragraph 84. MCSO is now in Phase 1 compliance with this Paragraph.

To verify Phase 2 compliance with this Paragraph, we reviewed monthly rosters and shift rosters for the first quarter of 2016. We also reviewed the January, February, and March 2016 Patrol Bureau shift roster inspection summaries, which discuss the results of BIO's examination of every MCSO shift roster during those months to verify that shifts did not exceed the 1:12 supervisor-to-deputies ratio.

During this reporting period, consistent with our methodology, for January, we reviewed a sample of rosters from Districts 1 and 2; for February, we reviewed a sample of rosters from Districts 3 and 4; and for March, we reviewed a sample of rosters from Districts 6 and 7, and Lake Patrol. Monthly and daily rosters show that deputies are assigned to one single consistent supervisor and that supervisors are assigned no more than 12 deputies. All districts are completing monthly rosters.

During our April 2016 site visit, we visited and interviewed supervisors and commanders from Districts 1 and 7. In our discussions, we learned that supervisors have no more than 12 deputies reporting to them, and that supervisors work the same days and hours as the deputies that report to them.

MCSO is now in compliance with Paragraph 84.

**Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

**Paragraph 85.** *First-line field Supervisors shall be required to discuss individually the stops made by each Deputy they supervise with the respective Deputies no less than one time per month in order to ensure compliance with this Order. This discussion should include, at a minimum, whether the Deputy detained any individuals stopped during the preceding month, the reason for any such detention, and a discussion of any stops that at any point involved any immigration issues.*

We reviewed MCSO's policy submissions, and the requirements for Paragraph 85 are covered under EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) as revised on September 22, 2014. EB-1 is in compliance with Paragraph 85. EB-1 states, "Supervisory Responsibilities: First line supervisors shall individually discuss the traffic stops made by each deputy under their supervision at least one time per month. The discussion shall include whether the deputy detained any individuals and the reason for such detention, and whether any stops involved immigration issues."

We reviewed MCSO's submission as proof of compliance with Paragraph 85. A document request was made for MCSO to provide copies of reports documenting that supervisors are meeting with and discussing individually the stops made by each deputy, at least once per month. We requested documentation for one randomly selected supervisor from each district, for each month of the reporting period, and the squad of deputies that reports to that supervisor.

For January, MCSO submitted 42 supervisory notes for 28 deputies. Ten deputies did not have a Blue Team entry regarding the required monthly traffic stop review and discussion. Twenty-four of the 42 supervisory notes contained all the information required to meet the requirements of Paragraph 85. For February, MCSO submitted 33 supervisory notes for 27 deputies. None of the 33 supervisory notes contained all the information required to meet the requirements of Paragraph 85. Twelve deputies did not have a Blue Team entry regarding the required monthly traffic stop review and discussion. For March, we reviewed 144 supervisory notes completed for 40 deputies. Four deputies did not make any traffic stops in the month of March. Twenty-eight of the 36 deputies who made traffic stops had supervisory notes that contained all the information required to meet the requirements of Paragraph 85.

While there was some improvement toward meeting the requirements of this Paragraph in January, MCSO regressed in February. MCSO showed progress again in March. Supervisory documentation of the review and discussions related to traffic stops improved significantly in the last month of the quarter; Blue Team supervisory notes were better written and there was an increase in the number that contained all the necessary information.

In our most recent site visit, MCSO proposed an alternate process of capturing the documentation related to this Paragraph. MCSO suggested that supervisor-deputy discussions related to traffic stops be memorialized in TraCS, as opposed to Blue Team Notes. MCSO advised us that the transfer of the memorialization process to TraCS would allow supervisors to acknowledge review and discussion of traffic stops with the click of a button. Supervisors would spend less time in the office completing Blue Team Notes and therefore free them up for field supervision. The Monitoring Team, as well as the Plaintiffs and Plaintiff-Intervenors, expressed some concerns with the possible abuse of an automated system where a supervisor can select and memorialize multiple supervisory reviews/discussions by depressing one key. Supervisors are

now documenting discussions in narrative form in Blue Team Notes. Although supervisors could conceivably make a statement that they have had discussions with deputies regarding traffic stops when they actually have not, a written statement found to be untruthful would be prima facie evidence of misuse. Whereas, one validated discussion in TraCS that was found to be untrue, amongst several others that were legitimate, could be attributed to the errant click of a button. MCSO agreed to institute a policy requiring supervisors to review, discuss and approve each traffic-related event on an individual basis. The Monitoring Team, the Plaintiffs, and the Plaintiff-Intervenors were in agreement with the proposed solution with the understanding that if evidence of misuse is found, the documentation will revert to narrative form in Blue Team Notes.

**Compliance Status:**

Phase 1: In compliance

Phase 2: Not in compliance

***Paragraph 86.** On-duty field Supervisors shall be available throughout their shift to provide adequate on-scene field supervision to Deputies under their direct command and, as needed, to provide Supervisory assistance to other units. Supervisors shall be assigned to and shall actually work the same days and hours as the Deputies they are assigned to supervise, absent exceptional circumstances.*

During this reporting period, on January 12, 2016, MCSO published policy GB-2 (Command Responsibility). Paragraph 86 requires that on-duty field supervisors be available throughout their shifts to provide adequate on-scene field supervision to deputies under their direct command and, as needed, to provide supervisory assistance to other units. Paragraph 86 also requires that supervisors be assigned to work the same days and hours as the deputies they are assigned to supervise, absent exceptional circumstances. GB-2 meets the requirements of Paragraph 86. MCSO is now in Phase 1 compliance with this Paragraph.

To assess Phase 2 compliance with this Paragraph, we reviewed a sample of daily shift rosters for the first quarter of 2016. For January, we reviewed Districts 1 and 2; for February, we reviewed Districts 3 and 4; and for March, we reviewed Districts 6 and 7, and Lake Patrol. Monthly and daily rosters indicate that deputies are assigned to and work the same schedules as their supervisors.

However, as we have noted previously, there is no currently available documentation that could assist us to audit the Paragraph 86 requirement that field supervisors provide adequate on-scene field supervision to deputies under their direct command. Such documentation is not only required by this Paragraph, but it is also essential for evaluating compliance with several Paragraphs of this Section. During our April site visit, we met with the Deputy Chief of Patrol and other MCSO personnel regarding MCSO's adoption of Daily Activity Logs. Daily Activity Logs allow deputies to document their activities throughout their shifts, and they allow supervisors to document their supervision or daily contacts with the deputies assigned to them. During our February 2016 visit, we had expected MCSO to have a solution ready for implementation, as we had previously discussed the need for such documentation during our October 2015 site visit.

During our April site visit, MCSO demonstrated to the Monitoring Team, the Plaintiffs, and the Plaintiff-Intervenors, a pilot Computer Aided Dispatch (CAD)-based Daily Activity Log program that, at that time, was being beta-tested in District 1 with a sergeant and his squad of nine deputies. During our meeting, MCSO reported that the program had been in place for three weeks, and that it had been working relatively well. The Monitoring Team reviewed the proposal and made several suggestions to improve the Daily Activity Log format. We gave MCSO a deadline of June 1, 2016, for Patrol-wide implementation of Phase 1 of the two-part project.

We continue to follow MCSO's adoption of the Daily Activity Logs closely, and we will report on this further in our next quarterly status report.

**Compliance Status:**

Phase 1: In compliance

Phase 2: Not in compliance

***Paragraph 87.** MCSO shall hold Commanders and Supervisors directly accountable for the quality and effectiveness of their supervision, including whether commanders and Supervisors identify and effectively respond to misconduct, as part of their performance evaluations and through non-disciplinary corrective action, or through the initiation of formal investigation and the disciplinary process, as appropriate.*

We reviewed the submissions and the policy requirements for Paragraph 87 covered under GC-17 (Employee Disciplinary Procedure), which was revised on September 5, 2014. MCSO is in Phase 1 compliance with Paragraph 87.

GC-17 states, "Commanders and supervisors shall be accountable for the quality and effectiveness of their supervision, including whether commanders and supervisors identify and effectively respond to misconduct, as part of performance evaluations or through non-disciplinary corrective action, or through the initiation of a formal investigation and the disciplinary process, as appropriate."

MCSO submitted a draft of policy GC-4 (Employee Performance Appraisals) in August 2015. We reviewed the draft policy, and returned it to MCSO with comments and suggestions. Subsequent to the revision of GC-4, MCSO revised the Employee Performance Appraisal (EPA) form. We reviewed the revised EPA form, and returned it with comments and suggestions. During our April site visit, we met with MCSO and reviewed the revised draft of GC-4, as well as the revised EPA form. We approved the revisions to both and the final draft of GC-4 has been submitted by MCSO, for review by the Monitoring Team, the Plaintiffs, and the Plaintiff-Intervenors.

We requested the performance appraisals for all deputies and supervisors who were evaluated during this reporting period. We received and reviewed performance evaluations submitted for seven deputies and 12 supervisors who received evaluations in **January 2016**. Six of seven deputies' appraisals reviewed were acceptable, and one was substandard. The one subpar EPA lacked substance and was filled with platitudes generally used when the rater has not documented performance and behaviors throughout the rating period. Nine of the 12 supervisors were rated for the quality and effectiveness of supervision, and three of 12 were rated as to how well they evaluated employee performance. None of the 12 supervisors had comments related on their ability to identify and respond to misconduct.

We received and reviewed performance evaluations submitted for six deputies and 11 supervisors who received performance evaluations in **February 2016**. As with our previous reviews, we noted great inconsistency in the quality and detail of the reviews. Four of the six deputy performance appraisals were of acceptable quality; two were subpar and lacked details. Of the 11 performance evaluations, 10 contained comments about or rated the supervisor for the quality and effectiveness of his/her supervision. Five of the 11 supervisors were rated on the quality of supervisory reviews. None of the 11 appraisals rated the supervisor on his/her ability to identify and respond to misconduct. We noted that commanders are, in many instances, evaluating the performance of supervisors based on the skills, knowledge, and abilities that are more aligned with the job of a deputy. While it is appropriate to assess behaviors such as completing assignments on time, officer safety, punctuality, and using sound police tactics, the focus of the supervisory appraisal should be on how well the supervisor leads and manages his subordinates.

We received and reviewed performance evaluations submitted for five deputies and two supervisors who received evaluations in **March 2016**. We noted that deputy performance appraisals improved greatly from the previous month. Most appraisals contained the appropriate amount of detail to support ratings, as compared to the EPAs completed in February. We believe that this may be partly due to Blue Team Notes that have been completed in the last year and are now available to supervisors to review and substantiate ratings. There were two supervisor EPAs submitted. One of the two supervisors was rated for the quality and effectiveness of supervision. Neither supervisor had comments or was rated on the quality of his/her personnel reviews. Neither supervisor had comments on his/her ability to identify and respond to misconduct.

We have been addressing the deficiencies noted in employee performance appraisals with commanders and commanding officers of each of the districts we have visited. In addition, during our April site visit, we met with the Deputy Chief of Patrol and shared our observations as they relates to the consistency and quality of reviews. During our April visit, we also met with MCSO Human Resources staff, and reviewed the revised draft of GC-4. The latest draft of GC-4 is in the final stages of review by the Monitoring Team, the Plaintiffs, and the Plaintiff-Intervenors. We believe that the revised GC-4 policy and revised EPA form will facilitate better quality and consistency in performance appraisals. As with any new policy or procedure, success in achieving the desired outcome is determined by how well personnel understand and apply the concepts. During each of our meetings with MCSO we have emphasized the need to provide training and detailed instructions to all supervisors to ensure quality and consistency in reviews. Until GC-4 is completed, approved, and published; and training is conducted; MCSO is not in Phase 1 compliance.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

*Paragraph 88. To ensure compliance with the terms of this Order, first-line Supervisors in any Specialized Units enforcing Immigration-Related Laws shall directly supervise the law enforcement activities of new members of the unit for one week by accompanying them in the field, and directly supervise the in-the-field-activities of all members of the unit for at least two weeks every year.*

MCSO has taken the position that it no longer has specialized units that enforce immigration laws. During discussions with CID and MCAO attorneys, we have recommended that applicable immigration laws and immigration-related crimes, as those terms are defined in the Order, be identified. From there, a determination can be made as to which units, if any, enforce these laws as one of their core missions.

In previous discussions, MCSO and MCAO attorneys articulated that the three criminal violations that they believe qualify as potentially immigration-related include: human smuggling; forgery; and misconduct with weapons. During our December 2014 site visit, we were informed that MCSO was disbanding the Criminal Employment Unit, which was part of the Special Investigations Division.

On November 7, 2014, a United States District Court Judge issued an Order permanently enjoining enforcement of Arizona Revised Statute (A.R.S.) 13-2319, commonly referred to as the Arizona Human Smuggling Act. On November 17, 2014, MCSO issued Administrative Broadcast 14-75, prohibiting deputies from enforcing the above statute including arresting, detaining, or questioning persons for suspected (or even known) violations of the Act and from extending the duration of traffic stops or other deputy-civilian encounters to do so.

During our April 2015 site visit, we met with the MCSO command staff to review proof of compliance that the Criminal Employment Unit (CEU) had been disbanded, as MCSO had asserted, and that there were no Specialized Units enforcing immigration-related laws. MCSO submitted a copy of a memorandum dated December 15, 2014, from Deputy Chief Lopez to Chief Deputy Sheridan which states, "After a thorough discussion with Command Staff, it has been determined that the CEU will be disbanded after the current identity theft investigation concludes in the end of January or early February 2015. The Maricopa County Sheriff's Office will be voluntarily enjoining itself from investigating identity theft for the purposes of gaining employment. This determination was made after certain laws enacted by the State of Arizona have been enjoined by United States Federal Court Decisions. The grant funding provided by the State to MCSO to enforce these crimes would be returned to the State. Existing personnel assigned to CEU will be transferred to other units in the Office to fill manpower needs. CEU will be removed from the organizational chart and Operations Manual of the Special Investigations Division."

MCSO also submitted a memorandum dated January 6, 2015, from Executive Chief Trombi to Chief Deputy Sheridan which states, "As a direct result of US District Judge David G. Campbell's January 5, 2015 Order in *Puente Arizona v. Joseph Arpaio*, which was previously distributed via the Court Compliance Division, I have directed Deputy Chief Lopez to immediately cease any future and/or active/pending investigations related to ARS 13-2009(A)(3) and the portion of ARS 13-2008(A) that addresses actions committed 'with the intent to obtain or continue employment.' Additionally, I have directed Chief Lopez to immediately disband and reassign deputies currently assigned to that investigative branch known as the Criminal Employment Unit and remove any such identifiers with our agency that indicate the existence of such a unit. These deputies shall be assigned to various other divisions/districts as deemed appropriate by office needs for resources."

In addition, MCSO submitted a copy of a letter dated February 12, 2015, from Sheriff Joseph Arpaio to Ms. Kathy Peckardt, Interim Director of the Department of Administration of the State of Arizona. The letter states that MCSO will be returning \$32,292.72 in previously allocated State funds to enforce criminal employer sanctions.

MCSO advised us that the Criminal Employment Unit has been disbanded, and that the Human Smuggling Unit has been renamed the Anti-Trafficking Unit, and that its mission has changed to drug interdiction. MCSO submitted an organizational chart for the Special Investigations Division, which shows that the Human Smuggling Unit's name has been changed to "ATU."

During our July 2015 site visit, we met with MCSO command staff and attorneys to review proof of compliance that the Anti-Trafficking Unit, formerly known as the Human Smuggling Unit, had its mission changed, as MCSO had asserted, and that there were no specialized units enforcing immigration-related laws. MCSO submitted a copy of the Special Investigations Division's Operations Manual with an effective date of May 15, 2015. The Operations Manual states, "The mission of the Maricopa County Sheriff's Office Anti-Trafficking Unit is to identify, investigate, and apprehend individuals involved in the Transnational Criminal Organizations (TCO) that engage in the following crimes: the smuggling of human beings and/or narcotics, money laundering, home invasions, kidnapping extortion, trafficking of weapons, and gang related crimes." It was MCSO's position that human smuggling was inadvertently left in as part of the ATU mission.

During our October 2015 site visit, we met with MCSO staff and attorneys to discuss this issue. MCSO provided us with a copy of the Special Investigations Division's Operations Manual. The Operations Manual now states, "The mission of the Maricopa County Sheriff's Office Anti-Trafficking Unit is to identify, investigate, and apprehend individuals involved in the Transnational Criminal Organizations (TCO) that engage in the following crimes: the smuggling of narcotics, money laundering, home invasions, kidnapping, extortion, trafficking of weapons, and gang related crimes."

MCSO has removed the enforcement of human smuggling laws from the mission statement of the Anti-Trafficking Unit, and no other specialized units have this mission and part of their duties. Based on these policy modifications, MCSO is now in Phase 1 compliance with this Paragraph. MCSO's lack of specialized units that enforce immigration-related laws puts MCSO by default in Phase 2 compliance as well, but we will continue to monitor arrests and detentions as part of our review process to ensure that MCSO is in compliance with its own directives on this issue.

In February 2016, we received the first list of jail bookings and requested a random sample of Arrest Reports with supporting documentation. MCSO had not worked out the logistics for production of Arrest Reports in time for us to review January arrests. We reviewed 23 incidents involving arrest. Our review discovered some deficiencies, as detailed in Paragraph 83, but there were no immigration-related arrests. For March, we reviewed 27 randomly selected incidents involving arrest. Our March review found some issues, which we detailed in Paragraph 83 as well, but we found no evidence of enforcement of immigration-related laws.

**Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

**Paragraph 89.** *A Deputy shall notify a Supervisor before initiating any immigration status investigation, as discussed in Paragraph 28. Deputies shall also notify Supervisors before effectuating an arrest following any immigration-related investigation or for an Immigration Related Crime, or for any crime related to identity fraud or lack of an identity document. The responding Supervisor shall approve or disapprove the Deputy's investigation or arrest recommendation based on the available information and conformance with MCSO policy. The Supervisor shall take appropriate action to address any deficiencies in Deputies' investigation or arrest recommendations, including releasing the subject, recommending non-disciplinary corrective action for the involved Deputy, and/or referring the incident for administrative investigation.*

We reviewed the following documents submitted by MCSO as policy documentation relative to Paragraph 89 requirements: EA-11 (Arrest Procedures), which was revised on September 5, 2014; GC-17 (Employee Disciplinary Procedure), which was revised on September 5, 2014; and proposed EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), which was revised on September 22, 2014. The requirements of the Paragraph are covered as a result of the combination of these policies.

We requested to inspect all reports related to immigration status investigations, any immigration-related crime, or incidents or arrests involving lack of identity. The Incident Reports submitted covered the period from October 1, to December 31, 2015. Any incident wherein a deputy requests supervisory permission to contact Immigration and Customs Enforcement (ICE) or Customs and Border Patrol (CBP), to ascertain the legal status of an individual involved in a stop, detention, or any incident being investigated by MCSO, would fall under the reporting requirements of this request. No cases involving immigration status investigations or immigration-related crime were reported, and we did not see any evidence of immigration-related investigations or arrests.

The MCSO submission for the first quarter of 2016 consisted of a total of seven incidents that occurred during the time period requested. One incident involved an individual who was already in jail on arrest made by another agency. The individual was implicated in taking the identity of another and was subsequently charged for that offense. Two arrests involved individuals who were involved in vehicle crashes and did not have driver's licenses. One incident was related to an individual arrested for driving with a suspended driver's license. One incident involved an arrest for possession of marijuana. One arrest involved an individual stopped for driving at night with no headlights. In one instance, there was an identity theft report written, but there was no related arrest. We reviewed all seven incidents submitted for this reporting period and found that MCSO was in compliance as to the required supervisory notification. None of the Arrest Reports we reviewed as part of the Paragraph 93 audit involved any immigration issues, identity fraud, or lack of identity documents.

MCSO has yet to establish Daily Activity Logs for deputies and supervisors. Daily Activity Logs can be used to document any arrests or investigations related to immigration, immigration-related crime, identity fraud, or lack of identity documents, and corresponding supervisory approvals or disapprovals. A supervisor's Daily Activity Log may also be used to document any deficiencies or corrective actions related to any arrest or investigation in violation of MCSO policy. During our April site visit, MCSO committed to the Patrol-wide implementation of electronic Daily Activity Logs for deputies and supervisors by June 1, 2016. The project will be implemented in two phases.

**Compliance Status:**

Phase 1: In compliance

Phase 2: Not in compliance

***Paragraph 90.** MCSO Deputies shall submit documentation of all stops and Investigatory Detentions conducted to their Supervisors by the end of the shift in which the action occurred. Absent exceptional circumstances, within 72 hours of receiving such documentation, a Supervisor shall independently review the information. Supervisors shall review reports and forms for Boilerplate or conclusory language, inconsistent information, lack of articulation of the legal basis for the action, or other indicia that the information in the reports or forms is not authentic or correct. Appropriate disciplinary action should be taken where Deputies routinely employ Boilerplate or conclusory language.*

We reviewed EA-11 (Arrest Procedures), which was revised on September 5, 2014. EA-11 states that deputies shall submit documentation of all stops, investigatory detentions, and arrests to their supervisors by the end of the shift in which the action occurred. Absent exceptional circumstances, within 72 hours of receiving such documentation, supervisors shall independently review the reports. If the incident did not include an arrest or detention, the supervisor shall review the IR within seven calendar days, absent exigent circumstances. Supervisors shall review reports and forms for boilerplate or conclusory language, inconsistent information, lack of articulation of the legal basis for the action, or other indicia that the information in the reports or forms is not authentic or correct. Supervisors shall take appropriate action to address all violations or deficiencies in investigatory stops or detentions, including non-disciplinary corrective action for the deputy, or referring the incident for administrative review or criminal investigation. We reviewed EA-11, revised on September 5, 2014; and it is in compliance with this Paragraph.

We reviewed 35 incidents involving traffic stops for **January 2016**. There were four instances of criminal violations where the driver was cited and released. Two drivers were cited for driving with suspended licenses. One driver was charged with criminal speeding. One incident involved an individual who was cited and released for having a suspended license plate. All 35 stops had Vehicle Stop Contact Forms, and all resulted in traffic citations or warnings. None of the Vehicle Stop Contact Forms contained any notations or signatures from a supervisor indicating that his/her review, and the date of the review. There were no notations by deputies on the Vehicle Stop Contact Forms, indicating the time they were submitted, and there were no acknowledgements of receipt or review by the supervisor. We were unable to verify if any were turned in by the end of the deputy's shift, or if the supervisor reviewed the documentation within 72 hours as required by this Paragraph.

We reviewed 35 incidents involving traffic stops for **February 2016**. Out of 35 traffic stops, seven resulted in arrests: two for speeding, three for driving with suspended licenses, and two for driving with suspended license plates. All 35 stops had Vehicle Stop Contact Forms, and all resulted in traffic citations or warnings. None of the Vehicle Stop Contact Forms contained any notations or signatures from a supervisor indicating his/her review, and the date of the review. There were no notations by deputies on the Vehicle Stop Contact Forms, indicating the time they were submitted, and there were no acknowledgements of receipt or review by the supervisor. We are unable to verify if any were turned in by the end of the deputy's shift, or if the supervisor reviewed the documentation within 72 hours as required by this Paragraph.

We reviewed 35 incidents involving traffic stops for **March 2016**. Out of 35 traffic stops, six resulted in arrest: five for driving with suspended licenses and one for criminal speeding. All 35 stops had Vehicle Stop Contact Forms, and all resulted in traffic citations or warnings. None of the Vehicle Stop Contact Forms contained any notations or signatures from a supervisor indicating his/her review, and the date of the review. There were no notations by deputies on the Vehicle Stop Contact Forms, indicating the time they were submitted, and there were no acknowledgements of receipt or review by the supervisor. We were unable to verify if any were turned in by the end of the deputies' shifts, or if the supervisor reviewed the documentation within 72 hours, as required by this Paragraph.

During our April site visit, we inquired as to the progress MCSO had made related to the memorialization of supervisory reviews of VSCF. MCSO informed us that it was waiting on our approval of the "discussed with deputy" tracking option on the VSCF. We approved this solution for memorialization of VSCF reviews. Once supervisory reviews of VSCFs are established, each reviewed form will have the supervisor's serial number, date, and time of review. We will assess the quality of the supervisory reviews during our audits. Therefore, it is incumbent upon supervisors to conduct a detailed and thorough review, as we will note any deficiencies missed in our reports.

All documentation related to stops and detentions currently reviewed for compliance with this Paragraph is traffic-related and based on violations of traffic laws. We routinely review VSCFs, along with other documentation submitted, for quality and compliance, pursuant to the requirements of Paragraphs 25 and 54. Once supervisory reviews are memorialized on the VSCFs, we will identify any deficiencies found in supervisory reviews. During our April site visit, we inquired as to the expected time of implementation of the solution to record metadata memorialization of supervisory reviews on VSCF. Subsequent to our visit, MCSO advised us that a Briefing Board regarding VSCF memorialization was drafted on May 16, 2016, and sent through channels for approval. This Briefing Board draft was provided to the Monitoring Team, the Plaintiffs, and the Plaintiff-Intervenors for review and comments prior to publication. MCSO has not provided the expected time of completion of this project.

**Compliance Status:**

Phase 1: In compliance

Phase 2: Not in compliance

***Paragraph 91.** As part of the Supervisory review, the Supervisor shall document any Investigatory Stops and detentions that appear unsupported by reasonable suspicion or are otherwise in violation of MCSO policy, or stops or detentions that indicate a need for corrective action or review of agency policy, strategy, tactics, or Training. The Supervisor shall take appropriate action to address all violations or deficiencies in Investigatory Stops or detentions, including recommending non-disciplinary corrective action for the involved Deputy, and/or referring the incident for administrative or criminal investigation.*

EB-1 (Traffic Enforcement, Violator Contacts and Citation Issuance) revised September 22, 2014, is compliant with the Paragraph 91 requirements.

We reviewed EA-11 (Arrest Procedures), which was revised on September 5, 2014. EA-11 states that deputies shall submit documentation of all stops, investigatory detentions, and arrests to their supervisors by the end of the shift in which the action occurred. Absent exceptional circumstances, within 72 hours of receiving such documentation, supervisors shall independently review the reports. If the incident did not include an arrest or detention, the supervisor shall review the IR within seven calendar days, absent exigent circumstances. Supervisors shall review reports and forms for boilerplate or conclusory language; inconsistent information, lack of articulation of the legal basis for the action, or other indicia that the information in the reports or forms is not authentic or correct. Supervisors shall take appropriate action to address all violations or deficiencies in investigatory stops or detentions, including non-disciplinary corrective action for the deputy; or referring the incident for administrative review or criminal investigation. We reviewed EA-11, revised on September 5, 2014, and it complies with this Paragraph.

We reviewed traffic stop data reported by MCSO for its **January** inspection. The Monitoring Team randomly selected 35 traffic-related events, which BIO then audited for compliance. Of the 35 traffic-related events, MCSO reported that 34, or 97%, had no deficiencies noted. The Monitoring Team reviewed the same traffic-related events, independent of BIO's audits, as part of our compliance audit of Paragraphs 25 and 54.

During this inspection, MCSO determined the following:

- All of the stops had matching information on the traffic Stop Data Forms to CAD.
- All of the stops documented all license and/or warrant checks.
- All of the stops documented the serial number and unit of all involved in the stop.
- All of the stops documented the time the stop began, time any citation was issued, time release was made without citation, or time the stop/detention was concluded.
- All of the stops had a receipt containing a signature when applicable or acknowledgment that the subject was served and the reason for no signature was documented.
- All of the stops recorded the reason for the stop with a description of the traffic or equipment violation observed, if any, prior to contact with the occupants; and any indicators of criminal activity developed before or during the stop.
- Thirty-four, or 97%, of the stops had the traffic stop data matching on all TraCS forms.
- All of the stops documented the license plate number and state.
- All of the stops documented the total number of occupants.
- All of the stops documented the post-stop race/ethnicity.
- All of the stops documented where contact with passenger(s) was made, the nature of the contact, and the reasons for such contact.
- All of the stops documented the city location of the stop on the traffic Stop Data Form.
- None of the stops involved any inquiry as to immigration status.
- None of the stops involved a consent to search.
- All of the stops involving a seizure documented the contraband or evidence seized.
- All of the stops documented the final disposition, including whether a citation was issued or an arrest was made or a cite and release was made.

In reviewing the 35 traffic-related incidents for this audit, MCSO listed 17 points in its Matrix Procedures. As part of our audit process for Paragraphs 25 and 54, we reviewed the same data and found deficiencies that should have been reported as part of the BIO audit.

- MCSO's objective was to confirm the name, serial number, and unit number of all those involved. We audited the same data and found that one Vehicle Stop Contact Form (VSCF) involved a stop where a second deputy was present but not listed on the VSCF.
- MCSO's objective was to verify the time the stop began, the time any citations were issued, the time releases were made without citation, the time any arrests were made, and

the time the stops/detentions were concluded and documented. We found two cases where the difference between the stop time varied by more than five minutes, and one case where the time the citation was issued was two minutes before the stop the time began.

- MCSO's objective was to verify that receipts contained a signature or acknowledgment that the subject was served, and if not there was a documented reason. We found four cases where there was no signature on the receipt and no explanation by the deputy.

There were two open, non-validated forms in the TraCS system. BIO determined that there was a 98.5% compliance rate for January, a decrease from the December compliance rate. Based on our review, we believe that the decrease in compliance was slightly higher.

BIO recommended that supervisors continue to provide onsite mentoring on the importance of accurately documenting all required traffic stop data, and any mentoring provided should be documented in supervisory notes.

We reviewed 42 supervisory notes for January 2016. MCSO documented 22 corrective actions related to traffic stops. Most corrective actions were due to improperly completed VSCFs, which included missing signatures, incorrect information; and in one case, there were two missing VSCF. While it appears that most supervisors are reviewing traffic stop data on TraCS, there are still supervisors that are not properly documenting their required monthly discussions with deputies. The documentation is improving, as the number of supervisory notes containing all the requirements pertaining to the monthly discussions of traffic stops has increased. In January, 24 of 42 supervisory notes met all the requirements of Paragraph 85. We have been in continuing discussions with MCSO regarding proper documentation by supervisors. We believe that some progress has been made in finding a solution utilizing metadata to memorialize supervisory-deputy discussions of traffic stops on TraCS. During our April site visit, as with previous visits, we discussed this issue at length with the District Commanders, in the districts we visited, as well as with MCSO command staff.

We reviewed traffic stop data reported by MCSO for its **February** inspection. The Monitoring Team randomly selected 35 traffic-related events, which BIO then audited for compliance. Of the 35 traffic-related events, MCSO reported that 35, or 100%, had no deficiencies noted. The Monitoring Team reviewed the same traffic-related events, independent of BIO's audits, as part of our compliance audit of Paragraphs 25 and 54.

MCSO reported the following:

- All of the stops had all matching information on the traffic Stop Data Forms to CAD.
- All of the stops documented all license and/or warrant checks.
- All of the stops documented the serial number and unit of all involved in the stop.
- All of the stops documented the time the stop began, time any citation was issued, time release was made without citation, or time the stop/detention was concluded.
- All of the stops had a receipt containing a signature when applicable or acknowledgment that the subject was served and the reason for no signature was documented.

- All of the stops recorded the reason for the stop with a description of the traffic or equipment violation observed, if any, prior to contact with the occupants; and any indicators of criminal activity developed before or during the stop.
- All of the stops had the traffic stop data matching on all TraCS forms.
- All of the stops documented the license plate number and state.
- All of the stops documented the total number of occupants.
- All of the stops documented the post-stop race/ethnicity.
- All of the stops documented where contact with passenger(s) was made, the nature of the contact, and the reasons for such contact.
- All of the stops documented the city location of the stop on the traffic Stop Data Form.
- None of the stops involved any inquiry as to immigration status.
- None of the stops involved a consent to search request.
- All of the stops involving a seizure documented the contraband or evidence seized.
- All of the stops documented the final disposition, including whether a citation was issued or an arrest was made or a cite and release was made.

In reviewing the 35 traffic-related events for this audit, MCSO listed 17 points in its Matrix Procedures. As part of our audit process for Paragraphs 25 and 54, we reviewed the same data and found deficiencies that should have been reported as part of the BIO audit. We found two instances where warning forms had missing signatures.

BIO found three open, non-validated forms for the period of February 1-29, 2016. Each form is required to be validated. BIO determined that there was a 100% compliance rate for February, a 1.45% increase from the January compliance rate; however, as a result of our review we believe this number to be inaccurate.

BIO again recommended that supervisors continue to provide onsite mentoring on the importance of accurately documenting all required traffic stop data, and any mentoring provided should be documented in supervisory notes.

We reviewed 33 supervisory notes for February, and found that most supervisors are documenting traffic stops reviews on TraCS, but some are not specifically indicating that they met with deputies to discuss the stops or issues found. None of the supervisory notes reviewed contained all the required information pertaining to the supervisor-deputy monthly discussion of traffic stops. We also noted that 12 deputies from our random selection did not have supervisory notes entered for February. MCSO documented 27 corrective actions related to traffic stops for February. All but one of the corrective actions were related to errors and improperly completed or missing information on VSCFs, citations, warnings, or tow sheets. One corrective action was generated as a result of a failure to complete a VSCF.

We reviewed traffic stop data reported by MCSO for its **March 2016** inspection. The Monitoring Team randomly selected 35 traffic-related events, which BIO then audited for compliance. Of the 35 traffic-related events, MCSO reported that 28 or 80% had no deficiencies noted. The Monitoring Team reviewed the same traffic-related events, independent of BIO's audits, as part of our compliance audit of Paragraphs 25 and 54.

During this inspection, MCSO determined the following:

- Thirty-three, or 94% of the stops had all matching information on the traffic Stop Data Forms to CAD.
- All of the stops documented all license and/or warrant checks.
- All of the stops documented the serial number and unit of all involved in the stop.
- All of the stops documented the time the stop began, time any citation was issued, time release was made without citation, or time the stop/detention was concluded.
- All of the stops had a receipt containing a signature when applicable or acknowledgment that the subject was served and the reason for no signature was documented.
- All of the stops recorded the reason for the stop with a description of the traffic or equipment violation observed, if any, prior to contact with the occupants; and any indicators of criminal activity developed before or during the stop.
- Thirty-one, or 89%, of the stops had the traffic stop data matching on all TraCS forms.
- All of the stops documented the license plate number and state.
- All of the stops documented the total number of occupants.
- All of the stops documented the post-stop race/ethnicity.
- All of the stops documented where contact with passenger(s) was made, the nature of the contact, and the reasons for such contact.
- Ninety-seven percent of deputies on scene had cameras activated as per policy.
- All of the stops documented the city location of the stop on the traffic Stop Data Form.
- None of the stops involved any inquiry as to immigration status.
- None of the stops involved a consent to search request.
- All of the stops involving a seizure documented the contraband or evidence seized.
- All of the stops documented the final disposition, including whether a citation was issued or an arrest was made or a cite and release was made.

In reviewing the 35 traffic-related events for this audit, MCSO listed 17 points in its Matrix Procedures. As part of our audit process for Paragraphs 25 and 54, we reviewed the same data and found deficiencies that should have been reported as part of the BIO audit. We found one instance where a deputy failed to obtain a signature on a citation, and another where contact with a passenger was not documented on the VSCF.

MCSO also discovered during its inspection that there were eight open, non-validated forms for December in the TraCS system. Each form is required to be validated. BIO determined that there was a 90% compliance rate for December, a 10% decrease from the February compliance rate. As a result of our review, we believe the decrease in compliance was higher.

BIO again recommended that supervisors continue to provide onsite mentoring on the importance of accurately documenting all required traffic stop data, and any mentoring provided should be documented in supervisory notes.

We reviewed 144 supervisory notes for 40 deputies in March, and found that most supervisors are documenting traffic stops reviews on TraCS, and a greater number indicating that they met with deputies to discuss the stops or issues found. Twenty-eight of 36 deputies had supervisory notes that contained all the required information pertaining to the supervisor-deputy monthly discussion of traffic stops. MCSO documented 24 corrective actions related to traffic stops for March. Most of the corrective actions were related to errors and improperly completed or missing information on VSCFs, citations, warnings, or tow sheets.

Traffic stops selected for audit are reviewed in detail for quality and compliance with Paragraphs 25 and 54. The reviews conducted pursuant to the requirements of this Paragraph are focused on the quality of supervisory reviews. MCSO presently does not have an auditable way to memorialize supervisory reviews of traffic stops. Until MCSO can submit Vehicle Stop Contact Forms with the reviewing supervisor's identity and date of review, we cannot conduct an audit to assess the quality reviews. MCSO advised us during our February site visit that metadata containing the reviewing supervisor's serial number, along with the date of review, will be documented on Vehicle Stop Contact Forms (VSCFs). During our February site visit, we were advised that the memorialized VSCF format would be in effect by March 2016. MCSO had not yet implemented this solution at the time of our April site visit. We reiterated that MCSO needs to have documentation of supervisory reviews of VSCF to meet Phase 2 compliance with this Paragraph.

**Compliance Status:**

Phase 1: In compliance

Phase 2: Not in compliance

**Paragraph 92.** *Supervisors shall use EIS to track each subordinate's violations or deficiencies in Investigatory Stops or detentions and the corrective actions taken, in order to identify Deputies needing repeated corrective action. Supervisors shall notify IA. The Supervisor shall ensure that each violation or deficiency is documented in the Deputy's performance evaluations. The quality and completeness of these Supervisory reviews shall be taken into account in the Supervisor's own performance evaluations. MCSO shall take appropriate corrective or disciplinary action against Supervisors who fail to conduct complete, thorough, and accurate reviews of Deputies' stops and Investigatory Detentions.*

EA-11 (Arrest Procedures) was revised on September 5, 2014; and EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) was revised on September 22, 2014. EB-1 is compliant, in that it states that supervisors shall track each deputy's deficiencies or violations and the corrective action taken, to identify deputies who need repeated corrective action. EB-1 also states that supervisors shall take appropriate corrective or disciplinary action against supervisors who fail to conduct complete, thorough, and accurate reviews of deputies' investigatory detentions and stops. EB-1 states that supervisors shall track, through the Early Intervention System (EIS), each deputy's deficiencies or violations and the corrective action taken to identify deputies who need repeated corrective action. EB-1 also states supervisors shall notify the Professional Standards Bureau to ensure that each violation is documented in the deputy's performance evaluations and that the supervisory review shall be taken into account in the supervisor's own performance evaluations. EB-1 also states that MCSO shall take appropriate corrective or disciplinary action against supervisors who fail to conduct complete thorough and accurate reviews of deputies' investigatory detention and stops. EB-1 meets the requirements of Paragraph 92.

Policy GC-4 (Employee Performance Appraisals) is still undergoing revision and will contain the requirements of this Paragraph. During our April site visit, we met with MCSO and reviewed the latest revised draft of the policy. MCSO had incorporated several changes to GC-4 that had been discussed during our February site visit. We agreed on a few additional modifications that needed to be made to the policy. Following our April visit, MCSO returned a revised draft of GC-4 that incorporated the changes discussed during our site visit. The policy is in the final stages of approval by the Monitoring Team, the Plaintiffs, and the Plaintiff-Intervenors. For the period under review, and until such time as GC-4 is published and training is provided, MCSO is not in Phase 1 compliance with this Paragraph.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

***Paragraph 93.** Absent extraordinary circumstances, MCSO Deputies shall complete all incident reports before the end of shift. MCSO field Supervisors shall review incident reports and shall memorialize their review of incident reports within 72 hours of an arrest, absent exceptional circumstances.*

EA-11 (Arrest Procedures), as revised on September 5, 2014, states that deputies shall submit documentation of all stops, investigatory detentions, and arrests to their supervisors by the end of the shift in which the action occurred. This revised policy is compliant with Paragraph 93.

We reviewed a representative sample of 127 Incident Reports for **January 2016**, for the randomly selected dates of January 5 and January 18, 2016. Five reports were not turned in by the end of the shift; one was due to a kickback. Five reports were not signed by a supervisor within the required seven days. Seventeen vehicle crash reports contained the printed or signed name of the supervisor but no date of review. All three Arrest Reports were memorialized by a supervisor within the required 72 hours. We conducted a quality review on a 10% random sample of the reports reviewed. One incident, involving an arrest by another agency, included no MCSO deputy or supervisor signatures. One Incident Report, involving a traffic arrest where the individual was cited and released, included no deputy or supervisor signatures. One incident, involving a natural death, was turned in six days late with no explanation; and another Incident Report involving shots fired was also turned in six days late without explanation.

We reviewed a representative sample of 60 Incident Reports for **February 2016**, for the randomly selected date of February 7, 2016. All but one report was turned in by the end of the shift. Four reports were not signed by a supervisor within the required seven days. Nine crash reports included the supervisor's name printed, but not the date of review. All Arrest Reports were reviewed and memorialized within the required 72 hours. We conducted a quality review on a 10% random sample of the reports reviewed; three of the eight reports reviewed had significant grammar and spelling deficiencies.

We reviewed a representative sample of 84 Incident Reports for **March 2016**, for the randomly selected date of March 12, 2016. Two Incident Reports had no date of submission. Two Incident Reports were not signed by a supervisor. One Arrest Report was not memorialized within the required 72 hours. Fourteen vehicle crash reports had the name of the supervisor printed, but no date of review. We conducted a quality review on a 10% random sample of the reports reviewed. We noted some minor spelling errors, but in general, the reports were comprehensive and well-written.

MCSO supervisors have not consistently memorialized reviews of vehicle crashes. We still see vehicle crash reports that have the supervisor's name printed, but no signature or date of review.

MCSO agreed to provide us with a list of jail bookings so that we may select a random sample of arrests reports for review. This process began in February 2016. We reviewed 23 Arrest Reports and associated documents. We found several deficiencies that we discussed in detail in the Paragraph 83 compliance assessment. We received a list of jail bookings for March. For March, we reviewed 27 randomly selected incidents involving arrest. Eleven were drug-related arrests, many of which were initiated by Border Patrol. One incident related to a disorderly conduct arrest had a weak probable cause statement on Form 4. In one domestic violence incident where there were no injuries, and on a second domestic violence incident where there were injuries to the victim, male diagrams were used to depict female victims. One Incident Report that was submitted did not have the corresponding Form 4.

In our April site visit, we advised MCSO that although we have found errors from time to time, Incident Reports have been generally comprehensive and well-written. With the exception of vehicle crash reports, Incident Reports are reviewed and signed by supervisors within the required time constraints. In our reviews of incidents related to arrests, we have found some deficiencies on other documents associated with the arrest. We will continue reviewing Incident Reports associated with arrests and reporting our findings.

**Compliance Status:**

Phase 1: In compliance

Phase 2: Not in compliance

***Paragraph 94.** As part of the Supervisory review, the Supervisor shall document any arrests that are unsupported by probable cause or are otherwise in violation of MCSO policy, or that indicate a need for corrective action or review of agency policy, strategy, tactics, or Training. The Supervisor shall take appropriate action to address violations or deficiencies in making arrests, including notification of prosecuting authorities, recommending non-disciplinary corrective action for the involved Deputy, and/or referring the incident for administrative or criminal investigation.*

Our process for verification consists of reviewing supervisors' documentation of any arrests that are unsupported by probable cause or are otherwise in violation of MCSO policy; or that indicate a need for corrective action or review of agency policy, strategy, tactics, or training. MCSO submitted policies EA-11 that was revised on September 5, 2014 (Arrest Procedures). EA-11 states that supervisors shall document any arrests that appear unsupported by probable cause or are otherwise in violation of MCSO policy; or indicate a need for corrective action or review of MCSO policy, strategy, tactics, or training. Supervisors shall take appropriate action to address violations or deficiencies in making arrests, including notification of prosecuting authorities, recommending non-disciplinary corrective action for the involved deputy, and/or referring the incident for administrative or criminal investigation. MCSO is in Phase 1 compliance with Paragraph 94.

We requested all Incident Memorialization Forms for the current reporting period. MCSO's submission consisted of five Incident Memorialization Forms, provided as proof of compliance with Paragraph 94, for the reporting period from January 1, to March 31, 2016.

There were no Incident Memorialization Forms submitted for January and February. For March, there were five Incident Memorialization Forms submitted. One involved two in-custody Arrest Reports that the reviewing commander found to contain boilerplate language. Corrective action was taken. Two incidents involved traffic stops and investigations related to lack of identity documents where the deputy failed to notify the supervisor. Appropriate corrective action was taken. One incident involved an Incident Memorialization Form that was sent thorough the supervisory note review process instead of through the chain of command. We have seen a decrease in this type of mistake, as it appears that supervisors have become more familiar with the routing process. One incident involved a report that was returned by the reviewing supervisor and was not turned in by the end of the shift. The deputy's shift ended before corrections were completed and the report was held until he returned to work following his four days off.

During our review of BIO's February inspection of County Attorney dispositions, we became aware of a domestic violence arrest that the Maricopa County Attorney's Office declined to prosecute. We requested the reports and video associated with this case. The incident involved the arrest of a female who committed an assault against her spouse. When the deputies initially responded to the incident, the wife had already left the premises. The action taken at that time was limited to the completion of the misdemeanor assault report. The deputies and supervisor returned to the house the following evening and observed the wife inside through an open window. They knocked on the door and were received by the husband, the victim in this case. The supervisor and deputies forced their way into the premises, in spite of the husband denying their request for permission to enter. MCSO personnel had neither an arrest warrant nor a search warrant in their possession. The video recording was clear; the supervisor mistakenly thought that he had authority to make a forced entry into the premises to make an arrest. There were no exigent circumstances, and this was certainly not a case of hot pursuit. A patrol commander investigated the incident and correctly concluded that the MCSO personnel involved committed an illegal entry. While we recognize that the command review was appropriate and necessary, it is surprising that much of the investigative effort was spent on establishing the entry's legality based on the principle of hot pursuit.

We also reviewed the documents associated with this incident and found several deficiencies. We found that the probable cause statement in the charging document (Form 4) did not stand on its own, and did not articulate sufficient facts for an arrest. There was a four-month-old infant mentioned in the Incident Report and in radio transmissions as a possible victim, but there was no follow-up or additional information documented. In one sentence of a document related to this case, the victim was misidentified as the defendant. There is an ongoing administrative investigation. We will review the investigation once it has been completed and submitted. There are clearly some training issues that need to be addressed.

We reviewed 23 Arrest Reports and associated documents for February. We found that on two domestic violence Incident Reports involving assault/injury, the reporting deputies used diagrams of male bodies to depict the areas of injury to female victims. In one report, the victim's date of birth did not coincide with the age listed on the report. We found one Incident Report involving arrest that was not signed by either the reporting deputy or the supervisor.

We reviewed 27 randomly selected incidents involving arrest for March. Eleven of these were drug-related arrests, many of which were initiated by Border Patrol. One incident related to a disorderly conduct arrest had a weak probable cause statement on Form 4. In two domestic violence incidents, again male diagrams were used to depict injuries on female victims. One Incident Report submitted did not have the corresponding Form 4.

Although there were five Incident Memorialization Forms generated in March, there were none for January and none for February. The incident mentioned at the beginning of the compliance review of this Paragraph occurred in February, and no Incident Memorialization Form was generated. We will continue to review Arrest Reports and other indicators to determine Phase 2 compliance with this Paragraph.

**Compliance Status:**

Phase 1: In compliance

Phase 2: Not in compliance

***Paragraph 95.** Supervisors shall use EIS to track each subordinate's violations or deficiencies in the arrests and the corrective actions taken, in order to identify Deputies needing repeated corrective action. The Supervisor shall ensure that each violation or deficiency is noted in the Deputy's performance evaluations. The quality of these supervisory reviews shall be taken into account in the Supervisor's own performance evaluations, promotions, or internal transfers. MCSO shall take appropriate corrective or disciplinary action against Supervisors who fail to conduct reviews of adequate and consistent quality.*

We reviewed EA-11 (Arrest Procedures) as revised on September 5, 2014; and the policy meets most of the requirements of Paragraph 95. Both EIS and a performance evaluation system are in development. Paragraph 95 requires that supervisors shall use EIS to track each subordinate's violations or deficiencies in the arrests and the corrective actions taken, to identify deputies needing repeated corrective action. EA-11 comports with these requirements. EA-11 also requires that supervisors shall take appropriate corrective or disciplinary action against supervisors who fail to conduct complete, thorough, and accurate reviews of deputies' investigatory detentions and stops. In addition, EA-11 requires that supervisors shall track, through the Early Intervention System (EIS), each deputy's deficiencies or violations and the corrective action taken to identify deputies who need repeated corrective action. EA-11 also requires supervisors to notify the Professional Standards Bureau to ensure that each violation is documented in the deputy's performance evaluations, and that the supervisory review shall be taken into account in the supervisor's own performance evaluations.

MCSO submitted a draft of policy GC-4 (Employee Performance Appraisals) in August 2015. We reviewed the draft policy and returned it to MCSO with comments and suggestions. During our February site visit, we met with MCSO Human Resources staff, and discussed our observations related to the proposed EPA format and review process. We suggested several modifications to the EPA form to ensure that employee performance evaluations meet the requirements of this Order, and that there is greater consistency in reviews. The suggested revisions to the EPA form required additional modifications to GC-4. During our April site visit,

we met with MCSO and discussed the last proposed changes and revisions to GC-4. Following our site visit, we received a draft of the revised policy, which incorporated the modifications discussed during our April meetings. The draft of GC-4 is in the final phase of review, but has not been published, and the training curriculum associated with the new policy and rating form has not been developed.

MCSO published GH-5 (Early Identification System) on November 18, 2015. Policy GH-5 does not address the requirement for documentation of violations and deficiencies in stops, detentions, or arrests in Employee Performance Appraisals. The policy does not address the assessment of the quality and completeness of the supervisor's review in Employee Performance Appraisals. These requirements will be covered by GC-4, and MCSO will achieve compliance with this Paragraph once the policy is published and training is provided.

We reviewed performance appraisals for 25 sergeants who received performance appraisals during this reporting period. Twenty of the 25 appraisals contained comments related to the quality and effectiveness of supervision. None of the 25 appraisals contained comments regarding the supervisor's demonstrated ability to identify and effectively respond to misconduct. Eight of the 25 appraisals rated the supervisors on the quality of their reviews. The quality of supervisory reviews, which is a mandated area of assessment in this Order, was added to the revised performance appraisal process. The new EPA form will have a mandatory rating dimension that specifically addresses this requirement.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

***Paragraph 96.** A command-level official shall review, in writing, all Supervisory reviews related to arrests that are unsupported by probable cause or are otherwise in violation of MCSO policy, or that indicate a need for corrective action or review of agency policy, strategy, tactics, or Training. The commander's review shall be completed within 14 days of receiving the document reporting the event. The commander shall evaluate the corrective action and recommendations in the Supervisor's written report and ensure that all appropriate corrective action is taken.*

We reviewed EA-11 (Arrest Procedures), which was revised on September 5, 2014; and the policy meets the requirements of Paragraph 96. EA-11 requires that command-level personnel review, in writing, all supervisory reviews related to arrests that are unsupported by probable cause or are otherwise in violation of MCSO policy; or that indicate a need for corrective action or review of MCSO policy, strategy, tactics, or training. The commander's review shall be completed within 14 days of receiving the document reporting the event. The commander shall evaluate the corrective action and make recommendations in the supervisor's written report and ensure that all appropriate corrective action is taken.

We requested all Incident Memorialization Forms for the current reporting period. MCSO's submission consisted of five Incident Memorialization Forms, which were provided as proof of compliance with Paragraph 94, for the reporting period from January 1, to March 31, 2016. All five Incident Memorialization Forms were generated in the month of March. There were no Incident Memorialization Forms submitted for January or February.

In one Incident Memorialization Form that we reviewed, a reviewing commander noted that a report of two in-custody arrests contained boilerplate language; corrective action was taken. Two incidents involved traffic stops and subsequent investigations related to lack of identity documents where the deputy failed to notify the supervisor. Corrective action was taken on both of these incidents. One incident involved an Incident Memorialization Form that was sent thorough the supervisory note review process instead of through the appropriate chain of command. Another incident involved a report that was returned by the reviewing supervisor and was not corrected and turned in by the end of the shift. The deputy's shift ended before corrections were completed, and the report was held until he returned to work following his four days off.

Although there were no Incident Memorialization Forms generated in February, we became aware of a domestic violence incident that occurred during that month, in which an MCSO supervisor and deputies appeared to have made an improper entry and seizure. As noted in Paragraph 94, a commander reviewed the incident, and we reviewed some of the preliminary reports. We understand that the case is under administrative investigation. We will review the entire investigation once it is completed.

We reviewed 23 Arrest Reports and associated documents for February. We found that on two domestic violence Incident Reports involving assault/injury, the reporting deputies used diagrams of male bodies to depict the areas of injury to female victims. In one report, the victim's date of birth did not coincide with the age listed on the report. We found one Incident Report involving an arrest that was not signed by either the reporting deputy or the supervisor.

We reviewed 27 randomly selected incidents involving arrest for March. Eleven of these were drug-related arrests, many of which were initiated by Border Patrol. One incident related to a disorderly conduct arrest had a weak probable cause statement on Form 4. In two domestic violence incidents, again male diagrams were used to depict injuries on female victims. One Incident Report submitted did not have the corresponding Form 4.

MCSO has previously asserted that the low number of memorialization forms is due to improved performance by deputies. During this reporting period, we audited February and March data. We conducted a review of a representative sample of Arrest Reports for February and March to determine if deficiencies related to Arrest Reports are being properly identified. We found deficiencies that should have been identified and corrected during supervisory reviews. BIO conducts monthly inspections of County Attorney dispositions. In each of MCSO's reports this quarter, MCSO has recommended that command staff review incidents related to Arrest Reports on a daily basis. We concur with this recommendation; daily command reviews of Arrest Reports will add another layer of quality control. We will continue to review incidents involving arrest to determine Phase 2 compliance.

**Compliance Status:**

Phase 1: In compliance

Phase 2: Not in compliance

*Paragraph 97. MCSO Commanders and Supervisors shall periodically review the EIS reports and information, and initiate, implement, or assess the effectiveness of interventions for individual Deputies, Supervisors, and units based on that review. The obligations of MCSO Commanders and Supervisors in that regard are described above in Paragraphs 81(c)–(h).*

In response to our request for proof of compliance, MCSO submitted the following response:

“Review of Deputies EIS profile is currently accomplished through the Blue Team dashboard. This dashboard displays colored lights. Red shows an alert has been set, Yellow shows one incident away from an alert and green shows more than one incident away from an alert. The dashboard does not record when a supervisor looks at a Deputy’s EIS profile. We have received requests from supervisors concerning information in an employee’s EIS profile and we have provided the information requested. However, there is no tracking method in place to record or track these requests.”

“The Maricopa County Sheriff’s Office has purchased from the IAPro vendor, CI Technologies, a new program called EI Pro. The Sheriff’s Office is beta testing the original version of EI Pro. This program does record when a supervisor looks at a specific incident in a Deputy’s profile. In the actual user log for the specific IAPro incident, the following information is recorded:

“EIPRO: Employee user name [S...] accessed incident XXXX, where XXXX is the specific IA PRO internal number for the incident.”

MCSO submitted a draft policy on the Early Identification System (EIS) in August 2015. We reviewed and returned the policy with comments and suggestions. During our October 2015 site visit, we met with the MCSO staff and attorneys regarding the EIS policy, who advised that the policy was awaiting final approval. GH-5 (Early Intervention System) was published on November 18, 2015. We reviewed GH-5 and it specifies that supervisors are required to conduct weekly reviews of subordinates’ Blue Team entries and bi-monthly reviews of each subordinate’s EIS Dashboard and EI Pro application; and to document the outcome of interventions. The policy also requires that commanders conduct weekly reviews of subordinate’s Blue Team Supervisor Notes to ensure proper action was taken. In addition, commanders are required to conduct quarterly reviews of broader, pattern-based reports provided by EIS to assess the quality and effectiveness of interventions. GH-5 meets the policy requirements of this Paragraph. MCSO did not conduct training on the policy during this reporting period.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

***d. Regular Employee Performance Review and Evaluations***

***Paragraph 98.*** *MCSO, in consultation with the Monitor, shall create a system for regular employee performance evaluations that, among other things, track each officer's past performance to determine whether the officer has demonstrated a pattern of behavior prohibited by MCSO policy or this Order.*

MCSO noted that policy GC-4 (Employee Performance Appraisals) is in the process of revision. MCSO submitted a draft of policy GC-4 in August 2015. We reviewed the draft policy, and returned it to MCSO with comments and suggestions. During our October 2015 site visit, MCSO advised us that they would be submitting the draft of GC-4 to the Plaintiffs and Plaintiff-Intervenors for review and comments. The policy is pending final review and approval.

MCSO maintains that the IAPro/Blue Team system should have the ability to track the data required by this Paragraph. MCSO must, however, resolve the first-line supervisor access issues identified in Section IX (Early Intervention System). MCSO is not in compliance with Paragraph 98.

MCSO submitted a draft of policy GC-4 (Employee Performance Appraisals) in August 2015. We reviewed the draft policy, and returned it to MCSO with comments and suggestions. Subsequent to the submitted revision of GC-4, MCSO revised the Employee Performance Appraisal form. We reviewed the revised EPA form and returned it with comments and suggestions. During our February 2016 site visit, we met with the MCSO Human Resources staff that are revising the Employee Performance Appraisal (EPA) form. We discussed our observations related to the proposed format, as well as concerns that arose from our past audits. We suggested several modifications to ensure that employee performance appraisals meet the requirements of this Order, and that there is better consistency in performance appraisals. As a result of additional rating dimensions and other changes suggested to the new EPA form, GC-4 (Employee Performance Appraisals) required further revisions and modifications.

During our April site visit, we met with MCSO and reviewed the revised draft of GC-4, as well as the revised EPA form. We approved the revisions to both, and MCSO has submitted the final draft of GC-4 to the Monitoring Team, the Plaintiffs, and the Plaintiff-Intervenors for review. We have advised MCSO that establishing an employee appraisal system that is conducive to quality performance evaluations, on a consistent basis, and that requires detailed direction and substantive training. In our previous reviews of employee performance appraisals, we have noted a lack of consistency and quality. Some supervisors have turned in excellent employee appraisals, but we have also seen many performance evaluations that are laden with vague or general comments with no details to support the ratings. We believe that the Blue Team entries supervisors are required to make, if done conscientiously, will provide the documentation needed to support performance ratings. We have seen some evidence of this in our reviews of the employee performance evaluations completed in March. We reiterate that a crucial factor in

improving consistency and quality in reviews is supervisory training on the revised policy. Supervisors should be aware of the problems we have discussed previously. They should be familiar with the expected outcome and have a good grasp of the methodology to achieve it.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

*Paragraph 99. The review shall take into consideration all past Complaint investigations; the results of all investigations; Discipline, if any, resulting from the investigation; citizen Complaints and commendation; awards; civil or administrative claims and lawsuits related to MCSO operations; Training history; assignment and rank history; and past Supervisory actions taken pursuant to the early warning protocol.*

MCSO submitted a draft of policy GC-4 (Employee Performance Appraisals) in August 2015. We reviewed the draft policy, and returned it to MCSO with comments and suggestions. MCSO advised us that it would be submitting the draft of GC-4 to the Plaintiffs and Plaintiff-Intervenors for review and comments.

During our February site visit, we met with the MCSO Human Resources staff regarding the revised Employee Performance Appraisal (EPA) form. We discussed concerns that have resulted from previous reviews of completed EPAs, and made suggestions for the draft of the new EPA form. We suggested several modifications to ensure that employee performance evaluations meet the requirements of this Order, and that there is more consistency in the way performance appraisals are completed. We also emphasized that MCSO needs to provide training to all supervisors on GC-4 and the revised EPA form. As a result of additional rating dimensions and other changes suggested to the new EPA form, GC-4 (Employee Performance Appraisals) required further revisions and modifications. During our April site visit, we met with MCSO and reviewed the revised draft of GC-4, as well as the revised EPA form. We approved the revisions to both and the final draft of GC-4 has been submitted by MCSO for review by the Monitoring Team, the Plaintiffs, and the Plaintiff-Intervenors. Until such time as the GC-4 policy is published, and training is provided, MCSO is not in compliance with this Paragraph.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

*Paragraph 100. The quality of Supervisory reviews shall be taken into account in the Supervisor's own performance evaluations.*

MCSO submitted a draft of policy GC-4 (Employee Performance Appraisals) in August 2015. We reviewed the draft policy, and returned it to MCSO with comments and suggestions. MCSO advised us that it would submit the draft of GC-4 to the Plaintiffs and Plaintiff-Intervenors for review and comments. During our February site visit, we met with MCSO staff and reviewed the proposed new Employee Performance Appraisal form. We made several suggestions to facilitate compliance with the Paragraphs related to the evaluation of officer performance. In consideration of the interdependency of the policy and the EPA form, we recommended that the modifications made to the EPA be reflected in GC-4. Consequently, GC-4 requires additional adjustments.

During our April site visit, we met with MCSO and reviewed the revised draft of GC-4, as well as the revised EPA form. We approved the revisions to both, and the final draft of GC-4 has been submitted by MCSO for review by the Monitoring Team, the Plaintiffs, and the Plaintiff-Intervenors.

We reviewed performance appraisals for 25 sergeants who received performance appraisals during this reporting period. Twenty of the 25 appraisals contained comments related to the quality and effectiveness of supervision. None of the 25 appraisals contained comments regarding the supervisor's demonstrated ability to identify and effectively respond to misconduct. Eight of the 25 appraisals rated the supervisors on the quality of their reviews. The quality of supervisory reviews, which is a mandated area of assessment in this Order, was added to the revised performance appraisal process. The new EPA form will have a mandatory rating dimension that specifically addresses this requirement.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

*Paragraph 101. Within 180 days of the Effective Date, MCSO shall develop and implement eligibility criteria for assignment to Specialized Units enforcing Immigration-Related Laws.*

*Such criteria and procedures shall emphasize the individual's integrity, good judgment, and demonstrated capacity to carry out the mission of each Specialized Unit in a constitutional, lawful, and bias-free manner. Deputies assigned to a Specialized Unit who are unable to maintain eligibility shall be immediately re-assigned.*

During our July 2015 site visit, we met with MCSO command staff and attorneys to review proof of compliance that the Anti-Trafficking Unit, formerly known as the Human Smuggling Unit, had its mission changed, as MCSO had asserted; and that there were no specialized units enforcing immigration-related laws. MCSO submitted a copy of the Special Investigations Division's Operations Manual with an effective date of May 15, 2015. The Operation Manual states, "The mission of the Maricopa County Sheriff's Office Anti-Trafficking Unit is to identify, investigate, and apprehend individuals involved in the Transnational Criminal Organizations

(TCO) that engage in the following crimes: the smuggling of human beings and/or narcotics, money laundering, home invasions, kidnapping extortion, trafficking of weapons, and gang related crimes.” MCSO’s position was that human smuggling was inadvertently left in as part of the ATU mission.

During our October 2015 site visit, we met with MCSO staff and attorneys. We received a copy of the Special Investigations Division’s Operations Manual. The Operations Manual now states, “The mission of the Maricopa County Sheriff’s Office Anti-Trafficking Unit is to identify, investigate, and apprehend individuals involved in the Transnational Criminal Organizations (TCO) that engage in the following crimes: the smuggling of narcotics, money laundering, home invasions, kidnapping, extortion, trafficking of weapons, and gang related crimes.”

MCSO has removed the enforcement of human smuggling laws from the mission statement of the Anti-Trafficking Unit, and no other specialized units have this mission and part of their duties. Based on these policy modifications, MCSO is now in Phase 1 compliance with this Paragraph. MCSO’s lack of specialized units which enforce immigration-related laws puts it by default in Phase 2 compliance as well, but we will continue to monitor arrests and detentions as part of our review process to ensure that MCSO is in compliance with its own directives on this issue.

In February, we received the first list of jail bookings and requested a representative sample of arrests reports and supporting documentation. MCSO had not worked out the document production process in time for us to review January Arrest Reports. Our review discovered some deficiencies, but there were no immigration-related arrests, and we saw no evidence of the enforcement of immigration-related laws. For March, we reviewed a representative sample of Arrest Reports. We noted some deficiencies that are described in detail in this report, but we saw no evidence of the enforcement of immigration-related laws. We will continue to monitor Arrest Reports for compliance.

**Compliance Status:**

Phase 1: In compliance

Phase 2: In compliance

## Section 10: Misconduct and Complaints

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### COURT ORDER XI. MISCONDUCT AND COMPLAINTS

#### *a. Internally-Discovered Violations*

**Paragraph 102.** *MCSO shall require all personnel to report without delay alleged or apparent misconduct by other MCSO Personnel to a Supervisor or directly to IA that reasonably appears to constitute: (i) a violation of MCSO policy or this Order; (ii) an intentional failure to complete data collection or other paperwork requirements required by MCSO policy or this Order; (iii) an act of retaliation for complying with any MCSO policy; (iv) or an intentional provision of false information in an administrative investigation or any official report, log or electronic transmittal of information. Failure to voluntarily report or document apparent misconduct described in this Paragraph shall be an offense subject to Discipline.*

The following MCSO policies were offered in response to this Paragraph: GH-2 (Internal Investigations); CP-8 (Preventing Racial and Other Bias-Based Profiling); CP-5 (Truthfulness); CP-2 (Code of Conduct); CP-3 (Workplace Professionalism); and GC-17 (Employee Disciplinary Procedure). These policies were disseminated and trained to during the Fourth and Fourteenth Amendment training that MCSO completed during this reporting period. During this reporting period, MCSO amended and reissued CP-2 and CP-3.

During our early site visits, we noted that many MCSO supervisors were only vaguely aware of responsibilities outlined in GH-2 (Internal Investigations), and that MCSO was using inconsistent methods to conduct internal administrative investigations. We also noted that there was no checklist or investigative document protocols in place that would assist supervisory personnel charged with conducting administrative investigations.

At the end of the final reporting period for 2015, we noted that PSB had added additional staff and replaced most of the existing administrative and criminal investigators assigned to the unit. They had also made progress in developing a checklist and investigative format to be used when conducting administrative investigations. We have continued to hold meetings and telephonic discussions with them regarding our concerns; and in some cases, our need for information. To date, PSB personnel continue to be responsive to our requests and needs.

We have consistently noted our concerns regarding the internal investigative process, including: lack of clarity of the violation; allegations that are overly broad; lack of justification for outcome/discipline; and lack of appropriate documentation. PSB personnel have continued to work on developing a Supervisory Training module that will address how to conduct quality investigations.

During the previous reporting period, we reviewed 59 administrative investigations. Of these investigations, 13 were initiated internally. Of these 13, nine involved the use and operation of vehicles. The remaining four involved: failure to meet standards (sustained; written reprimand); unprofessional conduct and other violations (sustained; demotion); inappropriate display of MCSO insignia (termination; Posse member); and insubordination (not sustained.)

During this reporting period, we reviewed 101 administrative investigations submitted by MCSO. Of these, 20 were initiated internally. Seven of these investigations involved use of vehicles, accidents or emergency driving. The remaining 13 involved allegations including violations of the code of conduct, workplace professionalism, truthfulness, failure to report, and others. Three cases were unfounded, four were exonerated, two were not sustained, and 11 were sustained. For the sustained violations, discipline imposed for sworn personnel included two coaching sessions and six written reprimands. Two Posse members were terminated, and one Posse member resigned. We are unable to determine if the disciplinary outcomes were appropriate without additional information about employee work history, including any prior discipline.

MCSO has made some progress in addressing the many concerns we have documented. PSB has developed and finalized the investigation checklist and the investigative document formats. It was obvious when our Team member attended two different training sessions on these documents in February and March 2016 that the supervisory personnel in attendance did not have a good understanding of the requirements for conducting administrative investigations prior to attending this training.

During our April 2016 site visit, we met with several district supervisors who had received the PSB training. They all expressed positive comments about the training and believed it would be helpful to them when conducting future administrative investigations. PSB expects that it will complete the training for all supervisors during the next reporting period, at which time every administrative investigation conducted will be required to contain the investigative checklist and utilize the investigative document formats. We have already seen a number of recent investigations utilizing these protocols, and they appear to be having a positive impact on the quality of the procedural requirements of conducting an administrative investigation.

We recognize the appreciable efforts made by the newest commander of PSB. PSB now requires that one of its lieutenants review division administrative investigations for the purpose of improving the quality of investigations, and ensuring that the investigations follow the appropriate structure and guidelines. We will assess the quality of these reviews in future reporting periods.

PSB reports that it has sent staff to relevant training, including training on internal affairs topics and interviews/interrogation. We have encouraged PSB personnel to identify additional training, and have discussed with them some possible courses to explore.

PSB's current command personnel conducted an inventory of all administrative and criminal investigations. They are addressing numerous cases that had not been properly completed as far back as early 2014. They have also assessed MCSO's Critical Incident Reviews and found them deficient. As a result, PSB instituted new guidelines for handling the investigations of these incidents.

In an attempt to address PSB's high caseload, MCSO temporarily assigned additional personnel to PSB. Three of the sworn supervisors and one detention supervisor temporarily transferred in have now been permanently assigned to PSB.

MCSO intends to conduct additional training on completing quality investigations that will be based on the pending revisions to its internal affairs policies. We, along with the Plaintiffs and Plaintiff-Intervenors, provided significant input on the proposed revisions to policy GH-2 (Internal Investigations). We will continue to work with PSB personnel as they revise policies and develop additional supervisory training on conducting quality personnel investigations.

We will also continue to make PSB personnel aware of our concerns regarding their administrative investigations, provide them with specific case examples that illustrate these concerns, and closely assess the steps they take to improve this process.

MCSO is not in compliance with this Paragraph.

**Compliance Status:**

Phase 1: In compliance

Phase 2: Not in compliance

***b. Audit Checks***

***Paragraph 103.*** *Within one year of the Effective Date, MCSO shall develop a plan for conducting regular, targeted, and random integrity audit checks to identify and investigate Deputies possibly engaging in improper behavior, including: Discriminatory Policing; unlawful detentions and arrests; improper enforcement of Immigration-Related Laws; and failure to report misconduct.*

As noted in our last report, during our February 2016 site visit, MCSO raised the prospect of shifting integrity test responsibilities from PSB to BIO. As the Order does not require that any particular organizational component fulfill all of the requirements in Paragraph 103, nor that the same component conduct the various checks, BIO can be responsible for conducting checks that would qualify under this Paragraph.

During our most April 2016 site visit, members of our Team met with representatives from BIO to learn more about the types of audits that BIO conducts and discuss the requirements of Paragraph 103. We informed BIO that Paragraph 103 requires that MCSO conduct regular, targeted, and random audits, but that those audits do not need to be housed in one MCSO unit or covered by one particular policy. We explained that there are two different kinds of integrity tests – targeted tests, which are more appropriate for PSB; and tests that determine if personnel are in compliance with agency policy and procedures, which BIO already conducts.

At that meeting, we committed to reviewing GH-4 (Bureau of Internal Oversight) for its applicability to Paragraph 103. We reviewed GH-4; as written, it comports with the portion of Paragraph 103 that we believe BIO can take responsibility for. We do not believe that any modifications are required at this time.

However, as we noted to MCSO during our April site visit, MCSO will not achieve Phase 1 compliance with this Paragraph until PSB develops a policy – or devotes a section of a policy – that lays out the guidelines for targeted integrity tests, which are more suited to the function of PSB. To date, PSB has not submitted any policies in support of this Paragraph.

We look forward to reviewing specific proposals from PSB, to which we will provide appropriate reaction and direction. As noted previously, we provided PSB with model integrity testing policies from a few law enforcement agencies with robust testing units, and we will continue to make ourselves available to assist MCSO in the development of the Internal Investigations Unit (IIU) or other entity tasked with these requirements and its related policies.

MCSO is not in compliance with this Paragraph.

**Compliance Status:**

Phase 1: Not in compliance

Phase 2: Not in compliance

***c. Complaint Tracking and Investigations***

***Paragraph 104.*** *Subject to applicable laws, MCSO shall require Deputies to cooperate with administrative investigations, including appearing for an interview when requested by an investigator and providing all requested documents and evidence. Supervisors shall be notified when a Deputy under their supervision is summoned as part of an administrative investigation and shall facilitate the Deputy's appearance, absent extraordinary and documented circumstances.*

MCSO policy GH-2 (Internal Investigations) Section G. 1, revised September 5, 2014, requires personnel to cooperate with administrative investigations, including appearing for an interview when requested by an investigator and providing all requested documents and evidence. Commanders shall facilitate the employee's appearance, absent extraordinary and documented circumstances. GH-2 was disseminated and trained to during the ongoing Fourth and Fourteenth Amendment Training. MCSO is therefore in Phase 1 compliance with this Paragraph.

In its submissions relative to this Paragraph, MCSO provides a list of supervisors who are notified when personnel under their supervision are summoned for an administrative investigation. There has been no system in place to document employee cooperation with investigations. The Plaintiffs' attorneys have also noted concerns with compliance with this Paragraph.

During the previous reporting period, MCSO sent us its first draft of the PSB checklist and the investigative format documents. We responded with numerous suggestions and discussed our concerns during our October 2015 site visit. MCSO incorporated our recommendations into the second draft of the documents and provided a proposed training outline. We approved the checklist, investigative format, and training outline with the caveat that MCSO stress that this was not *investigative* training, but only *procedural* training. Counsel for the Plaintiffs and Plaintiff-Intervenors also provided input regarding the proposed checklist and forms. We discussed these protocols further with PSB during our February 2016 site visit, and a member of our Team attended the first training session that occurred at the Lake Patrol on February 10, 2016. After this first training, we provided some suggestions to enhance the delivery of the training module. A member of our Team also attended the PSB training at District 1 in March 2016, and found that the presenter had incorporated our suggestions for enhancing the training into his presentation.

During our April 2016 site visit, PSB personnel reported that they have completed nearly all of the training on the checklist and investigation documents. We have already seen the use of these documents by those supervisors who have been trained.

In addition to formalizing a consistent methodology for conducting administrative investigations, information provided in these protocols will allow us to fully assess compliance with the requirements of this Paragraph.

**Compliance Status:**

Phase 1: In compliance

Phase 2: Not in compliance

*Paragraph 105. Investigators shall have access to, and take into account as appropriate, the collected traffic stop and patrol data, Training records, Discipline history, and any past Complaints and performance evaluations of involved officers.*

The policy, GH-2, Internal Investigations, was revised September 5, 2014; and includes language that investigators shall have access to and take into account, as appropriate, the collected traffic stop and patrol data, training records, discipline history, and any past complaints and performance evaluations of involved deputies. A revised internal affairs SOP (Standard Operating Procedure), which should include a checklist with these tasks, was not submitted for review. We have consistently noted in our reviews that PSB should have an SOP that should not only urge investigators to consider this critical data, but should also provide detailed guidance to investigators regarding how such data should and should not be used. The Plaintiffs' attorneys have also continued to note this concern.

Our concerns with MCSO administrative investigations have been a recurring theme during each of our site visits and quarterly reports. We have consistently found problems with the investigations, the investigative findings, and the discipline assigned. As it relates to this Paragraph, we have noted that there is a lack of documentation of any review and consideration of the employee work history as required by this Paragraph. During our October 2015 and February 2016 site visits, we provided MCSO with specific examples of cases that illustrate the failure to complete or document the required reviews.

PSB personnel have acknowledged the lack of consistency in the agency's internal investigations and the need to provide training to all supervisors. PSB personnel have been working on proposed changes to the policies. During our February 2016 site visit, they told us that they would soon send us their first draft of the proposed policy revisions.

During this reporting period we reviewed MCSO's proposed revisions to GH-2 (Internal Investigations) and along with Plaintiffs and Plaintiff-Intervenors, provided detailed comments and recommendations.

During our April 2016 site visit, we met with the Commander of the Compliance Division to discuss the process that the division uses to provide information to executive personnel on potential categories of violations, the appropriate level of discipline, and other issues. The Compliance Division provides much of its input verbally. Division personnel advised that they have recently started reviewing division and district cases, and will be preparing the written reprimands when appropriate in these cases. They also said that they have implemented a new form that will advise the employee of the category of violation and proposed sanction that has been determined prior to the pre-determination hearing in cases that could result in suspension, demotion, or termination. We advised them that this practice would still not provide the analysis used to determine the outcome and would therefore be insufficient for compliance purposes. Based on the extensive involvement of the Compliance Division in the review of administrative investigations, we requested a copy of their Compliance Division Operations Manual for review. We have also requested all pre-determination hearing documents for the past three years and will be reviewing these documents as well. We expect to have additional dialogue with PSB and the Compliance Unit about the methods they use to determine appropriate findings and sanctions.

The checklist and investigative format being implemented by MCSO will require that critical data is obtained, reviewed, and documented as part of the administrative investigation. PSB anticipates that all supervisory training will be completed before the end of the next reporting period and all supervisors will then be required to review and provide this information in all administrative investigations. This will allow us to fully assess MCSO's compliance with this Paragraph.

**Compliance Status:**

Phase 1: In compliance

Phase 2: Not in compliance

*Paragraph 106. Records of Complaints and investigations shall be maintained and made available, un-redacted, to the Monitor and Plaintiffs' representatives upon request. The Monitor and Plaintiffs' representatives shall maintain the confidentiality of any information therein that is not public record. Disclosure of records of pending investigations shall be consistent with state law.*

MCSO's record maintenance and/or retention policy as it pertains to complaints is incorporated in GH-2 (Internal Investigations), effective September 5, 2014: "Professional Standards Bureau investigative files will be maintained for five years after an employee's separation or retirement from Office employment."

MCSO has two obligations under this Paragraph: to maintain and make records available. The Paragraph also covers the requirement that MCSO make un-redacted records of such investigations available to the Plaintiffs' attorneys as well. The Plaintiffs' attorneys had advised us during past reporting periods that MCSO had not produced certain information that they had requested on multiple occasions.

MCSO has been responsive to our requests, and no concerns have been brought to our attention by the Plaintiffs or Plaintiff-Intervenors related to the requirements of this Paragraph during this reporting period. During the previous reporting period, a new protocol for document sharing was instituted. MCSO, via its counsel, distributes responses to our document and site visit requests via a document sharing website. The Plaintiffs and Plaintiff-Intervenors have access to this information at the same time as we do, including documents applicable to this Paragraph.

Phase 1 is not applicable for this Paragraph.

**Compliance Status:**

Phase 1: Not applicable

Phase 2: In compliance

## Section 11: Community Engagement

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### COURT ORDER XII. COMMUNITY ENGAGEMENT

#### *a. Community Outreach Program*

*(Note: Unchanged language is presented in italicized font. Additions are indicated by underlined font. Deletions are indicated by ~~crossed-out font~~. Where an entire Paragraph has been removed, that is indicated with brackets, but the numbering remains unchanged. For example: “108. [REMOVED]”.)*

**Paragraph 107.** *To rebuild public confidence and trust ~~in the MCSO and~~ in the reform process, the MCSO Monitor shall ~~work to improve community relationships and~~ engage constructively with the community during the period that this Order is in place. ~~To this end, the MCSO shall create the following district community outreach program.~~*

On April 4, 2014, an amended Order (Document 670) made community outreach a Monitor’s function. This is no longer an MCSO responsibility. MCSO chose to remove itself from having responsibility over the community engagement program as initially set out in the Order. We and the Plaintiffs’ representatives communicate regularly about innovative ways to engage community members and leaders; supporting and encouraging Community Advisory Board (CAB) members; advertising upcoming community events; providing for the development of a complaint system that goes through us to ensure access to the appropriate process; and informing the public about the authority of MCSO regarding immigration enforcement. Each of these issues will be addressed in more detail in the following Paragraphs.

While MCSO is no longer obligated, pursuant to the Order, to engage in community outreach activities, we trust that the command staff understand the benefit in reaching out to the various communities in the agency’s service jurisdiction. To date, we have observed little in the way of such outreach, and we encourage MCSO to step up its efforts to foster positive community relationships, both at the Office and district level.

**Paragraph 108.** *[REMOVED] Within 180 days of the Effective Date, MCSO shall develop and implement a Community Outreach and Public Information program in each MCSO District.*

**Paragraph 109.** *As part of its ~~Community Outreach and Public Information program~~, the MCSO The Monitor shall hold a public meeting ~~in each of MCSO’s patrol Districts within 90~~ 180 days of the ~~Effective Date~~ issuance of this amendment to the Order, and ~~at least~~ between one and three meetings in each of MCSO’s patrol Districts annually thereafter. The meetings shall be under the direction of the Monitor and/or his designee. These meetings shall be used to inform community members of the policy changes or other significant actions that the MCSO has taken to implement the provisions of this Order. Summaries of audits and reports completed by the MCSO pursuant to this Order shall be provided. The MCSO Monitor shall clarify for the public at these meetings that ~~it~~ the MCSO ~~does not~~ lacks the authority to enforce immigration laws except to the extent that it is enforcing Arizona and federal criminal laws.*

On April 4, 2014 an amended Order (Document 670) gave us the requirement to hold public meetings. We held one community meeting during this reporting period, on February 3, 2016, in MCSO Patrol District 1 at Kyrene del Norte Elementary School, located at 1331 East Redfield Road in Tempe. The meeting was held from 6:30 p.m. until 9:00 p.m. Approximately 15 community members attended this meeting, which was conducted in English and Spanish.

A representative of the ACLU of Arizona offered remarks, focusing on the history of the *Melendres* case, adding that the ACLU has been involved in the case since 2008. She pointed out that the community meetings provide an important forum for community members to ask questions and provide input regarding what is occurring in the community and about the monitoring process. She also stated that the *Melendres* case is a challenge to the MCSO practice of detaining Latinos in violation of the Fourth and Fourteenth Amendments, and that the Court found in 2013 that there was systemic practice of illegal conduct. She added that the October 2013 Court Order directed remedies, the appointment of the Monitor and Team, a review and/or update or creation of policies and procedures and their implementation by MCSO. In closing, she emphasized that, as Plaintiffs' attorneys for the Latino class, the ACLU of Arizona is closely involved in, and provides input to, the reform process.

A representative of the Department of Justice (DOJ) followed and introduced himself as a trial attorney for the DOJ explaining that DOJ is a Plaintiff-Intervenor in the *Melendres* case, a full partner in the ongoing legal processes. He pointed out that the DOJ has a number of cases that involve law enforcement agencies, and approximately 25 consent decrees. In those cases, there are efforts to reform practices that violate people's rights. He stated that the DOJ had filed its own lawsuit in this case but settled and, as part of the resolution, became Plaintiff-Intervenors and, as such, work closely with the Plaintiffs' attorneys.

A member of MCSO introduced himself as representing MCSO. He stated that MCSO personnel were at the community meeting to hear from community members; particularly members of the MCSO Professional Services Bureau (PSB), who are available to hear any comments or complaints. He pointed out that the reform process was a collaborative effort between the Monitor and MCSO. He requested that the community members tell the MCSO personnel if they have things they like or do not like.

A Monitoring Team representative explained to the meeting attendees our role and responsibilities to the community, the progress being made, as well as challenges ahead in implementing the Order. We made it clear that MCSO did not have the authority to enforce immigration laws, except to the extent that it is enforcing Arizona and federal laws. We also explained to those in attendance that we would continue to have a regular presence in Maricopa County and we provided our contact information to all parties. We advised the attendees that the Monitor has the authority to take complaints or compliments about MCSO, and to ensure that complaints are investigated completely. Further, we explained that the Monitoring Team ensures that MCSO complies with the Court Order, and that MCSO deputies provide professional law enforcement support to the community. We stated that our Team reviews and approves MCSO policies and procedures, and training. We added that we also observe the training and approve the instructors who deliver training, in addition to visiting district offices, meeting with sergeants and deputies; and observing and asking questions. The Monitoring Team representative emphasized the importance of receiving feedback from the community regarding the perception of the police services being provided by MCSO.

Questions from the attendees included inquiries about the type of training Posse members receive, the reason for MCSO's delay in implementing mandated training, the process for implementing training, body-worn cameras, and the number of bilingual deputies in MCSO. We responded to all inquiries, as did Plaintiffs' and Plaintiff-Intervenors' representatives, or members of MCSO, as appropriate.

***Paragraph 110.*** ~~*The meetings present an opportunity for MCSO representatives*~~ *the Monitor to listen to community members' experiences and concerns about MCSO practices implementing this Order, including the impact on public trust. MCSO representatives shall make reasonable efforts to address such concerns during the meetings and afterward. The Monitor may investigate and respond to those concerns. To the extent that the Monitor receives concerns at such meetings that are neither within the scope of this order nor useful in determining the Defendants' compliance with this order, it may assist the complainant in filing an appropriate complaint with the MCSO.*

Approximately 15 community members were in attendance at the meeting in Tempe. The meeting allowed ample opportunity for attendees to ask questions or offer comments. Participants used the roving microphone we provided. Monitoring Team personnel moved throughout the meeting, providing microphones for those who wished to ask questions or offer comments. Community members asked questions and offered comments, many of which were critical of MCSO. Attendees voiced frustration with the slow progress MCSO is making in complying with the Court Order. The attendees expressed interest in MCSO's adoption of body-worn cameras and the number of bilingual deputies in MCSO. A key objective of the meeting was to let those in attendance know that the Monitor has the authority, granted by the Court, to receive complaints about any activity involving MCSO personnel and ensure that an investigation is adequately conducted. We made forms available for this purpose. After the meeting, all Monitoring Team personnel remained behind to individually answer questions, and did so until the last attendee left the building.

**Paragraph 111.** *English- and Spanish-speaking MCSO Monitor Personnel shall attend these meetings and be available to answer questions from the public about its publicly available reports concerning MCSO's implementation of this Order and other publicly-available information. ~~At least one MCSO Supervisor with extensive knowledge of the agency's implementation of the Order, as well as the Community Liaison Officer (described below) shall participate in the meetings.~~ The Monitor may request Plaintiffs' and/or Defendants' representatives ~~shall be invited~~ to attend such meetings and assist in answering inquiries by the community. The Defendants are under no obligation to attend such meetings, but to the extent they do not attend such meetings after being requested by the Monitor to do so, the Monitor may report their absence to the public and shall report their absence to the Court.*

Selected members of the Monitoring Team in Maricopa County, some of whom are bilingual, attended the meeting in Tempe. We hired a professional Spanish interpreter to ensure that Spanish-speaking attendees could understand all remarks, questions, and responses. In addition, representatives of ACLU of Arizona, DOJ, and MCSO offered remarks at the meeting. MCSO was well represented and recognized for their attendance. Several of the MCSO personnel in attendance at the meeting play instrumental roles in the implementation of the Court's Order.

**Paragraph 112.** *The meetings shall be held in locations convenient and accessible to the public. At least ~~one week~~ ten days before such meetings, the MCSO Monitor shall widely publicize the meetings using English and Spanish-language television, print media and the internet. The Defendants shall either provide a place for such meetings that is acceptable to the Monitor, or pay the Monitor the necessary expenses incurred in arranging for such meeting places. The Defendants shall also pay the reasonable expenses of publicizing the meetings as required above, and the additional reasonable personnel and other expenses that the Monitor will incur as a result of performing his obligations with respect to the Community Outreach Program. If the Monitor determines there is little interest or participation in such meetings among community members, or that they have otherwise fulfilled their purpose, he can file a request with the Court that this requirement be revised or eliminated.*

Our preparations for the meeting in Tempe began well in advance of the meeting date. Issues such as site selection, advertisement in local radio and print media in English and Spanish, agenda creation, and meeting logistics are of utmost importance in the planning stages. We emailed community leaders and media representatives soliciting their assistance in informing community members of the meeting and encouraging their attendance at the meeting. Before finalizing these items, we consider input from the CAB and the ACLU of Arizona. We also keep CID staff, as well as the Chief Deputy, abreast of the planning; and we consult with them on potential meeting security issues. Members of the Monitoring Team had numerous discussions with the ACLU of Arizona and the CAB members regarding preparations for the public meeting.

Our selection of the venue for the meeting was based on accessibility, adequate meeting space, adequate parking, and ease in locating the meeting site. We widely publicized the meeting in Tempe. Advertisements, in both English and Spanish, appeared in print media with the widest circulation in the Tempe area in which the meeting was held. These ads were also included in the media outlets' Facebook pages and websites. Extensive radio spots in Spanish and English were used to announce the meeting, and we distributed flyers announcing the meeting in Tempe in the vicinity of the meeting venue. The ACLU of Arizona also submitted the notice of the meeting to numerous online calendars and its local radio media contacts.

***b. ~~Community Liaison Officer~~ Monitor***

***Paragraph 113.*** [REMOVED] *Within 90 days of the Effective Date, MCSO shall select or hire a Community Liaison Officer ("CLO") who is a sworn Deputy fluent in English and Spanish. The hours and contact information of the CLO shall be made available to the public including on the MCSO website. The CLO shall be directly available to the public for communications and questions regarding the MCSO.]*

***Paragraph 114.*** *In addition to the duties set forth in Title XIII of this order, ~~The CLO~~ the Monitor shall have the following duties in relation to community engagement:*

- a. to coordinate the district community meetings described above in Paragraphs 109 to 112;*
- b. to provide administrative support for, coordinate and attend meetings of the Community Advisory Board described in Paragraphs 117 to 111; and*
- c. to compile any Complaints, concerns and suggestions submitted to ~~CLO~~ him by members of the public about the implementation of this Order and the Court's order of December 23, 2011, and its findings of fact and conclusions of law dated May 24, 2013, even if they don't rise to the level of requiring formal action by IA or other component of the MCSO, and to respond to Complainants' concerns;*
- [d. [REMOVED] to communicate concerns received from the community at regular meetings with the Monitor and MCSO leadership; and]*
- [e. [REMOVED] to compile concerns received from the community in a written report every 180 days and share the report with the Monitor and the Parties.]*

At the community meeting in Tempe, we and the Plaintiffs' representatives explained the breadth of the Order to the community members in attendance. The MCSO representative thanked the community members for attending the meeting, and stated that MCSO wanted to hear the community members' comments and complaints. Members of the PSB attended the meeting to receive any complaints from attendees.

We also invited community members to ask any questions of these representatives, and gave them an opportunity to comment on the information provided by these representatives. We provided community members with forms to document any concerns or complaints about MCSO. After the meeting, members of the Monitoring Team remained and spoke to several attendees who voiced their compliments and/or concerns and opinions regarding MCSO's operations.

***c. Community Advisory Board***

***Paragraph 115.*** ~~*MCSO The Monitor and Plaintiffs' representatives shall work with community representatives to create a Community Advisory Board ("CAB") to facilitate regular dialogue between the MCSO Monitor and community leaders, and to provide specific recommendations to MCSO about policies and practices that will increase community trust and ensure that the provisions of this Order and other orders entered by the Court in this matter are met.*~~

We have worked closely with the Plaintiffs' counsel to support and provide guidance to the three-member CAB. The Monitoring Team has conducted planning discussions with CAB members and representatives of the ACLU of Arizona regarding scheduling small gatherings of Monitoring Team members, CAB, ACLU of Arizona representatives, and Latino community leaders during future Monitoring Team site visits.

***Paragraph 116.*** ~~*The CAB shall have six three members, three to be selected by the MCSO and three to be selected by Plaintiffs' representatives. Members of the CAB shall not be MCSO Employees or any of the named class representatives, nor any of the attorneys involved in this case. However, a member of the MCSO Implementation Unit and at least one representative for Plaintiffs shall attend every meeting of the CAB. The CAB shall continue for at least the length of this Order.*~~

The CAB is currently comprised of three community members. None of these members are, or have been, MCSO employees, named as class representatives in this matter, or attorneys involved in the *Melendres* litigation. During this reporting period, the ACLU of Arizona successfully identified a replacement for a CAB member who resigned due to other personal commitments.

**Paragraph 117.** *The CAB shall hold ~~public~~ meetings at regular intervals of no more than four months. The meetings may be either public or private as the purpose of the meeting dictates, at the election of the Board. The Defendants shall either provide a suitable place for such meetings that is acceptable to the Monitor, or pay the Monitor the necessary expenses incurred in arranging for such a meeting place. The Defendants shall also pay to the Monitor the additional reasonable expenses that he will incur as a result of performing his obligations with respect to the CAB including providing the CAB with reasonably necessary administrative support. ~~The meeting space shall be provided by the MCSO.~~ The ~~CLO~~ Monitor shall coordinate the meetings and communicate with Board members, and provide administrative support for the CAB.*

Members of the Monitoring Team frequently communicate with CAB members to assist in scheduling CAB meetings, identifying appropriate meeting venues, and providing appropriate logistical support.

**Paragraph 118.** *During the meetings of the CAB, members will relay or gather concerns from the community about MCSO practices that may violate the provisions of this Order and the Court's previous injunctive orders entered in this matter ~~and make reasonable efforts to address such concerns.~~ and transmit them to the Monitor for his investigation and/or action. Members ~~will~~ may also hear from MCSO Personnel on matters of concern pertaining to the MCSO's compliance with the orders of this Court.*

We continue to emphasize with CAB members the issue of transmitting to us any complaints that may require investigation that have been received by CAB members. In addition, we have discussed the crucial role of the CAB's ability to reach into the community in a way that the Monitoring Team cannot. The CAB members have been advised to compile concerns regarding MCSO actions or compliance with the Order. To facilitate this effort, the ACLU of Arizona has a bilingual website, [ChangingMCSO.org/CambiandoMCSO.org](http://ChangingMCSO.org/CambiandoMCSO.org). The ACLU of Arizona website allows the public to gather information about the monitoring process, including the times and locations for community meetings, Monitoring Team reports, MCSO reports, and other Court filings. The website also includes a form for filling out complaints, which are directly conveyed to the CAB and Monitoring Team.

## Section 12: Concluding Remarks

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We note again that the pace of MCSO's compliance with the Order's requirements remains unacceptably slow. MCSO experienced only minimal improvement in compliance percentages during this reporting period. We assess compliance with 89 Paragraphs of the Order. MCSO is in Phase 1 compliance with 47 of those Paragraphs, or 63%. In 14 Paragraphs, Phase 1 compliance is not applicable – that is, a policy is not required. MCSO is in Phase 2, or operational compliance, with 36 Paragraphs, or 40%.

As mentioned in previous reports, we have been given the additional responsibility of reviewing MCSO's Property Unit operations. Over our past three site visits, we conducted interviews with key personnel. We and the Parties are currently reviewing three policies affecting the seizing and securing of property: GE-3 (Property Management); GJ-4 (Evidence Control); and DD-2 (Inmate Property).

Because of problems associated with a previous approved destruction of property, we requested additional information for subsequent destruction requests. On May 12, MCSO submitted a request seeking permission to destroy 219 items formerly held as evidence. We requested more supporting documentation after reviewing the request, and we are currently waiting for a response. On a related note, we became aware through media reports and follow-up communications that MCSO sold approximately 1,000 seized weapons in December 2015, four-and-one-half months after the Court Order mandating the Monitor's approval prior to the destruction of any evidence. We requested specific information regarding these weapons to ascertain if any violations of the Order occurred, and we are still awaiting this information. We will document our observations and recommendations for the Property Unit in a separate report when our review is complete.

One issue we explored in greater detail during our most recent site visit is the manner in which disciplinary decisions are made after an investigation is completed. The Compliance Division, which is separate from the Professional Standards Bureau, plays a significant role in the process. Discussion regarding the appropriate level of discipline under MCSO policy occurs verbally, and there is currently no documentation of how the discipline category is determined, or how the sanction decision is reached. In the case of pre-determination hearings, the Compliance Division reviews the case after the preliminary findings are made by the appropriate Division Commander or PSB Commander, and the Compliance Division then provides input to the Appointing Authority (currently one of two Deputy Chiefs, depending on if the case pertains to sworn or detention personnel). These Chiefs then make the decisions on the final case findings after the pre-determination hearings. None of the pre- and post-hearing discussions are memorialized, nor is the rationale for determining sanctions. Such a system fosters a lack of accountability for final determinations and is, quite frankly, ripe for manipulation. During our last site visit, we requested that MCSO provide three years' worth of predetermination hearing documentation, including preliminary and final findings for each case.

We perceive a lack of organizational urgency in MCSO's efforts to gain compliance with the Order. While the Office has demonstrated an ability to achieve compliance in some areas when presented with a firm deadline and undesirable alternatives, MCSO lacks the self-motivation to make significant progress in the areas of non-compliance with the Order. The agency must move from a "have to" to a "we should" mindset that recognizes the value of complying with Order mandates for the benefits they will bring in transforming MCSO into a more accountable and constitutionally sound law enforcement agency. While the Order emanates from an adversarial process, the process of reform itself need not be confrontational or antagonistic. We continue to find supportive, well-intentioned sworn and civilian personnel in administrative and operational units of MCSO. What is lacking is the steadfast and unequivocal commitment to reforms on the part of MCSO's leadership team – most notably the Sheriff and the Chief Deputy. Until that occurs, progress will continue to be incremental at best, despite the efforts of line level personnel charged with working on the various Order requirements.

## Appendix: Acronyms

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The following is a listing of acronyms frequently used in our reports:

|       |                                     |
|-------|-------------------------------------|
| ACLU  | American Civil Liberties Union      |
| ATU   | Anti-Trafficking Unit               |
| BIO   | Bureau of Internal Oversight        |
| CAB   | Community Advisory Board            |
| CAD   | Computer Aided Dispatch             |
| CID   | Court Implementation Division       |
| CEU   | Criminal Employment Unit            |
| DOJ   | Department of Justice               |
| EIS   | Early Identification System         |
| EIU   | Early Intervention Unit             |
| IIU   | Internal Investigations Unit        |
| IR    | Incident Report                     |
| MCAO  | Maricopa County Attorney's Office   |
| MCSO  | Maricopa County Sheriff's Office    |
| NOI   | Notice of Investigation             |
| PPMU  | Posse Personnel Management Unit     |
| PSB   | Professional Standards Bureau       |
| SID   | Special Investigations Division     |
| SRT   | Special Response Team               |
| TraCS | Traffic Stop Data Collection System |
| VSCF  | Vehicle Stop Contact Form           |