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9  
10 **UNITED STATES DISTRICT COURT**

11 **DISTRICT OF ARIZONA**

12 MANUEL DE JESUS ORTEGA  
13 MELENDRES, on behalf of himself  
and all others similarly situated; et. al,

14  
15 Plaintiffs,

16 v.

17 PAUL PENZONE, in his official  
capacity as Sheriff of Maricopa  
18 County, Arizona, et. al.,

19 Defendants.  
20

No. CV-07-2513-PHX-GMS

**DEFENDANT PAUL PENZONE'S  
NOTICE OF FILING ELEVENTH  
QUARTERLY COMPLIANCE REPORT**

21 Pursuant to the Court's October 2, 2013, Order (Doc. 606), Defendant Paul  
22 Penzone files with the Court Defendant's Eleventh Quarterly Compliance Report  
23 (attached as Exhibit 1).  
24

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1           **RESPECTFULLY SUBMITTED** this 14<sup>th</sup> day of March, 2017.

2                                   WILLIAM G. MONTGOMERY  
3                                   MARICOPA COUNTY ATTORNEY

4                                   BY: /s/ Joseph I. Vigil  
5                                   JOSEPH I. VIGIL, ESQ.  
6                                   Attorneys for Defendant Paul Penzone

7  
8                                   CERTIFICATE OF SERVICE

9           I hereby certify that on March 14, 2017, I caused the foregoing document to be  
10          electronically transmitted to the Clerk's Office using the CM/ECF System for filing and  
11          served on counsel of record via the Court's CM/ECF system.

12          /s/ Nicole Anderson

13          S:\CIVIL\CIV\Matters\CJ\2007\Melendres CJ07-0269\Pleadings\Word\Not re 11th Quart Report 031317.docx  
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# **EXHIBIT 1**

**Maricopa County Sheriff's Office  
Paul Penzone, Sheriff**

**COURT IMPLEMENTATION DIVISION**

**ELEVENTH QUARTERLY COMPLIANCE REPORT**



**COVERING THE  
4<sup>TH</sup> QUARTER OF 2016, OCTOBER 01 – DECEMBER 31**

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## Section 1: Introduction

This is the 11<sup>th</sup> Quarterly Report assessing the Maricopa County Sheriff's Office's (MCSO) level of compliance with the Hon. G. Murray Snow's October 2, 2013 *Supplemental Permanent Injunction/Judgment Order* (Doc. 606), as amended, and the Second Supplemental Permanent Injunction/Judgment Order (Doc. 1765), as amended. MCSO submits this Quarterly Report to comply with Paragraph 11 of the Court's Order.

***Please note that the reporting period for this report covers the fourth quarter of 2016 (i.e. October 1, 2016-December 31, 2016).***

This report covers the last quarter of former Sheriff Arpaio's tenure. In November 2016, Maricopa County voters elected Paul Penzone as their Sheriff. Even though this report is prior to Sheriff Penzone assuming command of MCSO, it is important to convey a few points:

- Sheriff Penzone has made it clear that he does not view this as an adversarial process and MCSO will continue to work collaboratively with the Monitor, ACLU, and DOJ. The Sheriff himself has taken an active role in the compliance process as well as the January site visit. Sheriff Penzone also met with the Community Advisory Board ("CAB") created by this Order and communicated his intent to have a productive and respectful relationship with the CAB.
- Sheriff Penzone has made structural changes at MCSO that emphasize his positions on prioritizing compliance and integrity within the organization. He has brought in a new Chief Deputy, created a Chief of Staff and Special Counsel Position to assist with legal compliance in-house, created an executive chief position over compliance, hired a new executive chief of enforcement and split the patrol function into two so there is better oversight. The Deputy Chiefs in charge of patrol previously were in charge of CID so are very familiar with the Court Orders. The PSB Commander was promoted to a Deputy Chief to highlight the importance of the role to the new administration. The Sheriff also brought in a new Community Relations team and Public Information Officer.
- The changes included reassignment for individuals that were not performing or moving MCSO forward. The Sheriff has also removed from the organization individuals who had ethical challenges that could not be overcome in the new MCSO.
- Sheriff Penzone has already begun working on his initiatives to restore the trust with the community MCSO serves. Since taking office in January, the Sheriff and MCSO staff have attended numerous meetings of neighborhood associations, faith-based groups, community organizations, activists and other civic groups. Sheriff Penzone has communicated his intent to take over the quarterly community meetings currently run by the Monitor pursuant to the court order.
- Several community advisory boards have been created at the direction of Sheriff Penzone. These community advisory boards will advise the Sheriff on important matters that affect the community as well as be a voice to and for the communities they represent. One of these boards is SPEAR –Sheriff Penzone's Executive Advisory Review. SPEAR is made up of diverse community members from all across the County. The first item on the SPEAR agenda is doing a data driven analysis of Tent City to provide a recommendation to the Sheriff on whether it should remain open in its current state. There is also a Hispanic Advisory Board that is made up of Dreamers, businesspeople, activists, educators and community leaders. The Sheriff has also

formed an African American Advisory Board and an LGBTQ Advisory Board.

MCSO is committed to achieve its goal of “Full and Effective Compliance” as the Court’s Order defines it. The purpose of this Quarterly Report is to describe and document the steps MCSO has taken to implement the Court’s Order, as well as MCSO’s plans to correct any difficulties encountered in its implementation of the Court’s Order. Lastly, this Quarterly Report includes responses to concerns raised in the Monitor’s 10<sup>th</sup> Quarterly Report filed on February 10, 2017.

MCSO has dedicated unprecedented financial and personnel resources to advance the organization towards compliance. MCSO’s path to compliance is a truly collaborative effort among MCSO, the Monitor, and the attorneys representing the Plaintiffs and the DOJ. This may slow down the process, but MCSO is committed to working with these groups. The implementation of changes in the organization of MCSO, including changes in the structure, functions and training of MCSO divisions and personnel as a result of the Order is also occurring.

During the July 2016 Monitor Site Visit, the Monitor Team provided MCSO with several ideas to increase the pace of compliance. MCSO implemented several of the Monitor’s suggestions, including developing a Court Implementation Division (“CID”) Liaison Program with the Patrol Districts, inviting sworn Captains to monthly compliance status meetings, and incorporating field personnel into meetings during the Monitor’s quarterly site visits. All of these implemented changes have been positive and MCSO plans to continue these practices and expand them with the expectation that will help future gains in compliance.

#### Document Review Protocol

Among the ideas to accelerate the pace of compliance was the circulation of a draft policy and curriculum review proposal. Under this proposal, the parties have established deadlines to provide their respective revisions to and voice any concerns with MCSO policies and training curricula at issue. As noted above and in the 9<sup>th</sup> Quarterly Report, the collaborative efforts of the parties and their respective, multiple attorneys, often decelerate the pace of compliance. MCSO has previously voiced its concern regarding such deceleration, as the perception is that any delay was solely MCSO’s responsibility, which is not the case. The Monitor, Parties, and MCSO finalized this document review proposal in August 2016. Adherence to the adopted procedures and established deadlines will decrease the amount of time necessary to finalize and deliver MCSO policies and curricula to MCSO personnel. The newly adopted protocol has already positively affected the pace of compliance, especially in the area of policy and training lesson plan review, revision and creation necessary to comply with and reflect the spirit and mandate of the Court’s Orders.

#### Technical Assistance

The Monitor continues to provide technical assistance to MCSO when requested. MCSO has found the Monitor’s assistance to be extremely helpful and believes this process will continue to accelerate the pace of compliance. MCSO also values substantive suggestions from the parties and appreciates when they provide helpful feedback during this process.

### **Melendres Court Order Compliance Chart**

The *Melendres* Court Order Compliance Chart (Appendix A) was developed from information provided in the Monitor's 10<sup>th</sup> Quarterly Report (covering the reporting period of July 1, 2016 – September 30, 2016). This is the first quarterly report from MCSO that includes compliance ratings from the Second Supplemental Order (DOC. 1765). MCSO is rated on compliance with 212 paragraphs – 89 paragraphs from the First Supplemental Order (DOC. 606) and 123 paragraphs for compliance with the Second Supplemental Order. The Monitor will assess these paragraphs in two phases. Phase 1 entails a consideration of “whether requisite policies and procedures have been developed and approved and agency personnel have received documented training on their content.” Phase 2 compliance is “generally considered operational implementation” and must comply “more than 94% of the time or in more than 94% of the instances being reviewed.”

According to the Monitor's 10<sup>th</sup> Quarterly Report, as of September 30, 2016, MCSO is in overall compliance with 46 of the 180 paragraphs assessed for Phase 1 compliance and with 93 of the 212 paragraphs assessed for Phase 2 Compliance. 32 paragraphs are not applicable to Phase 1 compliance as they do not require a corresponding policy or procedure and 9 of the paragraphs are not-applicable for Phase 2 Compliance. 40 paragraphs are currently deferred. The status of “Deferred” is used in circumstances in which the Monitor is unable to fully determine compliance due to a lack of data or information or in situations where MCSO is fulfilling the requirements of the paragraph in practice, but has not yet published a formal policy memorializing the paragraph's requirements.



## Section 2: Implementation Division and Document Production

### **General Comments regarding Court Implementation Division (CID)**

MCSO took major steps to implement Section III of the Court Order. In October 2013, MCSO formed a division titled the Court Compliance and Implementation Division consistent with paragraph 9. In February 2015, MCSO changed the name of this division to the Court Implementation Division (CID). Lieutenant Ben Armer assumed command of CID in February 2017. In August 2016, CID added 1 lieutenant and 2 sergeants to the division as a result of the issuance of the Second Supplemental Order. The CID is currently comprised of eleven (11) MCSO personnel with interdisciplinary backgrounds and various ranks: 2 lieutenants, 6 sergeants, 2 deputies, 1 management assistant (hired January 30, 2017), and 1 administrative assistant (currently vacant as of January 20, 2017). CID is currently in the process of hiring for the administrative assistant position, which was left vacant when CID's Administrative Assistant accepted a position with an outside law enforcement agency. MCSO conducted interviews for the Administrative Assistant position in February 2017 and submitted a candidate to Personnel to begin the hiring process. As the acting Commander of CID, Lieutenant Ben Armer functions as the single point of contact with the Court and the Monitor, although MCSO's legal team and MCSO's upper Command Staff also communicate with the Monitor Team and parties as needed. Along with his CID staff, Lieutenant Armer coordinates site visits and other activities with each of the parties, as the Court Order requires. Members of CID work very closely with MCSO counsel and MCSO Command Staff to ensure that MCSO maintains a sustained effort to achieve its goal of full and effective compliance with the Court's Orders.

### **Document Production**

The CID is responsible for facilitating data collection and document production. During the subject three month period of this report, CID responded to three (three) large document requests (*See Table #1.*) Additional document production is underway as part of CID's efforts to assist the Monitor and the Monitor Team's quarterly review. In addition to the document requests, CID facilitates the production of training materials and policies and procedures to the Monitor for review and approval. As a reflection of MCSO's efforts to achieve full and effective compliance with the Order, CID through MCSO counsel, produced over seventy-five thousand (75,000) of pages of documents during the three month period of October 1, 2016 to December 31, 2016 alone. Compliance with the Court's Order and Monitor's requests truly comprises a monumental task that those without involvement could not possibly comprehend. Yet MCSO readily accepts its responsibilities to achieve full and effective compliance with the Court's Order.

The CID enjoys and strives to continue and foster a positive working relationship with the Monitor and parties. This positive attitude continues to be reflected in MCSO's recent decision to include party representatives in Technical Assistance meetings. CID is committed to its vital role in the reform process and reaching MCSO Command Staff's directive and sincere goal to be in full and effective compliance.

Table #1	
Monitor Production Requests	
Title	General Description
October Monthly Request	Monitor's Monthly Production Request
November Monthly Request	Monitor's Monthly Production Request
December Monthly Request	Monitor's Monthly Production Request
10/01/2016-12/31/2016 (Approx. 31 Requests)	Various Misc. Requests

The CID, with the Sheriff's approval, ensures the proper allocation of document production requests to the appropriate MCSO units to achieve full and effective compliance with the Court Order. Thus, the efforts to achieve compliance and to fulfill the Monitor's requests involve the efforts of MCSO divisions, bureaus, personnel and command staff, as well as personnel from the Maricopa County Attorney's Office. The shared effort and allocation of compliance assignments are set forth in Table #2 immediately below.

Table #2	
MCSO Unit Assignments for Court Order	
Section	Unit Name
III. MCSO Implementation Unit and Internal Agency-Wide Assessment	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Maricopa County Attorney's Office</li> </ul>
IV. Monitor Review Process	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Maricopa County Attorney's Office</li> </ul>
V. Policies and Procedures	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Human Resources Bureau, Compliance Division - Policy Section</li> <li>• Maricopa County Attorney's Office</li> </ul>
VI. Pre-Planned Operations	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Compliance Division – Policy Section</li> <li>• Detective and Investigations Bureau</li> </ul>
VII. Training	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Maricopa County Attorney's Office</li> <li>• Training Division</li> </ul>
VIII. Traffic Stop Documentation and Data Collection and Review (First Supplemental Order)	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Bureau of Internal Oversight/Early Intervention Unit</li> </ul>

IX. Early Identification System (EIS) (First Supplemental Order)	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Bureau of Internal Oversight/Early Intervention Unit</li> </ul>
X. Supervision and Evaluation of Officer Performance (First Supplemental Order)	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Command Staff</li> <li>• Human Resources Bureau, Compliance Division and Personnel Services Division</li> <li>• Bureau of Internal Oversight/Early Intervention Unit</li> <li>• Enforcement Bureau</li> <li>• Maricopa County Attorney's Office</li> <li>• Training Division</li> </ul>
XI. Misconduct and Complaints (First Supplemental Order)	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Command Staff</li> <li>• Professional Standards Bureau</li> <li>• Supervisors in each unit</li> </ul>
XII. Community Engagement (First Supplemental Order)	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Community Outreach Division</li> </ul>
XV. Misconduct Investigations, Discipline, and Grievances (Second Supplemental Order)	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Professional Standards Bureau</li> <li>• MCSO Training</li> <li>• Community Outreach Division</li> <li>• MCSO Command Staff and District Commanders</li> <li>• Compliance Division</li> </ul>
XVI. Community Outreach and the Community Advisory Board (Second Supplemental Order)	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Community Outreach Division</li> <li>• Professional Standards Bureau</li> </ul>
XVII. Supervision and Staffing (Second Supplemental Order)	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Command Staff</li> <li>• Human Resources Bureau, Compliance Division and Personnel Services Division</li> <li>• Bureau of Internal Oversight/Early Intervention Unit</li> <li>• Enforcement Bureau</li> </ul>
XIX. Additional Training (Second Supplemental Order)	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Maricopa County Attorney's Office</li> <li>• MCSO Training</li> </ul>
XX. Complaint and Misconduct Investigations Relating to Members of the Plaintiff Class (Second Supplemental Order)	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Maricopa County Attorney's Office</li> <li>• Professional Standards Bureau</li> </ul>

**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.*

***MCSO is in Phase 1 and Phase 2 compliance with Paragraph 9.***

CID will continue to work diligently to remain in compliance with this paragraph and will strive to maintain a positive and cooperative working relationship with the Monitor and parties.

***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.

***MCSO is in Phase 1 and Phase 2 compliance with Paragraph 10.***

MCSO continually strives to improve and streamline the document production process to be responsive to Monitor Requests.

***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.

***MCSO is in Phase 1 and Phase 2 compliance with Paragraph 11.***

MCSO will continue to file quarterly reports in a timely manner.

***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.

***MCSO is in Phase 1 and Phase 2 compliance with Paragraph 12.***

On September 15, 2016, MCSO filed the 2016 Annual Report which covers the time period from July 01, 2015 to June 30, 2016. MCSO will continue to file the annual comprehensive assessment as required by Paragraph 12 and 13 in a timely manner.

***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).*

***MCSO is in Phase 1 and Phase 2 compliance with Paragraph 13.***

On September 15, 2016, MCSO filed the 2016 Annual Report which covers the time period from July 01, 2015 to June 30, 2016. MCSO will continue to file the annual comprehensive assessment as required by Paragraph 12 and 13 in a timely manner. CID will continue to file the annual comprehensive assessment as required by Paragraph 12 and 13.

## Section 3: Policies and Procedures

### General Comments Regarding Policies and Procedures

Consistent with Paragraph 18 requirements that MCSO deliver police services consistent with the Constitution, and the laws of the United States and Arizona, MCSO continually reviews its Office Policies and Procedures. In fulfillment of its duties and obligations under federal and Arizona law, MCSO is committed to ensuring equal protection under the law and bias-free policing. To ensure compliance with the Court Order, MCSO continues to comprehensively review all Patrol Operations Policies and Procedures, consistent with Paragraph 19 of the Court Order.

During this reporting period, MCSO published fifteen (15) policies and one (1) operations manual relevant to the Court Order:

- CP-3, *Workplace Professionalism: Discrimination and Harassment*
- CP-5, *Truthfulness*
- CP-11, *Anti-Retaliation*
- EA-2, *Patrol Vehicles*
- EA-5, *Enforcement Communications*
- EB-7, *Traffic Control and Services*
- GA-1, *Development of Written Orders*
- GC-11, *Employee Probationary Periods*
- GE-4, *Use, Assignment, and Operation of Vehicles*
- GF-1, *Criminal Justice Data Systems*
- GF-3, *Criminal History Information and Public Records*
- GF-5, *Incident Report Guidelines*
- GH-4, *Bureau of Internal Oversight*
- GI-5, *Voiance Language Services*
- GM-1, *Electronic Communication and Voice Mail*
- Body-Worn Camera Program Operational Manual

In addition to its annual review of all Critical Policies, consistent with Paragraph 34 requirements that MCSO review each policy and procedure on an annual basis to ensure that the policy provides effective direction to personnel and remains consistent with the Court Order, MCSO's Policy Section initiated its annual review of all policies relevant to the Court Order.

### MCSO Policy Section is working on revisions to the following policies:

- CP-2, *Code of Conduct*
- DD-2, *Inmate Property Control*
- EA-3, *Field Interview*
- EB-1, *Traffic Enforcement, Violator Contacts, and Citation Issuance*
- ED-2, *Covert Operations*
- GB-2, *Command Responsibility*
- GC-7, *Transfer of Personnel*
- GC-11, *Employee Probationary Periods*
- GC-12, *Hiring and Promotional Procedures*



- GC-16, *Employee Grievance Procedures*
- GC-17, *Employee Disciplinary Procedure*
- GD-9, *Receipt of Litigation Notice or Subpoena*
- GE-3, *Property Management*
- GG-1, *Peace Officer Training Administration*
- GG-2, *Detention/Civilian Training Administration*
- GH-2, *Internal Investigations*
- GH-5, *Early Identification System (EIS)*
- GI-4, *Calls for Service (Patrol Related)*
- GI-7, *Bias Free Tips and Information Processing*
- GJ-2, *Critical Incident Investigations (Patrol Related)*
- GJ-3, *Search and Seizure*
- GJ-4, *Evidence Control*
- GJ-24, *Community Relations and Youth Programs*
- GJ-25, *Canine Operations (Patrol Related)*
- GJ-26, *Sheriff's Reserve Deputy Program*
- GJ-27, *Sheriff's Posse Program*
- GJ-29, *Independent Testing for DUI and OUI (Patrol Related)*
- GJ-33, *Significant Operations*
- GJ-35, *Body-Worn Cameras*
- GJ-36, *Use of Digital Recording Devices*

**Policies pending legal review:**

(None)

**Policies submitted to the Monitors for review:**

- CP-2, *Code of Conduct*
- CP-5, *Truthfulness (Monitor Approved)*
- CP-11, *Anti-Retaliation (Monitor Approved)*
- EA-2, *Patrol Vehicles (Monitor Approved)*
- EA-5, *Enforcement Communications (Monitor Approved)*
- EB-7, *Traffic Control and Services (Monitor Approved)*
- GA-1, *Development of Written Orders (Monitor Approved)*
- GB-2, *Command Responsibility*
- GC-4, *Employee Performance Appraisals (Monitor Approved)*
- GC-7, *Transfer of Personnel*
- GC-11, *Employee Probationary Periods (Monitor Approved)*
- GC-12, *Hiring and Promotional Procedures*
- GC-16, *Employee Grievance Procedures*
- GC-17, *Employee Disciplinary Procedure*
- GC-22, *Critical Incident Stress Management*
- GD-9, *Receipt of Litigation Notice or Subpoena*
- GE-4, *Use, Assignment, and Operation of Vehicles (Monitor Approved)*
- GF-1, *Criminal Justice Data Systems (Monitor Approved)*
- GF-3, *Criminal History Information and Public Records (Monitor Approved)*

- GF-5, *Incident Report Guidelines* (**Monitor Approved**)
- GG-1, *Peace Officer Training Administration*
- GG-2, *Detention/Civilian Training Administration*
- GH-2, *Internal Investigations*
- GH-4, *Bureau of Internal Oversight* (**Monitor Approved**)
- GH-5, *Early Identification System (EIS)*
- GI-4, *Calls for Service*
- GI-5, *Voiance Language Services* (**Monitor Approved**)
- GI-7, *Bias Free Tips and Information Processing*
- GJ-24, *Community Relations and Youth Programs*
- GJ-25, *Canine Unit Operations*
- GJ-26, *Sheriff's Reserve Deputy Program*
- GJ-27, *Sheriff's Posse Program*
- GJ-29, *Independent Testing Procedures for DUI and OUI Arrests*
- GJ-35, *Body-Worn Cameras*
- GM-1, *Electronic Communication and Voice Mail* (**Monitor Approved**)
- Body-Worn Camera Program Operational Manual (**Monitor Approved**)

Pursuant to the Second Supplemental order, the MCSO Policy Section has submitted twenty-six (26) policies to the Monitor Team. The Monitor Team has approved ten (10) of these policies:

- CP-2, *Code of Conduct*
- CP-3, *Workplace Professionalism: Discrimination and Harassment* (**Monitor Approved**)
- CP-5, *Truthfulness* (**Monitor Approved**)
- CP-11, *Anti-Retaliation* (**Monitor Approved**)
- EA-2, *Patrol Vehicles* (**Monitor Approved**)
- GA-1, *Development of Written Orders* (**Monitor Approved**)
- GB-2, *Command Responsibility*
- GC-4, *Employee Performance Appraisals* (**Monitor Approved**)<sup>1</sup>
- GC-7, *Transfer of Personnel*
- GC-11, *Employee Probationary Periods* (**Monitor Approved**)
- GC-12, *Hiring and Promotional Procedures*
- GC-16, *Employee Grievance Procedures*
- GC-17, *Employee Disciplinary Procedure*
- GC-22, *Critical Incident Stress Management Program*
- GD-9, *Receipt of Litigation Notice or Subpoena*
- GE-4, *Use, Assignment, and Operation of Vehicles* (**Monitor Approved**)
- GG-1, *Peace Officer Training Administration*
- GG-2, *Detention/Civilian Training Administration*
- GH-2, *Internal Investigations*
- GH-4, *Bureau of Internal Oversight* (**Monitor Approved**)

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<sup>1</sup> Policy GC-4, *Employee Performance Appraisals* has been approved by the Monitor Team. However, MCSO is unable to publish this policy as the training curriculum for performance appraisals has not been approved by the Monitor Team and parties. Until this is approved, the MCSO Training Division is unable to provide training to all supervisors on how to properly evaluate employees pursuant to the Orders. Upon completion of this training, the Policy Section will publish Policy GC-4, *Employee Performance Appraisals*.



- GH-5, *Early Identification System (EIS)*
- GI-4, *Calls for Service*
- GI-5, *Voiance Language Services (**Monitor Approved**)*
- GJ-24, *Community Relations and Youth Programs*
- GJ-26, *Sheriff's Reserve Deputy Program*
- GJ-27, *Sheriff's Posse Program*

In addition, to expeditiously implementing the Court's directives, MCSO disseminated nine (9) MCSO Administrative Broadcasts that referenced Court Order related topics during this reporting period. The Administrative Broadcasts are listed in the following table:

Table #3

**MCSO Administrative Broadcasts**

<b>B.B. /A.B. #</b>	<b>Subject</b>	<b>Date Issued</b>
AB 16-100	Patrol Activity Logs Phase 2	10/17/16
AB 16-113	EI Pro Software Update 2.1.1	11/07/16
AB 16-114	TraCS Update	11/07/16
AB 16-117	TraCS Upgrade	11/15/16
AB 16-119	TraCS Update	11/28/16
AB 16-120	Complaint and Comment Form Update	11/28/16
AB 16-124	EIS Added Allegations	12/07/16
AB 16-126	TraCS Update	12/08/16
AB 16-132	TraCS Update	12/29/16

MCSO Administrative Broadcast 16-100, published on October 17, 2016, announced the rollout of Phase 2 of the Patrol Activity Logs. As part of this rollout, the memorialization of IRs by MCSO supervisors was moved from the Blue Team application to the Praxis application.

MCSO Administrative Broadcast 16-113, published November 7, 2016, announced that on November 8, 2016, an EI Pro Software update would occur. This update allows users to search the EIS system for specific allegations, specific incident types, specific time frames, dispositions, file numbers, case numbers, and keywords within the narratives of entries.

MCSO Administrative Broadcast 16-114, published November 7, 2016, announced that on November 7, 2016, the TraCS application would be updated on all desktop PCs and Mobile Data Computers (MDCs).

This was necessary to allow for a TraCS software update that would occur at a later date. This was a technical update and did not affect any of the existing TraCS forms or functions.

MCSO Administrative Broadcast 16-117, published on November 15, 2016, announced that on November 16, 2016, the Technology Bureau would be upgrading the TraCS software. This was a technical upgrade only; the existing forms in TraCS were not impacted in function or form.

MCSO Administrative Broadcast 16-119, published on November 28, 2016, announced an update to the *Vehicle Stop Contact Form* (VSCF) and the *Assisting Deputy & Body-Worn Camera Log*.

MCSO Administrative Broadcast 16-120, published on November 28, 2016, announced that new versions of both English and Spanish *Complaint and Comment Forms* were now available on MDCs and all Office desktop PCs were updated with the new versions.

MCSO Administrative Broadcast 16-124, published on December 7, 2016, announced that additional Early Identification System (EIS) allegations were added. The following allegations were added to the EIS:

- Notes – Bi-monthly Supervisory Review of EIS Information
- Notes – Reviewed EIS Information/Disciplinary History Upon Transfer

MCSO Administrative Broadcast 16-126, published on December 8, 2016, announced a technical TraCS update affecting the *Vehicle Stop Contact Form* (VSCF).

MCSO Administrative Broadcast 16-132, published on December 29, 2016, announced a technical TraCS update affecting the *Vehicle Stop Contact Form* (VSCF).

Consistent with the Court Order, Paragraph 31 requirements regarding MCSO personnel's receipt and comprehension of the policies and procedures, MCSO implemented the E-Policy system in January 2015. MCSO utilizes the system to distribute and require attestation of all *Briefing Boards* and published policies. The E-Policy system memorializes and tracks employee compliance with the required reading of MCSO Policy and Procedures, employee acknowledgement that he or she understands the subject policies and procedures and employee expression of his or her agreement to abide by the requirements of the policies and procedures. MCSO provides the Critical, Detention, Enforcement, and General Policies via E-Policy as a resource for all MCSO personnel.

During the subject three month reporting period, MCSO used the E-Policy system to distribute and obtain attestation of eighteen (18) policies and one (1) operations manual. This includes fifteen (15) policies and one (1) operations manual related to the Court Orders.

***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 is in Phase 1 compliance with Paragraph 19.*** Phase 2 compliance is deferred.

MCSO thanks the Monitor for continued guidance identifying steps needed to gain Phase 2 compliance with this Paragraph. CID continues to work with the Monitor regarding with compliance with this paragraph and is very hopeful that it will gain Phase 2 compliance in the near future.

In order to gain Phase 2 compliance MCSO identified 5 policies that required changes to be in compliance with the First Court Order. Those policies are as follows:

1. EA-3, (Field Interviews) MCSO submitted a revised policy to the Monitor on February 01, 2017. The Monitor returned the policy to MCSO with combined comments on February 21, 2017. MCSO is addressing those comments and will resubmit the policy to the Monitor and parties for review.
2. EA-9, (Management of Special Events) This policy is currently open for revision.
3. EA-20, (Missing Persons) This policy is currently open for revision.
4. ED-3, (Review of Cases Declined for Prosecution) This policy is currently open for revision.
5. GI-1, (GI-1, Radio Communications, Call Signs, and Phonetic Alphabet) MCSO has revised this policy and is in the process of submitting it to the Monitor and parties for review.

In order to gain Phase 2 compliance MCSO identified 5 policies that required changes to be in compliance with the Second Court Order. Those policies are as follows:

1. EA-2, (Patrol Vehicles) This policy was approved by the Monitor. The policy was published on December 08, 2016.
2. GC-22, (Critical Incident Stress Management Program) MCSO submitted the policy and received combined comments back from the Monitor on December 28, 2016. MCSO addressed the comments and resubmitted the policy to the Monitor on February 22, 2017.
3. GJ-4, (Evidence Control) MCSO submitted the policy and received combined comments back from the Monitor on June 29, 2016. MCSO will be addressing the comments and re-submitting the policy to the Monitor for review and approval.
4. GI-5, (Voiance Language Services) This policy was approved by the Monitor. The policy was published on December 21, 2016.
5. GJ-24, (Community Relations and Youth Programs) This policy was approved by the Monitor. The policy was published on January 07, 2017.

**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 is in Phase 1 compliance with Paragraph 21.***

Phase 2 compliance has been deferred due to the implementation of related policies being rated by the Monitor in other paragraphs.

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

***MCSO is in Phase 1 compliance with Paragraph 22.***

Based on consultation with the Monitor Team, MCSO will reach Phase 2 compliance by using monthly supervisor note inspections, facility and vehicle inspections, email and CAD inspections, and quarterly bias free reinforcement inspections to demonstrate that MCSO leadership unequivocally and consistently reinforces to subordinates that discriminatory policing is unacceptable.

To this end, during the subject reporting quarter, MCSO's Bureau of Internal Oversight (BIO) completed the following inspections:

**Quarterly Bias Free Reinforcement:**

The purpose of this inspection (patrol and detention) is to ensure that each randomly selected employee received one entry reinforcing Bias Free Policing during the period being inspected and that in the entry, the supervisor unequivocally reinforced to the employee that discriminatory policing is unacceptable. To achieve this, the Monitor Team, through the Court Implementation Division, selects for review the Supervisor Notes and Briefing Notes entries for 35 Detention Personnel on the first month of the quarter to be reviewed in this inspection.

**Quarterly Bias Free Reinforcement (Detention):** In the fourth quarter of 2016, a quarterly inspection of Bias Free Reinforcement was conducted and compliance rates were 85%.

**Quarterly Bias Free Reinforcement (Patrol):** In the fourth quarter of 2016, a quarterly inspection of Bias Free Reinforcement was conducted and compliance rates were 85%.

**CAD Messaging/Alpha Paging System Inspection:**

The purpose of this inspection is to determine if CAD and Alpha Paging were transmitted in compliance with Office policy and in support of the Melendres Order. The Audits and Inspections Unit (AIU) conducted a CAD Messaging/Alpha Paging Inspection on a monthly basis. This inspection had an average compliance rate of 100% for the quarter; specifically, MCSO achieved compliance rates of 100% in October, November, and December of 2016.

**Employee Email Inspection:**

The purpose of this inspection is to determine employee email accounts are utilized in compliance with Office Policy and in support of the Melendres Order. To achieve this, inspectors reviewed a random sample of county email accounts for 35 Office employees during the month inspected. The AIU (Audits

and Inspections Unit) continued to inspect employee email accounts to ensure content was in compliance with Policy. The employee email compliance rates were 99% for October, 100% in November and 100% in December. The overall compliance rate for the fourth quarter of 2016 was 99.66%. ***The inspection rates for e-mails have remained consistently high.***

Supervisory Notes Inspection:

The purpose of this inspection (sworn, detention, and civilian) is to determine if supervisor notes entered into the Blue Team application by supervisors are in compliance with Office policy and in support the Melendres Order. Inspectors reviewed the supervisory note entries within the IAPro database relative to the random sample selected by the Monitor Team for MCSO patrol, detention, and civilian employees. These entries are uniformly inspected utilizing the matrix developed by the BIO in accordance with policies CP-8, EA-11, EB-1, and EB-2, GB-2, and GJ-35.

Supervisory Notes-Detention:

*The compliance rates were 94% for October, 98% in November, and 100% in December. The overall compliance rate for the fourth quarter of 2016 was 97.33% with an increase of 4% from the third quarter of 2016. MCSO detention staff continued to maintain compliance rates averaging in the mid to high-90th percentile range during the second, third, and fourth quarters of 2016.*

Supervisory Notes-Civilian:

*The compliance rates were 94% for October, 91% in November; and 94% in December. The overall compliance rate for the fourth quarter of 2016 was 93% with a decrease of 4% from the third quarter of 2016.*

Supervisory Note-Sworn (Patrol):

*The compliance rates were 96% for October, 93% in November; and 68% in December. The overall compliance rate for the fourth quarter of 2016 was 85.66% with a decrease of 5% from the third quarter of 2016. During the month of December the new requirement to document the review of EIS data 2 times a month was implemented thus, giving an explanation to the decrease. It is expected to improve over time.*

District Operations Inspection:

The purpose of this inspection is to determine MCSO facilities and retained property are managed and maintained in compliance with Office policy and in support of the Melendres Order. To achieve this, inspectors conducted sight visits to randomly selected districts/divisions and utilized the Facility Inspection Checklist, containing 31 points of inspection, to evaluate facility operations and the processing of retained property. For the month of October, at the Aviation Division the compliance rate was 100%. For November the Transportation Division had a compliance rate of 100%, and for December the Range had 100% compliance. In these inspections there was no evidence that Maricopa County property or equipment was being used in any way that discriminates against or denigrates anyone. ***An average compliance rate for the quarter was 100%.***

***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.*

***MCSO remains in Phase 1 and Phase 2 compliance with Paragraph 23.*** MCSO continues to provide

the Monitor with all relative information to enable the Monitor to continue to assess compliance with Paragraph 23.

During this quarter MCSO's Bureau of Internal Oversight (BIO) completed the following inspections related to Paragraph 23:

CAD Messaging/Alpha Paging System Inspection:

The purpose of this inspection is to determine if CAD and Alpha Paging were transmitted in compliance with Office policy and in support of the Melendres Order. The Audits and Inspections Unit (AIU) conducted a CAD Messaging/Alpha Paging Inspection on a monthly basis. This inspection had an average compliance rate of 100% for the quarter; specifically, MCSO achieved compliance rates of 100% in October, November, and December of 2016.

Employee Email Inspection:

The purpose of this inspection is to determine employee email accounts are utilized in compliance with Office Policy and in support of the Melendres Order. To achieve this, inspectors reviewed a random sample of county email accounts for 35 Office employees during the month inspected. The AIU (Audits and Inspections Unit) continued to inspect employee email accounts to ensure content was in compliance with Policy. The employee email compliance rates were 99% for October, 100% in November and 100% in December. The overall compliance rate for the fourth quarter of 2016 was 99.66%. ***The inspection rates for e-mails have remained consistently high.***

District Operations Inspection:

The purpose of this inspection is to determine MCSO facilities and retained property are managed and maintained in compliance with Office policy and in support of the Melendres Order. To achieve this, inspectors conducted sight visits to randomly selected districts/divisions and utilized the Facility Inspection Checklist, containing 31 points of inspection, to evaluate facility operations and the processing of retained property. For the month of October, at the Aviation Division the compliance rate was 100%. For November the Transportation Division had a compliance rate of 100%, and for December the Range had 100% compliance. In these inspections there was no evidence that Maricopa County property or equipment was being used in any way that discriminates against or denigrates anyone. ***An average compliance rate for the quarter was 100%.***

***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.***

The Monitors have stated that MCSO is not in Phase 1 compliance. The Monitor's 9<sup>th</sup> Quarterly Report indicated that Phase 2 compliance for this Paragraph went from being "Not in compliance" to "Deferred." MCSO thanks the Monitor for placing MCSO in a deferred compliance status. The Monitor indicated they would assess Phase 1 compliance once MCSO published policies and procedures for the new SILO unit.

MCSO *does not rely on* any information received from the public, including information received through any hotline, by mail, email, phone, or in person, unless the information contains evidence of a crime that can be independently corroborated by MCSO.



MCSO created a new unit called the Sheriff's Intelligence Leads and Operations (SILO) whose sole purpose will be to receive tips/information and vet the information appropriately and consistently and within compliance of the Order. MCSO has hired personnel to staff SILO. MCSO provided the Monitor with the first draft of Policy GI-7 (Bias Free Tips and Information Processing) on July 01, 2016. MCSO received combined comments back from the Monitor on August 18, 2016. MCSO addressed the comments and resubmitted the second draft of Policy GI-7 to the Monitor and parties on October 27, 2016. MCSO received combined comments back from the Monitor on November 28, 2016. MCSO addressed the comments and resubmitted the third draft of Policy GI-7 to the Monitor and parties on December 16, 2016. MCSO received combined comments back from the Monitor on January 04, 2017 and is currently addressing the comments and will submit the fourth draft of GI-7 as soon as possible.

MCSO submitted the 2017 SILO Database Training lesson plan to the Monitor and parties on January 23, 2017 for review and approval.

MCSO Policy CP-8, Preventing Racial and Other Biased-Based Profiling specifically addressed the requirements of Paragraph 24.

**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 is in Phase 1 compliance. Phase 2 compliance has been changed from In-compliance to Deferred in the Monitor's 9<sup>th</sup> Quarterly Report.

The Monitor indicated in the 9<sup>th</sup> and 10<sup>th</sup> Quarterly Report the reason for MCSO being placed in a "Deferred Status" was due to the following:

*"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. The first comprehensive analysis completed by ASU was issued during the previous quarter and a draft of ASU's second annual report was presented during our October 2016 site visit. Both analyses contained several findings that "may be indicative of racially biased policing." We, the Parties, and MCSO are currently working to clarify if any of the instances that lead to these suppositions were, in fact, indicative of biased policing. While that process continues, MCSO's compliance with this Subparagraph is deferred."*

MCSO will continue to provide the Monitor with monthly traffic stop data and any other requested documentation so that the Monitor can continue to assess MCSO's compliance with Paragraph 25 and to determine whether any of the instances which led to the suppositions demonstrate biased based policing, as opposed to whether instances in which deputies had reasonable suspicion or probable cause to believe a violation is being or has been committed. MCSO will work diligently to return to full and effective compliance with this Paragraph.

**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 is in Phase 1 and Phase 2 compliance with Paragraph 26.** MCSO provides the Monitor with monthly traffic stop data and any other requested documentation so that the Monitor can continue to assess MCSO compliance with Paragraph 26.

**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 remains in Phase 1 and Phase 2 compliance with Paragraph 27.** MCSO provides any documentation that the Monitor requests to enable the Monitor to assess MCSO's compliance with Paragraph 27.

**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.*

***MCSO remains in Phase 1 and Phase 2 compliance with Paragraph 28.***

MCSO provides the Monitor with monthly documentation related to Paragraph 28, and will provide the Monitor with any documentation he requests to enable the Monitor to assess MCSO's continued compliance with Paragraph 28.

***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.*

***MCSO remains in Phase 2 compliance with Paragraph 29 (Phase 1 is not applicable).*** MCSO will provide any documentation that the Monitor requests to enable him to assess MCSO's continued compliance with Paragraph 29.

***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.*

***Phase 1 compliance is not applicable to Paragraph 30. MCSO remains in Phase 2 compliance.*** MCSO will provide any documentation requested by the Monitor to enable the Monitor to assess MCSO's continued compliance with Paragraph 30.

***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 remains in Phase 1 and Phase 2 compliance with Paragraph 31.***

MCSO provides monthly documentation related to this paragraph and will provide any documentation that the Monitor requests to enable the Monitor to assess MCSO's continued compliance with Paragraph 31.

Consistent with the Court Order, Paragraph 31 requirements regarding MCSO personnel's receipt and comprehension of the policies and procedures, MCSO implemented the E-Policy system in January 2015. MCSO utilizes the system to distribute and require attestation of all Briefing Boards and published policies. The E-Policy system memorializes and tracks employee compliance with the required reading of MCSO Policy and Procedures, employee acknowledgement that he or she understands the subject policies and procedures and employee expression of his or her agreement to abide by the requirements of the policies and procedures. MCSO provides the Critical, Detention, Enforcement, and General Policies via E-Policy as a resource for all MCSO personnel.

During the subject three month reporting period, MCSO used the E-Policy system to distribute and obtain attestation of eighteen (18) policies and one (1) operations manual. This includes fifteen (15) policies and one (1) operations manual related to the Court Order:

***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.*

***MCSO is in Phase 1 compliance with Paragraph 32.*** Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 2 compliance with Paragraph 32.

Consistent with the Court's Order, Paragraph 32, requiring that all patrol operations personnel report violations of policy; PSB received 47 complaints from patrol personnel during this reporting period.

MCSO continues to work towards Phase 2 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 is in Phase 1 compliance with Paragraph 33.*** MCSO is not in Phase 2 compliance.

MCSO continues to work toward achieving Phase 2 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 is in Phase 1 and Phase 2 compliance with Paragraph 34.***

On September 15, 2016, MCSO filed the 2016 Annual Report which covers the time period from July 01, 2015 to June 30, 2016. The annual report included a section that documented the annual policy

assessment.

MCSO will provide any documentation that the Monitor requests to enable the Monitor to assess MCSO's continued compliance with Paragraph 34.

## Section 4: Pre-Planned Operations

### **General note regarding Pre-Planned Operations:**

MCSO did not conduct any Significant Operations during this rating period.

***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 is in Phase 1 and Phase 2 compliance with Paragraph 35.*** MCSO will provide any documentation that the Monitor requests to enable the Monitor to assess MCSO's continued compliance with Paragraph 35.

***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.*

***MCSO is in Phase 1 and Phase 2 compliance with Paragraph 36.*** MCSO provides monthly documentation to the Monitor regarding Paragraph 36 and will provide any additional documentation that the Monitor requests to enable the Monitor to assess MCSO's continued compliance with Paragraph 36.

***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.*

***MCSO is in Phase 1 and Phase 2 compliance with Paragraph 37.*** MCSO provides monthly documentation to the Monitor regarding Paragraph 37 and will provide any additional documentation that the Monitor requests to enable the Monitor to assess MCSO's continued compliance with Paragraph 37.

***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 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.*

**MCSO is in Phase 1 and Phase 2 compliance with Paragraph 38.** MCSO provides monthly documentation to the Monitor regarding Paragraph 38 and will provide any additional documentation that the Monitor requests to enable the Monitor to assess MCSO's continued compliance with Paragraph 38.

**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 is in Phase 1 and Phase 2 compliance with Paragraph 40.** MCSO provides monthly documentation to the Monitor regarding Paragraph 40 and will provide any additional documentation that the Monitor requests to enable the Monitor to assess MCSO's continued compliance with Paragraph 40.



## Section 5: 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.*

The Monitor rates MCSO in non-compliance with Phase 1 of this paragraph. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GG-1, *Peace Officer Training Administration* (currently under revision)
- GG-2, *Detention/Civilian Training Administration* (currently under revision)
- Training Division Operations Manual (currently under revision)

MCSO made certain that this paragraph's requirements were followed when selecting instructors for all Court Ordered related Training such as the 4<sup>th</sup> and 14<sup>th</sup> Amendment Training, Bias-Free Policing Training, Blue Team Training, Body Worn Camera Training, TraCS Training, and Supervisor Training.

Phase 1 and phase 2 compliance is pending the approval and publication of the Training Division Operations Manual, as well as MCSO Policies GG-1 and GG-2.

On December 27, 2016, the Monitor conditionally approved GG-1 and GG-2 for publication pending discussions on a couple of open items in the policy.

MCSO received the parties combined comments for the Training Operations Manual on June 06, 2016. MCSO Training has addressed the comments and is in the process of resubmitting the operations manual to the Monitor.

The "seven step training cycle" has been written into both policies and is currently being utilized for all training at MCSO.

The approved "Supervisor Responsibility: Effective Law Enforcement (SRELE)" course was offered one (1) time during the 4<sup>th</sup> quarter of 2016. Ten (10) sworn personnel attended the SRELE class. All ten sworn personnel who took the SRELE class achieved a passing grade.

The 2016 "Admin Investigations Checklist – Standardized Forms" class was offered once this quarter. Nine (9) sworn personnel attended the class and passed it.

The 2016 Annual Combined Training (ACT) class was approved during the 3<sup>rd</sup> quarter. The Annual Combined Training (ACT) which consists of training in the areas of the 4<sup>th</sup> and 14<sup>th</sup> Amendment and Bias Free Policing was offered forty-seven (47) times during this quarter. One thousand three hundred sixteen (1,316) personnel attended the class during this quarter.

The 2-day 2014 Annual Combined Training (ACT) was offered once during the 4<sup>th</sup> Quarter. There were thirty (30) employees that attended and passed the class. Fifty-one (51) posse recruits attended the course.

One (1) Body Worn Camera class was offered during this quarter. Thirty (30) sworn personnel attended the class and passed it.

One (1) TraCS class was offered during this quarter. Thirty (30) sworn personnel attended the class and passed it.

One (1) Blue Team class was offered during this quarter. Thirty (30) sworn personnel attended the class and passed it.

MCSO will continue to provide the Monitor with requested documents so future compliance can be assessed.

***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.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 compliance. MCSO believed it would be in Phase 1 compliance once GG-1 was approved and published. However, based on the Monitor's 10<sup>th</sup> Quarterly Report it now appears MCSO must also gain approval and publish Policy GG-2 and the Training Operations Manual. For details on the status of MCSO Policy GG-1, Policy GG-2, and the Training Division Operations Manual please refer to the summary of Paragraph 42, above.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GG-1, *Peace Officer Training Administration* (currently under revision)
- GG-2, *Detention/Civilian Training Administration* (currently under revision)
- Training Division Operations Manual (currently under revision)

Phase 2 compliance with Paragraph 43 is currently deferred.

MCSO continues to comply with the Order's requirements that Order related Training consists of no less than 60% Live Training and no more than 40% online training. All Order related Training has included a testing component.

The "seven step training cycle" has been written into both policies and is currently being utilized for all training at MCSO. MCSO Training recently demonstrated they were utilizing the seven step training cycle when they identified a trend in the testing analysis for a course that indicated students were missing the same question at a very high rate. MCSO Training with the approval of the Monitor was able to change the wording of the test question to resolve this issue.

The Monitor's 10<sup>th</sup> quarterly report acknowledged MCSO improvement in proactively monitoring ongoing training by stating the following as it related to the test question noted above:

*"While providing technical assistance for the Train-the-Trainer program, we reviewed the accompanying test. As a result of instructor feedback, MCSO further revised one test question. After testing began for subsequent classes, the Training Division conducted a test analysis, to confirm our shared belief that the test was satisfactory – yet the review contradicted this opinion. The Training Division discovered that after seven class deliveries, only 45% of students answered the question correctly. The Training Division and we jointly agreed to a second modification to the question, but we directed the Training Division to seek and obtain a*



*legal opinion for confirmation. MCAO confirmed our joint modifications, returning the test for use. The test analysis demonstrates that Training Division personnel have improved their understanding of the training cycle and are proactively monitoring the training being delivered.”*

**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.*

Based on the Monitor’s 10th Quarterly Report, MCSO is not in Phase 1 compliance. MCSO believed it would be in Phase 1 compliance once GG-1 was approved and published. However, based on the Monitor’s 10th Quarterly Report it now appears MCSO must also gain approval and publish Policy GG-2 and the Training Operations Manual. For details on the status of MCSO Policy GG-1, Policy GG-2, and the Training Division Operations Manual please refer to the summary of Paragraph 42, above.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GG-1, *Peace Officer Training Administration* (currently under revision)
- GG-2, *Detention/Civilian Training Administration* (currently under revision)
- Training Division Operations Manual (currently under revision)

MCSO thanks the Monitor for recognizing that the issues previously raised regarding the Master Training Calendar have been addressed. MCSO does include projected training dates to assist in maintaining timely training development as recommended by the Monitor.

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

Based on the Monitor’s 10<sup>th</sup> Quarterly Report, MCSO is in Phase 2 compliance with this paragraph. Phase 1 compliance is not applicable.

MCSO Training has incorporated adult-learning methods that include roleplaying scenarios (if appropriate), interactive exercises (if appropriate), and traditional lecture. MCSO Training works with the Monitor and parties to develop Court related Training curriculum including deciding what appropriate adult learning methods should be incorporated in specific Training curriculum. MCSO will continue to work with the Monitor and parties to ensure that acceptable adult learning methods are incorporated in Order related Training, allowing MCSO to maintain compliance with this paragraph.

**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.*

The Monitor’s 10<sup>th</sup> Quarterly Report rates MCSO in Phase 2 compliance. Phase 1 compliance is not

applicable.

MCSO will continue to provide curriculum and related materials for Training to the Monitor and parties to maintain compliance with this Paragraph.

**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.*

Based on the Monitor's 10th Quarterly Report, MCSO is not in Phase 1 compliance. MCSO believed it would be in Phase 1 compliance once GG-1 was approved and published. However, based on the Monitor's 10th Quarterly Report it now appears MCSO must also gain approval and publish Policy GG-2 and the Training Operations Manual. For details on the status of MCSO Policy GG-1, Policy GG-2, and the Training Division Operations Manual please refer to the summary of Paragraph 42, above.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GG-1, *Peace Officer Training Administration* (currently under revision)
- GG-2, *Detention/Civilian Training Administration* (currently under revision)
- Training Division Operations Manual (currently under revision)

MCSO currently reviews and updates all lesson plans annually, and will continue to do so in 2017.

**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.*

Phase 1 compliance is not applicable to Paragraph 48. MCSO is in Phase 2 compliance with Paragraph 48.

The 2016 Annual Combined Training (ACT) class was approved during the 3<sup>rd</sup> quarter. The Annual Combined Training (ACT) which consists of training in the areas of the 4<sup>th</sup> and 14<sup>th</sup> Amendment and Bias Free Policing was offered forty-seven (47) times during this quarter. One thousand three hundred sixteen (1,316) personnel attended the class during this quarter.

The 2-day 2014 Annual Combined Training (ACT) was offered once during the 4<sup>th</sup> Quarter. There were thirty (30) employees that attended and passed the class. Fifty-one (51) posse recruits attended the course.

MCSO will continue to work with the Monitor and parties to maintain compliance with this Paragraph.

**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.*

Phase 1 compliance is not applicable to Paragraph 49. MCSO is in Phase 2 compliance with Paragraph 49.

The 2016 Annual Combined Training (ACT) class was approved during the 3<sup>rd</sup> quarter. The Annual Combined Training (ACT) which consists of training in the areas of the 4<sup>th</sup> and 14<sup>th</sup> Amendment and Bias Free Policing was offered forty-seven (47) times during this quarter. One thousand three hundred sixteen (1,316) personnel attended the class during this quarter.

The 2-day 2014 Annual Combined Training (ACT) was offered once during the 4<sup>th</sup> Quarter. There were thirty (30) employees that attended and passed the class. Fifty-one (51) posse recruits attended the course.

MCSO will continue to work with the Monitor and parties to maintain compliance with this Paragraph.

***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.*

Phase 1 compliance is not applicable to Paragraph 50. MCSO is in Phase 2 compliance with Paragraph 50.

The 2016 Annual Combined Training (ACT) class was approved during the 3<sup>rd</sup> quarter. The Annual Combined Training (ACT) which consists of training in the areas of the 4<sup>th</sup> and 14<sup>th</sup> Amendment and Bias Free Policing was offered forty-seven (47) times during this quarter. One thousand three hundred sixteen (1,316) personnel attended the class during this quarter.

The 2-day 2014 Annual Combined Training (ACT) was offered once during the 4<sup>th</sup> Quarter. There were thirty (30) employees that attended and passed the class. Fifty-one (51) posse recruits attended the course.

MCSO will continue to work with the Monitor and parties to maintain compliance with this Paragraph.

***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.*

Phase 1 compliance is not applicable to Paragraph 51. MCSO is in Phase 2 compliance with Paragraph 51.



The 2016 Annual Combined Training (ACT) class was approved during the 3<sup>rd</sup> quarter. The Annual Combined Training (ACT) which consists of training in the areas of the 4<sup>th</sup> and 14<sup>th</sup> Amendment and Bias Free Policing was offered forty-seven (47) times during this quarter. One thousand three hundred sixteen (1,316) personnel attended the class during this quarter.

The 2-day 2014 Annual Combined Training (ACT) was offered once during the 4<sup>th</sup> Quarter. There were thirty (30) employees that attended and passed the class. Fifty-one (51) posse recruits attended the course.

MCSO will continue to work with the Monitor and parties to maintain compliance with this Paragraph.

***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.

***Phase 1 compliance is not applicable to Paragraph 52. Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO rated in a deferred status for Phase 2 compliance with Paragraph 52.***

The most recent lesson plan for the "Supervisor Responsibilities: Effective Law Enforcement Training" course was sent to the Monitor on May 19, 2016. The Monitor observed and gave MCSO valuable feedback regarding the train the trainer which occurred on June 01, 2016 and June 02, 2016. The Monitor then gave MCSO the final approval on the lesson plan on June 07, 2016. MCSO began delivering the "Supervisor Responsibilities: Effective Law Enforcement Training" course on June 13, 2016, and delivered the concluding course on July 15, 2016. During that approximately one month time period, MCSO delivered the Training to *all* sworn supervisors, with the exception of only three supervisors. Two of the three supervisors that did not attend are retiring by the end of 2016. The one remaining supervisor who did not attend was sick and was scheduled for the last offering of the course. The supervisor who could not attend the last scheduled course due to an illness did attend the course held on October 04-05, 2016 to the newly promoted supervisors. One sergeant who was newly promoted was unable to attend the course for an excusable reason. Therefore, that sergeant will attend the next offering of the course which is tentatively planned for April 2017.

The approved "Supervisor Responsibility: Effective Law Enforcement (SRELE)" course was offered one (1) time during the 4<sup>th</sup> quarter of 2016. Ten (10) sworn personnel have attended the SRELE class. All ten sworn personnel who took the SRELE class achieved a passing grade.

MCSO understands that the "Supervisor Responsibilities: Effective Law Enforcement Training" lesson plan did not incorporate the requirements of paragraph 53, subparagraph "I" or subparagraph "H". These

subparagraphs address how supervisors should respond to the scene of a traffic stop for a complaint and how the supervisor should respond to and investigate allegations of deputy misconduct. The Honorable G. Murray Snow issued a Second Supplemental Order on July 20, 2016 which in part required MCSO to provide all Supervisors with 40 hours of Misconduct Training (Paragraph 178). These topics will be covered in detail in the stand alone Misconduct Training which is currently being developed by the Monitor Team. Please see the summary for Paragraph 178 for further information regarding the status of this Training.

**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.*

Phase 1 compliance is not applicable to Paragraph 53. Based on the Monitor’s 10<sup>th</sup> Quarterly Report, MCSO rated in a deferred status for Phase 2 compliance with Paragraph 53.

Please refer to the summary of Paragraph 52 for further information and an updated on the status of the Order required supervisor training.



## Section 6: Traffic Stop Documentation and Data Collection

### General Comments regarding Traffic Stop Documentation and Data Collection

Between October 01, 2016 and December 31, 2016, the BIO conducted three (3) traffic stop related inspections to comply with Paragraph 64 of the Court's Order. These inspections were for traffic stop data, consistent with Paragraphs 54-57, to ensure that MCSO: a) collected all traffic stop data to comply with MCSO Policy, EB-2, Traffic Stop Data Collection; b) accurately completed all forms; c) closed and validated all TraCS forms; d) used the correct CAD codes and sub codes; and e) supervisors reviewed and memorialized Incident Reports within guidelines. In the fourth quarter of 2016, the overall compliance rate for the quarter was 81%. October's compliance rate was 71%, November's compliance rate was 89%, and December's compliance rate was 83%. With the implementation of body worn cameras, the AIU's inspection matrix increased beyond the scope of the Melendres Court Order or Court Monitors, giving some explanation for the decrease.

MCSO implemented a system that allows deputies to input traffic stop data electronically. As of September 30, 2016, MCSO installed all of the approximately one hundred-seventy-nine (179) marked patrol vehicles assigned to the Patrol Bureau with the electronic equipment, including the TraCS system, to capture the traffic stop data that Paragraph 54 requires, and issued a contact receipt to the vehicle occupants.

*As of May 16, 2016, body-worn cameras were assigned to and deployed with all patrol deputies.*

During this reporting period, MCSO changed the TraCS system to more accurately track data. MCSO made the following changes:

Table #4

#### Summary of TraCS Changes

Date	Entity	Issue	Resolution
11/29/2016	Vehicle Stop Contact	Contact Start Time was not being populated from CAD.	Contact Start Time will now be populated from CAD. If Deputy changes the Start or Stop times the fields will be displayed in RED
11/29/2016	Vehicle Stop Contact	Offense Classification was not being captured.	Added new field – 'Classification' that requires the Deputy to select an ARS Offense Classification (Civil Traffic, Criminal Traffic, Criminal or Petty Offense)
11/29/2016	Vehicle Stop Contact	'Extended Stop' was not defined clearly.	Replaced the 'Yes/No' selection with a series of 5 questions that define the reason for an extended detention.
11/29/2016	Vehicle Stop Contact	Form could not be modified once completed Reviewed by Supervisor.	Allow the Supervisor who reviewed the form to 'Reject' it and request that changes be made after it's been reviewed.

11/29/2016	Form Status	SIGNED OFF status was confusing.	SIGNED OFF has been replaced by REVIEWED
11/29/2016	Additional Deputy Camera Log	Was not populating Deputy's serial number.	Corrected rule so serial number is defaulted correctly.
12/8/2016	Vehicle Stop Contact	Unable to validate forms in which passengers were contacted.	Passenger related arrest fields function properly.
12/8/2016	Vehicle Stop Contact	Contact start time and/or end time was printing in pale yellow font color if they do not match the corresponding times captured in CAD.	Changed the contact start time and/or contact end time to print in red font if they do not match CAD.
12/8/2016	Vehicle Stop Contact	Passenger/Additional Contact DOB was truncating on the right side of the field.	Corrected DOB printing.
12/8/2016	Forms Manager	Deputy was unable to search for Citations and Warnings by Driver Last Name or License Plate.	Added custom searches for Citations and Warnings
12/8/2016	Vehicle Stop Contact	Help captions for the 'Extended Detention' questions were not sufficient.	Added better help captions for the five questions related to an extended detention.

**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 is in Phase 1 compliance with this Paragraph.***

MCSO went from being in Phase 2 compliance with Paragraph 54 to being not in compliance in the Monitor 9<sup>th</sup> Quarterly Report which covered the time period of April 01, 2016 through June 30, 2016. The reason MCSO fell out of compliance during that quarter was due to losing compliance in subsection k.

During this quarter, MCSO fell out of compliance due to losing a compliance rating with subsection g as well as subsection l.

Paragraph 54, Subsection g, involves a requirement that deputies document when they contact passengers during a traffic stop as well as a reason why the passenger was contacted. During the last quarter, the Monitor found MCSO had contacted 34 passengers during traffic stops. 3 of the 34 passenger contacts were not documented as required by this subparagraph which caused MCSO to lose compliance. MCSO will continue to work to re-gain compliance with this subsection.

Paragraph 54, Subsection i, requires deputies to document if contraband was seized during any given traffic stop. During the last quarter the Monitor reviewed 6 cases where deputies had made a criminal traffic arrest and seized the offender's driver's license or license plate. The deputies noted the seizure in all 6 instances on the Arizona Traffic Ticket and Complaint form. However, the deputies failed to document the seizure on the Vehicle Stop Contact Form in 4 of the 6 instances which caused MCSO to lose compliance with this subsection of the Paragraph. MCSO will continue to work to re-gain compliance with this subsection.

MCSO lost compliance with subsection k of Paragraph 54 during the 2<sup>nd</sup> Quarter of 2016 (April 01 thru June 30, 2016) due to a deputy giving a motorist a courtesy ride to work and not documenting the officer safety search that was completed prior to placing the motorist (unrestrained) in the back seat of the MCSO Patrol Vehicle. On a positive note, as of the Monitor's 10<sup>th</sup> Quarterly Report, MCSO has regained compliance with subsection k of this Paragraph.

MCSO will continue to provide monthly documentation to the Monitor to enable the Monitor to assess MCSO's compliance with Paragraph 54. MCSO will work hard to re-gain Phase 2 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.

***MCSO is in Phase 1 and Phase 2 compliance with Paragraph 55.*** MCSO will continue to provide monthly documentation to the Monitor to enable the Monitor to assess MCSO's continued compliance with Paragraph 55.

***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.

***MCSO is in Phase 1 and Phase 2 compliance with Paragraph 56.*** MCSO will continue to provide monthly documentation to the Monitor to enable the Monitor to assess MCSO's continued compliance with Paragraph 56.

***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.

***MCSO is in Phase 1 compliance with Paragraph 57.***

MCSO will continue to work to gain compliance with this paragraph.

MCSO must provide every motorist with a receipt as well as utilize the body worn cameras to verify stop length is accurately being recorded.

MCSO is compliant with providing motorists receipts as required by this paragraph. MCSO reiterates the position that the provision of the receipt can be verified using the body worn camera video when a signature is not obtained.

During the third quarter of 2016, MCSO was not in compliance with the requirement to utilize the body worn camera to verify stop length is accurately being recorded. Specifically three (3) of the 29 body worn camera videos inspected by the Monitor were not utilized in a manner that allowed the verification of stop length.

**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.*

**MCSO is in Phase 1 and Phase 2 compliance with Paragraph 58.** MCSO will continue to provide the Monitor with any documentation that the Monitor requests to enable the Monitor to assess MCSO's continued compliance with Paragraph 58.

**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.*

**Phase 1 compliance for Paragraph 59 is not applicable. However, MCSO is in Phase 2 compliance with Paragraph 59.** MCSO will continue to provide any documents requested that the Monitor requests to enable the Monitor to assess MCSO's continued compliance with Paragraph 59.

**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.*

**MCSO is Phase 1 and Phase 2 compliance with Paragraph 60.** MCSO will provide the Monitor with any requested documents so continued compliance with this paragraph can be assessed.

**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.*

**MCSO is in Phase 1 and Phase 2 compliance with Paragraph 61.** MCSO will provide the Monitor with any requested documents so continued compliance with this paragraph can be assessed.



MCSO is in compliance with this paragraph, however the Monitor noted, “MCSO is in compliance with this Paragraph but needs to address the connectivity issues in Districts 3 and 4 and the Lakes Patrol. We were advised that MCSO is continuing to rectify the connectivity issues in these three Districts.” MCSO respectfully reminds the Monitor Team and reader that it has no control over the connectivity provided by utility companies. MCSO is exploring if a different utility vendor would be able to increase connectivity.

**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 is in Phase 1 compliance with Paragraph 62.***

For MCSO to achieve Phase 2 compliance with Paragraph 62, the Monitor has stated in the 10<sup>th</sup> Quarterly Report, “MCSO will not be in compliance with this Paragraph until the body-worn cameras are deployed and used in accordance with policy and the Order.”

As of May 16, 2016, all personnel required to utilize a body-worn camera have been issued cameras and they are in use office wide.

The Monitor report indicates that it reviewed 29 cases after body cameras were fully implemented and 26 of the cases were in compliance. This equates to an 87% compliance rate.

As the Monitor foretold, MCSO has, in fact, discovered the value of body worn cameras and believe the program to be positive overall. MCSO will continue to strive to gain Phase 2 compliance with this Paragraph.

**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.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 compliance. Phase 2 compliance is now deferred.

The Monitor and parties reviewed and approved the Body Worn Camera Operations Manual. The Body Worn Camera Operations Manual was published on December 22, 2016. The publication of this operations manual should move MCSO into Phase 1 and Phase 2 compliance.

**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.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance with this paragraph.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-4, *Bureau of Internal Oversight* (Published December 14, 2016)
- GH-5, *Early Identification System (EIS)* (Currently under revision)
- EIS Operations Manual (Currently Under Revision)

MCSO must receive approval and publish Policy GH-5, Early Identification System); GH-4, (BIO); and the EIS Operations Manual to obtain Phase 1 compliance.

The original MCSO Policy GH-5 (Early Identification System) was approved on August 26, 2015 and published on November 18, 2015. MCSO discussed the revised version of the EIS Policy (GH-5) with the Monitor during site visits and technical visits. MCSO submitted the first revised version of the policy to the Monitor and parties on August 18, 2016. On October 05, 2016, MCSO received the EIS Policy back with combined comments. MCSO participated in a conference call with the Monitor and parties to discuss this version of the EIS Policy on October 27, 2016. MCSO revised the EIS Policy based on the comments received and information discussed during the conference call and submitted the second revision of the policy to the Monitor and parties for review on November 30, 2016. MCSO received combined comments back from the Monitor and parties. MCSO addressed the comments and sent the third revised version of Policy GH-5 to the Monitor and parties on January 08, 2017. MCSO received combined comments from the Monitor on February 07, 2017. MCSO addressed the comments in the policy and submitted the fourth revision of the policy to the Monitor and parties on February 22, 2017.

MCSO Policy GH-4 (Bureau of Internal Oversight) was sent to the Monitor and parties on June 21, 2016. The Monitor approved the policy on November 12, 2016. MCSO Policy GH-4 was published on December 14, 2016.

The EIS Operations Manual is currently being developed but cannot be completed until Policy GH-5 is finalized. Within 30 days of the finalization of Policy GH-5 (EIS), MCSO anticipates providing the Monitor and parties with a draft version of the EIS Operations Manual. This is incorporated in EIS Project Plan.

Originally, the EIS Training was to be combined with the Supervisor Training mandated by Paragraphs 52 and 53. The EIS Training has been separated from the Supervisor Training and will be delivered as



stand-alone training. MCSO submitted a second version of the EIS Training on or about February 18, 2016. MCSO received the Monitor's comments on the Training on or about March 25, 2016. MCSO, the Monitor, and the parties participated in a conference call on March 31, 2016 to attempt to resolve any issues arising from the Monitor's comments. MCSO sent the third version of the EIS Training to the Monitor on April 23, 2016. MCSO received comments from the Monitor and parties on June 13, 2016. MCSO discussed the lesson plan during the Monitor's July 2016 Site Visit along with the expansion of this Training to incorporate instruction to supervisors on the methodology to use when interpreting and analyzing the new monthly and quarterly traffic stop data. Again it must be noted that this Training is dependent on the approval and finalization of Policy GH-5 (Early Identification System).

In its effort to achieve full and effective compliance, and with the assistance of the Monitor Team and parties, MCSO is transitioning to a rule based system to conduct traffic stop analysis to identify racial profiling or other biased-based problems. The rule based system would be a more statistically sound and research based method of evaluating all deputies' traffic stop data. The methodology associated with this transition to a rule based system will be approved by the Monitor.

During this quarter, MCSO and the Monitor identified 11 benchmarks that will be utilized to complete the monthly traffic stop analysis. MCSO is working with partners at Arizona State University to finalize the SPSS syntax for all of the benchmarks that require calculations. In this quarter, EIU began incorporating 3 additional benchmarks into EIS System. MCSO currently incorporates 4 of the 11 benchmarks into the EIS System. All 11 of the benchmarks with projected target dates are incorporated into the EIS Project Plan.

MCSO will continue to work on achieving compliance with this paragraph.

***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.

Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 compliance. Phase 2 compliance with this paragraph is currently deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-4, *Bureau of Internal Oversight* (Published 12/14/2016)
- GH-5, *Early Identification System (EIS)* (Currently under revision)

For a complete status regarding the development these two policies as well as the related EIS Training please refer to the summary portion of Paragraph 64. MCSO must also deliver the EIS Training which is dependent on the finalization of Policy GH-5 (EIS).

MCSO continues to work diligently to gain compliance with this Paragraph.

***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.*

***Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is in Phase 1 compliance.***

During this quarter, Arizona State University produced a draft version of the Annual Traffic Stop Report covering July 2015 through June 2016. In December, MCSO received the comments regarding the ASU Annual Traffic Stop Report from the Monitor and parties. MCSO produced the final version of this report on March 01, 2017. Throughout this quarter, MCSO had multiple technical assistance meetings attended by the Monitor and parties where we worked collaboratively to develop a supervisory intervention process to address outliers identified in the ASU Annual Traffic Stop Report. This is an ongoing effort and MCSO anticipates completing the first interventions in March 2017. This process has also been incorporated into the EIS Project Plan.

MCSO continues to work to gain Phase 2 compliance with this paragraph.

***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.*

***MCSO is in Phase 1 compliance with Paragraph 67.*** According to the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in phase 2 compliance with Paragraph 67.

The Monitor's 10<sup>th</sup> Quarterly Report indicated: *"To achieve Phase 2 compliance with this Paragraph, MCSO must complete its implementation of the new thresholds for each element of Paragraph 67 and utilize them to identify potential cases of racial profiling or other biased-based policing."*

During this quarter, MCSO and the Monitor identified 11 benchmarks that will be utilized to complete the monthly traffic stop analysis. MCSO is working with partners at Arizona State University to finalize the SPSS syntax for all of the benchmarks that require calculations. During this quarter, EIU began

incorporating 3 additional benchmarks into EIS System. MCSO currently incorporates 4 of the 11 benchmarks into the EIS System. All 11 of the benchmarks with projected targeted dates are incorporated into the EIS Project Plan.

MCSO continues to work towards achieving Phase 2 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.*

**MCSO is in Phase 1 and Phase 2 compliance with Paragraph 68.** MCSO will continue to provide the Monitor with documents that that the Monitor requests to enable the Monitor to assess MCSO's continued compliance with Paragraph 68.

**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.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance with this paragraph.

In order to achieve Phase 1 compliance the Monitor indicated MCSO must publish Policy GH-5 (EIS). For a complete status regarding the development of GH-5 as well as the related EIS Training please refer to the summary portion of Paragraph 64.

In December 2016, MCSO requested technical assistance from the Monitor to identify the appropriate and efficient manner to fulfill the requirements of this paragraph. The technical assistance meeting took place during the January Site Visit. MCSO continues to work on gaining compliance with this

Paragraph.

***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.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance with this paragraph.

Phase 1 compliance is dependent on MCSO receiving approval to publish Policy GH-5 (EIS) and deliver the related EIS Training. Please see Paragraph 64 for a complete status on Policy GH-5 (EIS) and the related EIS Training.

***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.*

***Phase 1 compliance is not applicable to this paragraph. MCSO is in Phase 2 compliance with Paragraph 71.***

MCSO will provide the Monitor with access to all data requested to assist the Monitor in determining MCSO's continued compliance with Paragraph 71.

## Section 7: Early Identification System (EIS)

### General Comment regarding BIO and Bio Inspections

The inspection process is a valuable and successful tool in achieving and maintaining compliance with various Office policies and stipulations of the *Melendres* Court Order.

These general comments represent the Bureau of Internal Oversight (BIO) inspection activities for the time period of September through December 2016. The BIO completed thirty-three (33) inspection reports broken down as follows:

- Three (3) CAD and Alpha Paging Inspections.
- Three (3) Patrol Shift Roster Inspections.
- Three (3) Traffic Stop Data Collection Inspections.
- Three (3) District/Division Facility/Property and Evidence Inspections.
- Three (3) County Attorney Disposition Inspections.
- Three (3) Employee Email Inspections.
- Nine (9) Supervisory Note Inspections for sworn, detention, and civilian staff.
- Two (2) Bias Free Reinforcement Inspections.
- Two (2) Activity Log Inspections.
- One (1) Quarterly Patrol Incident Report Inspection.

The following paragraphs represent compliance rates and brief progress assessments for the inspections through the 4<sup>th</sup> quarter of 2016.

#### CAD Messaging/Alpha Paging System Inspection:

The purpose of this inspection is to determine if CAD and Alpha Paging were transmitted in compliance with Office policy and in support of the Melendres Order. The Audits and Inspections Unit (AIU) conducted a CAD Messaging/Alpha Paging Inspection on a monthly basis. This inspection had an overall compliance rate for the Quarter of 100%. The monthly compliance rates were 100% in October 2016, 100% in November and 100% in December 2016.

Patrol Shift Roster Inspection: The inspection is consistent with MCSO Chief of Patrol, Deputy Chief Rodriguez's directives along with pending changes to MCSO Policy GB-2, *Command Responsibility*, and is consistent with Paragraphs 82, 84, and 86 of the Court's Order. Conducted on a monthly basis, this inspection had an average compliance rate of 99.7% for the quarter. The Sheriff's Office continues to adhere to the proper span of control for deputy to sergeant patrol squad ratios and has eliminated acting patrol supervisors.

Traffic Stop Data Collection Inspection: The Monitor team chose a random sample of traffic stops. Between October 01, 2016 and December 31, 2016, the BIO conducted three (3) traffic stop related inspections to comply with Paragraph 64 of the Court's Order. These inspections were for traffic stop data, consistent with Paragraphs 54-57, to ensure that MCSO: a) collected all traffic stop data to comply with MCSO Policy, EB-2, Traffic Stop Data Collection; b) accurately completed all forms; c) closed and validated all TraCS forms; d) used the correct CAD codes and sub codes; and e) supervisors reviewed and memorialized Incident Reports within guidelines. The third quarter of 2016 showed an overall compliance rate of 80%. In the fourth quarter of 2016, October had 71%, 89% in November and 83% in

December, with an overall compliance of 81% and showing a 1% increase from the third quarter. With the implementation of body worn cameras, the AIU's inspection matrix increased beyond the scope of the Melendres Court Order or Court Monitors, giving some explanation for the decrease.

County Attorney Dispositions: The purpose of this inspection is to determine County Attorney turn downs are processed in compliance with Office policy and are in support of the Melendres Order. To achieve this, inspectors utilized "IAPro" to generate all turn downs processed within a specific month. The turn downs were uniformly inspected utilizing the Records Division "FileBound" database and the matrix that BIO developed in accordance with Policies GF-4 and ED-3, and Court Order Paragraph 75. This inspection continues to maintain a high compliance rate since it began in January of 2015. In October 2016, the compliance rate was 100%, November 98% and in December 100%. The overall compliance rate for the fourth quarter of 2016 was 99.33%.

Employee Email Inspection:

The purpose of this inspection is to determine employee email accounts are utilized in compliance with Office Policy and in support of the Melendres Order. To achieve this, inspectors reviewed a random sample of county email accounts for 35 Office employees during the month inspected. The AIU continued to inspect employee email accounts to ensure content was in compliance with Policy. The employee email compliance rates were 99% for October, 100% in November and 100% in December. The overall compliance rate for the fourth quarter of 2016 was 99.66%. ***The inspection rates for e-mails have remained consistently high.***

Supervisory Notes Inspection:

The purpose of this inspection (sworn, detention, and civilian) is to determine if supervisor notes entered into the Blue Team application by supervisors are in compliance with Office policy and in support the Melendres Order. Inspectors reviewed the supervisory note entries within the IAPro database relative to the random sample selected by the Monitor Team for MCSO patrol, detention, and civilian employees. These entries are uniformly inspected utilizing the matrix developed by the BIO in accordance with policies CP-8, EA-11, EB-1, and EB-2, GB-2, and GJ-35.

Supervisory Notes-Detention:

The compliance rates were 94% for October, 98% in November, and 100% in December. The overall compliance rate for the fourth quarter of 2016 was 97.33% with an increase of 4% from the third quarter of 2016.

Supervisory Notes-Civilian:

The compliance rates were 94% for October, 91% in November; and 94% in December. The overall compliance rate for the fourth quarter of 2016 was 93%.

Supervisory Note-Sworn (Patrol):

The compliance rates were 96% for October, 93% in November; and 68% in December. The overall compliance rate for the fourth quarter of 2016 was 85.66% with a decrease of 5% from the third quarter of 2016. During the month of December the new requirement to document the review of EIS data 2 times a month was implemented thus, giving an explanation to the decrease. It is expected to improve over time.

Facility/Property Operations Inspection:

For the month of October, at the Aviation Division the compliance rate was 100%. For November the Transportation Division had a compliance rate of 100%, and for December the Range had 100% compliance. In these inspections there was no evidence that Maricopa County property or equipment was being used in any way that discriminates against or denigrates anyone.



The following is a table of all inspections that also represent overall inspection compliance rates of each month during the fourth quarter of 2016.

<b>Table 5</b>				
<b>2016 INSPECTIONS</b>	<b>October</b>	<b>November</b>	<b>December</b>	<b>Overall Compliance Rate</b>
<b>CAD/Alpha Paging</b>	100%	100%	100%	<b>100%</b>
<b>Patrol Shift Rosters</b>	100%	99%	99%	<b>99%</b>
<b>Traffic Stop Data Collection</b>	71%	89%	83%	<b>81%</b>
<b>County Attorney Dispositions</b>	100%	98%	100%	<b>99%</b>
<b>Employee Email</b>	99%	100%	100%	<b>99%</b>
<b>Supervisory Notes-Detention</b>	94%	98%	100%	<b>97%</b>
<b>Supervisory Notes-Civilian</b>	94%	91%	94%	<b>93%</b>
<b>Supervisory Note-Sworn</b>	96%	93%	68%	<b>85%</b>
<b>Facility/Property and Evidence</b>	100%	99%	100%	<b>99%</b>
<b>Quarterly Bias Free Reinforcement-Detention</b>	N/A	N/A	85%	<b>85%</b>
<b>Quarterly Bias Free Reinforcement-Sworn</b>	N/A	N/A	85%	<b>85%</b>
<b>TraCS Traffic Stop Review</b>	91%	95%	79%	<b>88%</b>
<b>TraCS Traffic Stop Discussed</b>	86%	91%	N/A	<b>88%</b>
<b>Patrol Activity Logs (PAL)</b>	N/A	67%	88%	<b>77%</b>
<b>Quarterly Incident Reports</b>			98%	<b>98%</b>

### Comments regarding EIS

The Early Identification System (EIS) continues to evolve as the Early Intervention Unit (EIU) moves to refine its processes to improve efficiency. EIU command and supervision continues to build upon and enhance the EIS program, working closely with the MCSO Technology Bureau, Arizona State University and IA Pro vendor, CI Technologies.

During this reporting period, the IA Pro system triggered 678 alerts:

The EIU forwarded 332 alerts to supervisors for further review.  
194 of these alerts were completed and 15 alerts remain open.



The EIU processed and quality-assured the following:

Award Recipient – 37  
 Briefing Notes – 1,049  
 Commendations – 181  
 County Attorney Actions – 845  
 Data Validation - 1  
 Employee Reported Activity - 89  
 Firearms Discharge – 7  
 Forced Entry – 4  
 Higher Award Nomination - 27  
 IR Memorialization – 13  
 Line Level Inspection – 536  
 Minor Award Nomination - 7  
 Notices of Claim / Law Suits / Summons – 15  
 Other Tracked Behavior – 140  
 Supervisor Notes – 14,360  
 Training - 104  
 Unscheduled Absence FMLA – 355  
 Unscheduled Absence NON-FMLA – 2,627  
 Use of Force – 6  
 Vehicle Accident – 7  
 Vehicle Pursuits - 13

***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.

Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance with this paragraph.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-5, *Early Identification System (EIS)* (Currently under revision)

The original MCSO Policy GH-5 (Early Identification System) was approved on August 26, 2015 and published on November 18, 2015. MCSO discussed the revised version of the EIS Policy (GH-5) with the Monitor during site visits and technical visits. MCSO submitted the first revised version of the policy to the Monitor and parties on August 18, 2016. On October 05, 2016, MCSO received the EIS Policy back with combined comments. MCSO participated in a conference call with the Monitor and parties to discuss this version of the EIS Policy on October 27, 2016. MCSO revised the EIS Policy based on the comments received and information discussed during the conference call and submitted the second revision of the policy to the Monitor and parties for review on November 30, 2016. MCSO received combined comments back from the Monitor and parties. MCSO addressed the comments and sent the third revised version of Policy GH-5 to the Monitor and parties on January 08, 2017. MCSO

received combined comments from the Monitor on February 07, 2017. MCSO addressed the comments in the policy and submitted the fourth revision of the policy to the Monitor and parties on February 22, 2017.

Originally, the EIS Training was to be combined with the Supervisor Training mandated by Paragraphs 52 and 53. The EIS Training has been separated from the Supervisor Training and will be delivered as stand-alone training. MCSO submitted a second version of the EIS Training on or about February 18, 2016. MCSO received the Monitor's comments on the Training on or about March 25, 2016. MCSO, the Monitor, and the parties participated in a conference call on March 31, 2016 to attempt to resolve any issues arising from the Monitor's comments. MCSO sent the third version of the EIS Training to the Monitor on April 23, 2016. MCSO received comments from the Monitor and parties on June 13, 2016. MCSO discussed the lesson plan during the Monitor's July 2016 Site Visit along with the expansion of this Training to incorporate instruction to supervisors on the methodology to use when interpreting and analyzing the new monthly and quarterly traffic stop data. Again it must be noted that this Training is dependent on the approval and finalization of Policy GH-5 (Early Identification System).

During the 2<sup>nd</sup> quarter of 2016, details on closed internal and external complaints were made viewable by supervisors. MCSO continues to work on a solution to allow supervisors to view limited details related to open internal and external complaints. MCSO provided the Monitor and parties proposed methodology to allow supervisors to review limited detail on internal and external complaints on September 26, 2016. The monitor approved the methodology on October 05, 2016. This ability was activated for supervisors on November 22, 2016.

In an effort to achieve its overall goal of full and effective compliance, and specifically Phase 2 compliance under Paragraph 72, MCSO is continuing to work with the Monitor and the parties to identify steps necessary for MCSO to achieve 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").*

Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-5, *Early Identification System (EIS)* (Currently under revision)

For a complete status of Policy GH-5 (EIS), please see the summary for Paragraph 72.

**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.*

Based on the Monitor's 10th Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance with this paragraph.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-5, *Early Identification System (EIS)* (Currently under revision)

For a complete status of Policy GH-5 (EIS) as well as the related EIS Training, please see the summary for Paragraph 72.

**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.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-5, *Early Identification System (EIS)* (Currently under revision)

For a complete status of Policy GH-5 (EIS) as well as the related EIS Training, please see the summary for Paragraph 72.

During this quarter, the EIS Project Plan was developed which includes methodology and steps needed to gain compliance with each subsection of this paragraph along with target dates for completion.

As of the authoring of this report, MCSO has incorporated 11 of the 14 subsections into the EIS and they are fully functional. This has been accomplished by working through the EIS Project Plan and the launch of the Iapro interface.

***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).*

Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-5, *Early Identification System (EIS)* (Currently under revision)

For a complete status of Policy GH-5 (EIS) as well as the related EIS Training, please see the summary for Paragraph 72.

Throughout this quarter, MCSO worked with CI Technologies to develop an interface to incorporate the data elements required by this Paragraph into EIS. The interface was launched in January 2017.

On November 08, 2016, the EIPro update was applied making EIPro a searchable "relational database." As summarized above in Paragraph 75, this update allows supervisors the ability to search the EIS for data pertaining to seven (7) of the fourteen (14) subparagraphs for Paragraph 75 for which the data is being manually entered into EIS. This function was communicated to MCSO personnel with the publication of Administrative Broadcast 16-113 on November 07, 2016. MCSO looks forward to demonstrating this functionality of the EIPro update at the next Monitor Site Visit.

Accordingly, MCSO hopes to gain Phase 2 compliance with this paragraph soon.

***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.*

***Phase 1 compliance is not applicable to this paragraph. MCSO is in Phase 2 compliance with Paragraph 77.***

MCSO will provide the Monitor with any information that the Monitor requests to enable the Monitor to evaluate MCSO's continued compliance with Paragraph 77.

**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.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-5, *Early Identification System (EIS)* (Currently under revision)

For a complete status of Policy GH-5 (EIS) as well as the related EIS Training, please see the summary for Paragraph 72.

**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.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-5, *Early Identification System (EIS)* (Currently under revision)

For a complete status of Policy GH-5 (EIS) as well as the related EIS Training, please see the summary for Paragraph 72.

MCSO continues to work with the Monitor to identify steps necessary to achieve Phase 2 compliance with this paragraph.

**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.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-5, *Early Identification System (EIS)* (Currently under revision)

For a complete status of Policy GH-5 (EIS) as well as the related EIS Training, please see the summary for Paragraph 72.

As the EIS has incorporated data elements required by Paragraph 75, MCSO has published multiple administrative broadcasts to notify employees of the availability of this additional data. These administrative broadcasts are not meant to replace formalized training but instead to act as a stop gap until EIS Training can be delivered.

***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.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-5, *Early Identification System (EIS)* (Currently under revision)

For a complete status of Policy GH-5 (EIS) as well as the related EIS Training, please see the summary for Paragraph 72.

As the EIS has incorporated data elements required by Paragraph 75, MCSO has published multiple administrative broadcasts to notify employees of the availability of this additional data. These administrative broadcasts are not meant to replace formalized training but instead to act as a stop gap until EIS Training can be delivered.



A mechanism has been put into place allowing EIS to capture the requirements of subsection c and g of this Paragraph. Also an administrative broadcast was transmitted to employees directing them how to enter this information into EIS.

## Section 8: Supervision and Evaluation 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.*

**MCSO is in Phase 1 compliance with Paragraph 83.** MCSO is not in Phase 2 compliance with this paragraph.

With the guidance of the Monitor, MCSO implemented Patrol Activity Logs (PALs) to meet the requirement of this Paragraph. With the Monitor's input, MCSO has developed a daily patrol activity log that will assist the Monitor in rating MCSO in compliance with this and other paragraphs. MCSO implemented the use of activity logs on June 1, 2016. MCSO is improving the functionality of the daily patrol activity logs, as issues are identified, to ensure that they are useful to MCSO, as well as the Monitor.

The Monitor indicated in the 10<sup>th</sup> Quarterly Report, *"In our reviews, we noticed that when deputies note community-policing events in PALs, there is insufficient information on the PALs and associated CAD notes for us to distinguish between community contacts and actual community-policing events. We discussed this concern with the Deputy Chief of Patrol during our site visit and he committed to addressing the issue."*

Based on the Monitor's above suggestion, CID briefed all commanders about the need for comments/details to be added into CAD when completing a community policing call for service. CID liaisons also communicated this requirement during their visits to the individual patrol districts. Additionally, CID completed a random sample of community policing events and found the compliance rate to be significantly low. CID re-addressed this deficiency with the Commanders of Patrol Districts. CID completed a second random sample of community policing events a month later and found a significant increase in compliance had occurred. While there is still improvement needed, MCSO is working towards complying with this suggestion from the Monitor.

MCSO continues to provide the Monitor with documents to enable the Monitor Team to assess MCSO's level of compliance with this paragraph.

**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.*

***MCSO is in Phase 1 and Phase 2 compliance with Paragraph 84.***

MCSO provides the Monitor with requested documents related to Paragraph 84 to enable the Monitor to assess MCSO's continued 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.*

***MCSO is in Phase 1 compliance with Paragraph 85.*** However, MCSO is not in Phase 2 compliance with this paragraph.

MCSO submitted a draft of an administrative broadcast directing sworn supervisors to begin utilizing the "discussed with deputy" and "supervisor review" indicators in the TraCS system in June 2016. The Monitor approved the administrative broadcast on this issue which was published to MCSO personnel on June 02, 2016 as Administrative Broadcast 16-56.

BIO began a monthly inspection to assess the compliance rate for supervisor review of the TraCS forms as well as supervisor discussions of the TraCS forms with the individual deputies. As MCSO personnel become accustomed to using this new electronic tool, compliance rates are expected to increase.

MCSO hopes to gain Phase 2 compliance soon.

***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.*

***MCSO is in Phase 1 compliance with Paragraph 86.*** At this time, MCSO is not in Phase 2 compliance with this paragraph.

The Monitor indicated that the usage of a daily patrol activity log would assist them in determining compliance with this paragraph. With the Monitor's input, MCSO has developed a daily patrol activity log that will assist the Monitor in rating MCSO in compliance under this and other paragraphs. The activity logs were implemented on June 1, 2016. MCSO is improving the functionality of the daily patrol activity logs, as issues are identified, to ensure that these logs are useful to MCSO, as well as the Monitor.

MCSO will work with the Monitor to achieve Phase 2 compliance under Paragraph 86.

***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.*

***MCSO is in Phase 1 compliance with Paragraph 87.*** MCSO is not in Phase 2 compliance with this paragraph.

On November 28, 2016, the Monitor approved MCSO Policy GC-4 (Employee Performance Evaluations). The policy will not be published until the related EPA Training is delivered.

Multiple versions of the EPA Training were reviewed by the Monitor and parties and comments were provided to MCSO. For the last review of the EPA Training material the parties agreed to expedite the review. The Monitor approved the Training on March 02, 2017. The Train the Trainer is scheduled for March 14, 2017. MCSO thanks the Monitor and parties for their input and effort in helping MCSO finalize the EPA Training.

MCSO expects to be in a position to gain Phase 2 compliance, once supervisors have attended the EPA Training and begin using the new EPA process.

***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 is in Phase 1 and Phase 2 compliance with Paragraph 88.*** MCSO will continue to provide the Monitor with necessary documentation for continued assessment of MCSO's continued 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.*

***MCSO is in Phase 1 and Phase 2 compliance with Paragraph 89.***

***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.*

***MCSO is in Phase 1 compliance with Paragraph 90.*** MCSO, however, is not in Phase 2 compliance with this paragraph.

In the Monitor's 10<sup>th</sup> Quarterly Report the Monitor stated, "MCSO has improved its submissions with respect to Phase 2 compliance with this Paragraph."

MCSO strives to achieve Phase 2 compliance in the near future.

**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.*

**MCSO is in Phase 1 compliance with Paragraph 91.** MCSO, however, is not in Phase 2 compliance with this paragraph.

MCSO will continue to work with the Monitor to gain Phase 2 compliance with this Paragraph.

**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.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GC-4, *Employee Performance Appraisals* (Approved 11/28/2016 – Publication will occur after the EPA Training is delivered)
- MCSO must also deliver training related to Policy GC-4 (EPAs).

Multiple versions of the EPA Training were reviewed by the Monitor and parties and comments were provided to MCSO. For the last review of the EPA Training material the parties agreed to expedite the review. The Monitor approved the Training on March 02, 2017. The Train the Trainer is scheduled for March 14, 2017. MCSO thanks the Monitor and parties for their input and effort in helping MCSO finalize the EPA Training.

**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.*

**MCSO is in Phase 1 and Phase 2 compliance with Paragraph 93.**

MCSO will continue to provide the Monitor with documents on a monthly basis to assess continued

compliance with this Paragraph.

**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.*

**MCSO is in Phase 1 and Phase 2 compliance with Paragraph 94.**

MCSO will continue to provide the Monitor with documents on a monthly basis to assess continued compliance with this Paragraph.

**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.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GC-4, *Employee Performance Appraisals* (Approved 11/28/2016 – Publication will occur after the EPA Training is delivered)
- MCSO must also deliver training related to Policy GC-4 (EPAs).

Multiple versions of the EPA Training were reviewed by the Monitor and parties and comments were provided to MCSO. For the last review of the EPA Training material the parties agreed to expedite the review. The Monitor approved the Training on March 02, 2017. The Train the Trainer is scheduled for March 14, 2017. MCSO thanks the Monitor and parties for their input and effort in helping MCSO finalize the EPA Training.

**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.*

**MCSO is in Phase 1 and Phase 2 compliance with Paragraph 96.**

MCSO will continue to provide the Monitor Team with requested documents to enable continued assessment of compliance with this paragraph.

**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).*

Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance with Paragraph 97.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-5, *Early Identification System (EIS)* (Currently under revision)

For a complete status of Policy GH-5 (EIS) as well as the related EIS Training, please see the summary for Paragraph 72.

MCSO anticipates gaining Phase 1 compliance after the completion of the EIS Training.

***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 is not in Phase 1 or Phase 2 compliance at this time.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GC-4, *Employee Performance Appraisals* (Approved 11/28/2016 – Publication will occur after the EPA Training is delivered)
- MCSO must also deliver training related to Policy GC-4 (EPAs).

Multiple versions of the EPA Training were reviewed by the Monitor and parties and comments were provided to MCSO. For the last review of the EPA Training material the parties agreed to expedite the review. The Monitor approved the Training on March 02, 2017. The Train the Trainer is scheduled for March 14, 2017. MCSO thanks the Monitor and parties for their input and effort in helping MCSO finalize the EPA Training.

***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 is not in Phase 1 or Phase 2 compliance at this time.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GC-4, *Employee Performance Appraisals* (Approved 11/28/2016 – Publication will occur after the EPA Training is delivered)
- MCSO must also deliver training related to Policy GC-4 (EPAs).

Multiple versions of the EPA Training were reviewed by the Monitor and parties and comments were provided to MCSO. For the last review of the EPA Training material the parties agreed to expedite the review. The Monitor approved the Training on March 02, 2017. The Train the Trainer is scheduled for March 14, 2017. MCSO thanks the Monitor and parties for their input and effort in helping MCSO



finalize the EPA Training.

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

MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GC-4, *Employee Performance Appraisals* (Approved 11/28/2016 – Publication will occur after the EPA Training is delivered)
- MCSO must also deliver training related to Policy GC-4 (EPAs).

Multiple versions of the EPA Training were reviewed by the Monitor and parties and comments were provided to MCSO. For the last review of the EPA Training material the parties agreed to expedite the review. The Monitor approved the Training on March 02, 2017. The Train the Trainer is scheduled for March 14, 2017. MCSO thanks the Monitor and parties for their input and effort in helping MCSO finalize the EPA Training.

***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.*

***MCSO is in Phase 1 and Phase 2 compliance with Paragraph 101.*** MCSO provides monthly documents to the Monitor to enable the Monitor to continue to assess MCSO's continued compliance.

## Section 9: Misconduct and Complaints

### **General Comments Regarding Misconduct and Complaints:**

During the Fourth Quarter of 2016, a sworn captain was transferred to PSB to replace the detention captain. His responsibilities remained the same, to assist with oversight of administrative investigations occurring within the detention facilities. The sworn captain is a Reid School graduate; completed his detective certification this quarter, and attended an internal affairs certification course in November 2016. Additionally, a detention lieutenant was transferred to PSB to assist with supervisory oversight of detention administrative investigators and case reviews.

Also during this reporting period, the PSB continued to focus on the training and development of the members of the PSB.

In order to enhance the investigative abilities and performance of PSB investigators; to assist the investigators' accountability for conducting quality investigations; and to ensure that MCSO continues to conduct quality administrative investigations, it is a requirement of all PSB personnel to obtain their detective certification. One detention sergeant and four detention lieutenants, who conduct administrative investigations in the jail facilities, are in the process of obtaining their certifications.

Additionally, 12 members of PSB attended the Public Agency Training Council's Internal Affair 2.5 day course. This conference provided PSB personnel with an enhanced understanding of various elements of the professional standards system, including investigative control measures, proactive administrative enforcement, and training in administrative interviews, issues concerning Garrity, Brady/Giglio, and civil litigation.

Lastly, seven members of PSB attended the Reid Interview and Interrogation training, which focused on fact and behavior analysis.

To assure that MCSO's actions comply with the Court Order and the high standards the Office expects, MCSO took a multiple-step approach to address misconduct and complaints:

First, PSB took a proactive approach and continued to review all division level investigations and provide written feedback to division level investigators and their chains of command in order to improve the thoroughness of the investigations, obtain structure and consistency in format, ensure the inclusion of proper forms, and provide assistance with future investigations. The intent of the feedback is to evaluate, educate, assist and provide suggestions for future division level investigations. The PSB also provided feedback regarding the efficiency and thoroughness with which the divisions undertake and complete administrative investigations. Lastly, the PSB reviewed division cases for quality control prior to final submission to the appointing authority for final findings.

A additional sworn lieutenant was permanently assigned to PSB to act as a liaison with the other divisions; and tasked with the primary responsibility of reviewing all division level cases for thoroughness and accuracy; providing investigative feedback to the investigator and his chain of command; and documenting and tracking investigative deficiencies, pursuant to the Second Amended Second Supplemental Injunction/Judgement Order, paragraph 211. The PSB continues to monitor and track investigative deficiencies that occur at the division level.

A secondary responsibility of these lieutenants is the oversight and investigation of critical incident investigations. Three members attended Use of Force, Deadly Force and Officer Involved Shooting training to assist in the response and investigation of serious use of force incidents and officer involved shootings, which also included an examination of legal issues and policy development.

Second, although MCSO revised, disseminated, and delivered during the Court Order-related training (4<sup>th</sup> Quarter 2014), Policy GH-2, *Internal Investigations*, the PSB worked with the Policy Section to revise Office Policy GH-2, to include the investigative process, direct guidance in conducting a preliminary inquiry and a clear definition of “procedural complaints.” The PSB submitted the policy to the Monitor for review and comment in January 2017. The draft included additional compliance elements listed in the Second Amended Second Supplemental Injunction/Judgement Order that was filed in July 2016.

Consistent with the Court’s Order, paragraph 104, requiring deputies to cooperate with administrative investigations and requiring supervisors be notified when a deputy under their supervision is summoned as part of an administrative investigation, the Administrative Investigation Checklist collects the data necessary to track compliance with this paragraph. Consistent with the Court’s Order, paragraph 105, requiring investigators to take into account collected traffic stop and patrol data, training records, discipline history, performance evaluations, and past complaints; the investigative format also collects the necessary data to track compliance with this paragraph.

Consistent with the Court’s Order, paragraph 102, the MCSO mandated that any internal or external misconduct allegations must be reported to the PSB. Whenever misconduct is alleged, the PSB must assign an IA case number. During this reporting period, the PSB assigned 212 IA case numbers and completed and closed 208 IA cases. PSB assigned 4 CIA (criminal) cases and closed 7 CIA cases.

Consistent with the Court’s Order, paragraph 102, requiring all personnel to report without delay alleged or apparent misconduct by other MCSO personnel, PSB received 120 internal complaints during this reporting period, demonstrating compliance with the Court’s Order. Of the 120 internal complaints received, 116 were administrative investigations and 4 were criminal investigations.

Consistent with the Court’s Order, paragraph 32, requiring that all patrol operations personnel report violations of policy; PSB received 47 complaints from patrol personnel during this reporting period.

Consistent with the Court’s Order, paragraphs 90, 91, and 249, requiring that PSB track as a separate category, allegations of unlawful stops, searches and seizures, or arrests; PSB received two complaints and completed two investigations alleging unlawful stops, searches, seizures, or arrests.

Consistent with the Court’s Order, paragraph 24, requiring a response to hotline complaints, the PSB received two concerns via the PSB hotline; one resulted in an administrative investigation and one closed without action.

Consistent with paragraph 103, requiring MCSO to conduct regular, targeted, and random integrity audit checks, the PSB developed an operation manual for conducting such investigations and submitted it to the Monitor for review and comment in June 2016. The PSB received the Monitor comments in December 2016. During this reporting period, the Bureau of Internal Oversight assumed responsibility for conducting random integrity checks; however in February 2017 the BIO assumed responsibility for all integrity and audit checks. The PSB will work with the BIO to identify some of the targeted areas of inspection which may relate to compliance with this paragraph.

The Second Amended Second Supplemental Injunction/Judgement Order was filed in July 2016 and the PSB immediately began working toward compliance with the Court's Order. Pursuant to the following paragraphs, the PSB:

Conducted disciplinary checks on all sworn supervisors to ensure their eligibility to conduct misconduct investigations (paragraph 199);

Obtained body worn cameras for PSB personnel to conduct audio and video recorded interviews outside of the office. Video camera systems were also purchased for use at the district levels (200f);

Continued to review all division level cases for thoroughness and accuracy; provide investigative feedback to the investigator and his chain of command; and document and track investigative deficiencies (paragraph 211);

Established a free, 24 hour hotline for members of the public to make complaints. The hotline was activated in August 2016, with greetings and instructions in both English and Spanish (paragraph 243);

Sought and received approval from the monitor team prior to transferring additional personnel to the division (paragraph 268);

Reviewed the Finding of Facts, Doc 1677 in order to determine and identify other acts of potential misconduct (paragraph 291). Additionally, the PSB identified active administrative investigations that posed potential conflicts of interest and referred three investigations to the Arizona Department of Public Safety (paragraph 196). Lastly, the PSB retained a qualified outside investigative authority to conduct the investigations determined to be conflicts of interest (paragraphs 291 and 300). The PSB referred 12 investigations to the outside investigative authority;

Continued to work with the Training Division and the Monitor Team to develop a training curriculum to provide 40 hours of comprehensive training on conducting employee misconduct investigations (paragraph 178);

Worked with the IT Bureau to designate a section on the MCSO website to provide detailed summaries of completed internal affairs investigations and make them readily available to the public (paragraph 252). The PSB provided a sample summary to the Monitor to review and comment during the January 2017 Site Visit

Hired a Management Analyst whose responsibilities will include tracking separate categories of complaints and allegations (paragraph 248-249); conducting assessments of the types of complaints received to identify and assess potential problematic patterns and trends (paragraph 250); and producing a semi-annual public report on misconduct investigations (paragraph 251). The Management Analyst started work in January 2017.

In order to promote the independence and confidentiality of investigations, visited facilities separate from other MCSO facilities in an effort to relocate the PSB (paragraph 198).

Although MCSO revised, disseminated, and delivered during the Court Order-related training (4<sup>th</sup> Quarter 2014), Policy GH-2, *Internal Investigations*, the PSB worked with the Policy Section to revise Office Policy GH-2, to include the investigative process, direct guidance in conducting a preliminary inquiry and a clear definition of “procedural complaints.” The PSB submitted the policy to the Monitor for review and comment in January 2017. The draft included additional compliance elements listed in the Second Amended Second Supplemental Injunction/Judgement Order that was filed in July 2016.

Pursuant to paragraph 275 of the Second Amended Second Supplemental Injunction/Judgement Order, the Monitor is vested with the authority to supervise and direct all administrative investigations pertaining to Class Remedial Matters (CRM). The PSB met with the Monitor Team to determine and establish protocols on how to proceed with the reporting, investigation, and review of CRM investigations (paragraph 278). Consistent with the Court’s Order, paragraph 278, the PSB identified and reported to the Monitor, one of which, upon completion of the investigation, the PSB identified as pertaining to the Remedial Class.

In addition to the PSB’s efforts to address misconducts and complaints, the EIU continues to utilize IA Pro and Blue Team to monitor and analyze behavior that may lead to misconduct (see Section IX) and the BIO continues to address Court Order compliance by conducting audits and inspections of employee performance and misconduct (see Section III).

***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.*

Based on the Monitor’s 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance with Paragraph 102. MCSO was in Phase 1 compliance prior to the issuance of the Second Supplemental Order. MCSO will work to gain compliance as soon as possible.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- CP-2, *Code of Conduct* (Published 01/06/2017)
- CP-3, *Workplace Professionalism* (Published 12/15/2016)
- CP-5, *Truthfulness* (Published 12/21/2016)
- CP-11, *Anti-Retaliation* (Published 12/01/2016)
- GH-2, *Internal Investigations* (currently under revision)
- GC-16, *Employee Grievance Procedures* (Published 01/06/2017)
- GC-17, *Employee Disciplinary* (currently under revision)
- Compliance Division Operations Manual (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

In addition to the general comments at the beginning of this section and related to Paragraph 102 of the Court’s Order, MCSO mandated that any internal or external misconduct allegations must be reported to the PSB. Whenever misconduct is alleged, the PSB must open an internal investigation and assign an IA case number to it. During this reporting period, the PSB assigned 212 IA case numbers, and completed and closed 208 IA cases. PSB assigned four CIA (criminal) cases and closed seven CIA cases.

Consistent with Paragraph 102, requiring all personnel to report without delay alleged or apparent misconduct by other MCSO personnel, PSB received 120 internal complaints during this reporting period, demonstrating compliance with the Court's Order. Of the 120 internal complaints received, 116 were administrative investigations and four were criminal investigations.

***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.*

MCSO is not in Phase 1 or Phase 2 compliance with Paragraph 103.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-4, *Bureau of Internal Oversight* (Published 12/14/2016)
- Ethics Enforcement Section Operations Manual (currently under revision)

Additionally, the PSB developed an operation manual for conducting such investigations and submitted it to the Monitor for review and comment in June 2016. The PSB received the Monitor comments in December 2016. During this reporting period, the Bureau of Internal Oversight assumed responsibility for conducting random integrity checks; however in February 2017 the BIO assumed responsibility for all integrity and audit checks. The PSB will work with the BIO to identify some of the targeted areas of inspection which may relate to compliance with this paragraph.

***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 is in Phase 1 and Phase 2 compliance with Paragraph 104.***

In addition to the general comments at the beginning of this section and consistent with the Court's Order, Paragraph 104, requiring deputies to cooperate with administrative investigations and requiring supervisors be notified when a deputy under their supervision is summoned as part of an administrative investigation, the Administrative Investigation Checklist collects the data necessary to track compliance with this paragraph. As of June 1, 2016, the Administrative Investigation Checklist was mandatory for all administrative investigations. MCSO believes this universal documentation should allow the Monitor to fully assess compliance and subsequently find MCSO in Phase 2 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.*

***MCSO is in Phase 1 compliance with Paragraph 105.***

The PSB and Compliance Bureau Commanders created a worksheet that provides information on how disciplinary decisions are made, which include the discipline range determined by the PSB Commander and the consideration of an employee's work history. The worksheet is included with all administrative



investigations.

***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.*

***Phase 1 compliance is not applicable to Paragraph 106.***

***MCSO is in Phase 2 compliance under Paragraph 106.*** MCSO will continue to provide documents that the Monitor requests to ensure that the Monitor can assess MCSO's compliance in the future.

## Section 10: Community Engagement

The Maricopa County Sheriff's Office continues providing youth and adults tools for success through sustainable partnerships with community members and local businesses. In furtherance of community engagement activity, the Office organized the Community Outreach Team. The division facilitates, promotes, and participates in events that unite MCSO personnel with community members in comfortable, non-law enforcement environments. Office programs include domestic violence prevention, firearms safety, youth crime & drug prevention programs, school & literacy programs. The Outreach Team is also responsible for organizing, coordinating, facilitating, and reporting on community policing programs (community outreach, community engagement, and community policing are synonymous terms) across the Sheriff's organization. Additionally, it conducts advocacy & fundraising for community based organizations.

MCSO's quarterly register records community policing activities performed by MCSO Patrol Deputies across the County. For the period of October 1, 2016 through December 31, 2016, the Sheriff's Office registered 114 events, where public attendance approached 20,000. During this same period, MCSO recorded 2,936 occasions of community policing utilizing the Computer Aided Dispatch System; those engagements totaled over 4,150 staff hours, and are primarily attributed to the community policing activities of Patrol Deputies. Patrol Deputies accumulated 4,027 of the community policing occasions.

As a sample review, MCSO personnel participated in the following public events this reporting period:

1. Queen Creek Home Depot Kid's Safety Event
2. Arrowhead Ranch Home Depot Kid's Safety Event
3. Paradise Valley Community College Drug & Alcohol Presentation
4. Health Dimensions (PetSmart PHO) Health and Lifestyle Expo
5. Flag Football at Canyon Stat Academy
6. Special Olympics Fall Games at Skyline High School
7. 3<sup>rd</sup> Annual Hispanic Heritage Month Celebration & Ceremony
8. West-MEC Open House
9. UMOM Visit
10. Citizens Academy
11. The Governor's Office of Youth, Faith and Family
12. Gila Bend Elementary School Backpack Distribution & Demo
13. Red Ribbon Week at several valley schools
14. Fry's Fuel of Dreams – Special Olympics – multiple valley locations
15. Litchfield park Fall Festival/GAIN Night
16. AWANA Club Event at Laveen Baptist Church
17. American Cancer Society Mr. Relay Event
18. Missing in Arizona
19. TopGolf Tournament for Special Olympics
20. Muslim Police Advisory Board Meeting
21. Children Book Donation Guadalupe Library
22. Guadalupe Thanksgiving dinner giveaway
23. Autism & Alzheimer's Safe Return Program
24. Chicanos Por La Causa Children Book Donation
25. Shop with the Sheriff
26. Invite to event from the Guatemalan Consulate Office
27. Toy Distribution to Southwest Human Development 32 children 2850 N 24th St, Phoenix, AZ

- 28. Wills For Heroes
- 29. First Things First
- 30. Relay For Life - Breakfast with Santa
- 31. Corte Sierra Honor Walk

Most notable amongst MCSO outreach activities performed during this period is the delivery of another Citizens Academy, continuation of the Police and Community Together program in collaboration with the Mesa Martin Luther King Committee and continued participation on the Western Maricopa Education Center - Law, Public Safety & Security Advisory Board.

In all of its endeavors, the Maricopa County Sheriff's Office puts forth the effort to build sustainable outreach programs, many, many of which are listed on the MCSO webpage. Yet, there are programs which benefit community members rarely spoken about. MCSO's Liaison Officer to Central American Consulates also oversees the Sheriff's Community Outreach Division and work has facilitated unprecedented access to the Consular staff of Mexican government Phoenix Consulate to perform official duties and outreach within the Jail System. In this period, consular staff visited 13 inmates during this period. The collaborative relationship with the Consulate's staff expanded to include their donation of Spanish language books for distribution to Mexican National inmates within the Jail System, promoting literacy.

MCSO has distributed in excess of 20,000 books among community based organizations, including Chicanos Por La Causa - Parenting Arizona, Guadalupe Library, Aguila Library, Heart for the City, and Mesa United Way. Notably in excess of 300 books distributed at the Litchfield Park GAIN Event.

The Maricopa County Sheriff's Office excels in using social media platforms to engage the community it serves. Our Facebook page is now the number one followed law enforcement page in the State of Arizona; the MCSO Community page has over 62,800 likes. Our Twitter profile, @MaricopaSheriff has 8,770 followers.

Additionally, the Chief of Enforcement Operations and Deputy Chief of Patrol & Enforcement Support Bureau, command personnel, members from the Patrol Bureau, PSB, and CID, attended the October 18, 2016 Monitor's Community Outreach Meeting in Youngtown, Arizona to further constructively engage with the community and work towards reform, improving community relations, and rebuilding public confidence and trust.

## Section 11: Second Supplemental Permanent Injunction/ Judgment Order (Doc. 1748)

**Paragraph 165.** *Within one month of the entry of this Order, the Sheriff shall conduct a comprehensive review of all policies, procedures, manuals, and other written directive related to misconduct investigations, employee discipline, and grievances, and shall provide to the Monitor and Plaintiffs new policies and procedure or revise existing policies and procedures. The new or revised policies and procedures that shall be provided shall incorporate all of the requirements of this Order. If there are any provisions as to which the parties do not agree, they will expeditiously confer and attempt to resolve their disagreements. To the extent that the parties cannot agree on any proposed revisions, those matters shall be submitted to the Court for resolution within three months of the date of the entry of this Order. Any party who delays the approval by insisting on provisions that are contrary to this Order is subject to sanction.*

On August 25, 2016, MCSO filed a notice of compliance for Paragraph 165 with the Court. Pursuant to Paragraph 165, the MCSO Policy Section has submitted the following twenty-two (22) policies along with other operations manuals and protocols to the Monitor and parties related to this Paragraph within the one month deadline:

- CP-2, *Code of Conduct* (Published 01/06/2017)
- CP-3, *Workplace Professionalism* (Published 12/15/2016)
- CP-5, *Truthfulness* (Published 12/21/2016)
- CP-11, *Anti-Retaliation* (Published 12/01/2016)
- EA-2, *Patrol Vehicles* (Published 12/08/2016)
- GA-1, *Development of Written Orders* (Published 11/03/2016)
- GB-2, *Command Responsibility* (Published 01/31/2017)
- GC-7, *Transfer of Personnel* (Currently under revision)
- GC-11, *Employee Probationary Periods* (Published 12/07/2016)
- GC-12, *Hiring and Promotional Procedures* (Published 02/01/2017)
- GC-16, *Employee Grievance Procedures* (Published 01/06/2017)
- GC-17, *Employee Disciplinary Procedure* (Currently under revision)
- GD-9, *Receipt of Litigation and Subpoenas* (Currently under revision)
- GC-4, *Employee Performance Appraisals* (Approved 11/28/2016 – Publication will occur after the EPA Training is delivered)
- GE-4, *Use, Assignment, and Operation of Vehicles* (Published 12/07/2016)
- GG-1, *Peace Officer Training Administration* (Currently under revision)
- GG-2, *Detention/Civilian Training Administration* (Currently under revision)
- GH-2, *Internal Investigations* (Currently under revision)
- GH-4, *Bureau of Internal Oversight* (Published 12/14/2016)
- GH-5, *Early Identification System (EIS)* (Currently under revision)
- GI-5, *Voiance Language Line Services* (Published 12/21/2016)
- GJ-24, *Community Relations and Youth Services* (Published 01/07/2017)
- GJ-26, *Sheriff's Reserve Deputy Program* (Currently under revision)
- GJ-27, *Sheriff's Posse Program* (Currently under revision)

**Paragraph 167.** *The policies shall include the following provisions:*

*a. Conflicts of interest in internal affairs investigations or in those assigned by the MCSO to hold hearings and make disciplinary decisions shall be prohibited. This provision requires the following:*

- i. No employee who was involved in an incident shall be involved in or review a misconduct investigation arising out of the incident.*
- ii. No employee who has an external business relationship or close personal relationship with a principal or witness in a misconduct investigation may investigate the misconduct. No such person may make any disciplinary decisions with respect to the misconduct including the determination of any grievance or appeal arising from any discipline.*
- iii. No employee shall be involved in an investigation, whether criminal or administrative, or make any disciplinary decisions with respect to any persons who are superior in rank and in their chain of command. Thus, investigations of the Chief Deputy's conduct, whether civil or criminal, must be referred to an outside authority. Any outside authority retained by the MCSO must possess the requisite background and level of experience of internal affairs investigators and must be free of any actual or perceived conflicts of interest.*

*b. If an internal affairs investigator or a commander who is responsible for making disciplinary findings or determining discipline has knowledge of a conflict of interest affecting his or her involvement, he or she should immediately inform the Commander of the Professional Standards Bureau or, if the holder of that office also suffers from a conflict, the highest-ranking, non-conflicted chief-level officer at MCSO or, if there is no non-conflicted chief-level officer at MCSO, an outside authority. Any outside authority retained by the MCSO must possess the requisite background and level of experience of internal affairs investigators and must be free of any actual or perceived conflicts of interest.*

*c. Investigations into an employee's alleged untruthfulness can be initiated by the Commander of the Professional Standards Bureau or the Chief Deputy. All decisions not to investigate alleged untruthfulness must be documented in writing.*

*d. Any MCSO employee who observes or becomes aware of any act of misconduct by another employee shall, as soon as practicable, report the incident to a Supervisor or directly to the Professional Standards Bureau. During any period in which a Monitor is appointed to oversee any operations of the MCSO, any employee may, without retaliation, report acts of alleged misconduct directly to the Monitor.*

*e. Where an act of misconduct is reported to a Supervisor, the Supervisor shall immediately document and report the information to the Professional Standards Bureau.*

*f. Failure to report an act of misconduct shall be considered misconduct and may result in disciplinary or corrective action, up to and including termination. The presumptive discipline for a failure to report such allegations may be commensurate with the presumptive discipline for the underlying misconduct.*

*g. No MCSO employee with a rank lower than Sergeant will conduct an investigation at the District level.*

Based on the Monitor's 10<sup>th</sup> Quarterly report MCSO is not in Phase 1 compliance. Phase 2 compliance is currently deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- CP-2, *Code of Conduct* (Published 01/06/2017)
- CP-3, *Workplace Professionalism* (Published 12/15/2016)

- CP-5, *Truthfulness* (Published 12/21/2016)
- CP-11, *Anti-Retaliation* (Published 12/01/2016)
- GH-2, *Internal Investigations* (currently under revision)
- GC-16, *Employee Grievance Procedures* (Published 01/06/2017)
- GC-17, *Employee Disciplinary* (currently under revision)
- Compliance Division Operations Manual (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

Following the issuance of the Second Permanent Supplemental Permanent Injunction, the PSB identified active administrative investigations that posed potential conflicts of interest and referred three of these investigations to the Arizona Department of Public Safety. Additionally, the PSB retained a qualified outside investigative authority and referred additional active investigations determined to be conflicts of interest; in addition to investigations into other acts of potential misconduct identified in the Finding of Facts, Doc 1677. The PSB referred a total of 12 investigations to the outside investigative authority.

MCSO requests to be placed in a compliance status with this Paragraph.

**Paragraph 168.** *All forms of reprisal, discouragement, intimidation, coercion, or adverse action against any person, civilian, or employee because that person reports misconduct, attempts to make or makes a misconduct complaint in good faith, or cooperates with an investigation of misconduct constitute retaliation and are strictly prohibited. This also includes reports of misconduct made directly to the Monitor, during any period in which a Monitor is appointed to oversee any operations of the MCSO.*

Based on the Monitor's 10th Quarterly report MCSO is not in Phase 1 compliance. Phase 2 compliance is currently deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- CP-2, *Code of Conduct* (Published 01/06/2017)
- CP-3, *Workplace Professionalism* (Published 12/15/2016)
- CP-5, *Truthfulness* (Published 12/21/2016)
- CP-11, *Anti-Retaliation* (Published 12/01/2016)
- GH-2, *Internal Investigations* (currently under revision)
- GC-16, *Employee Grievance Procedures* (Published 01/06/2017)
- GC-17, *Employee Disciplinary* (currently under revision)
- Compliance Division Operations Manual (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

MCSO will work to gain compliance as soon as possible.

**Paragraph 169.** *Retaliating against any person who reports or investigates alleged misconduct shall be considered a serious offense and shall result in discipline, up to and including termination.*

Based on the Monitor's 10th Quarterly report MCSO is not in Phase 1 compliance. Phase 2 compliance is currently deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- CP-2, *Code of Conduct* (Published 01/06/2017)
- CP-3, *Workplace Professionalism* (Published 12/15/2016)



- CP-5, *Truthfulness* (Published 12/21/2016)
- CP-11, *Anti-Retaliation* (Published 12/01/2016)
- GH-2, *Internal Investigations* (currently under revision)
- GC-16, *Employee Grievance Procedures* (Published 01/06/2017)
- GC-17, *Employee Disciplinary* (currently under revision)
- Compliance Division Operations Manual (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

MCSO will work to gain compliance as soon as possible.

**Paragraph 170.** *The Sheriff shall investigate all complaints and allegations of misconduct, including third-party and anonymous complaints and allegations. Employees as well as civilians shall be permitted to make misconduct allegations anonymously.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- GC-17, *Employee Disciplinary* (currently under revision)

In accordance with Paragraph 102, MCSO mandated that any internal or external misconduct allegations must be reported to the PSB. Whenever misconduct is alleged, the PSB must assign an IA number using the IA Pro application. During this reporting period, the PSB assigned 212 case numbers and completed 208 cases.

**Paragraph 171.** *The MCSO will not terminate an administrative investigation solely on the basis that the complainant seeks to withdraw the complaint, or is unavailable, unwilling, or unable to cooperate with an investigation, or because the principal resigns or retires to avoid discipline. The MCSO will continue the investigation and reach a finding, where possible, based on the evidence and investigatory procedures and techniques available.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

**Paragraph 172.** *Employees are required to provide all relevant evidence and information in their custody and control to internal affairs investigators. Intentionally withholding evidence or information from an internal affairs investigator shall result in discipline.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)

- GC-17, *Employee Disciplinary* (currently under revision)
- CP-5, *Truthfulness* (Published 12/21/2016)
- Professional Standards Bureau Operations Manual, (currently under revision)

MCSO practices the requirements of this Paragraph.

**Paragraph 173.** *Any employee who is named as a principal in an ongoing investigation of serious misconduct shall be presumptively ineligible for hire or promotion during the pendency of the investigation. The Sheriff and/or the MCSO shall provide a written justification for hiring or promoting an employee or applicant who is a principal in an ongoing investigation of serious misconduct. This written justification shall be included in the employee's employment file and, during the period that the MCSO is subject to Monitor oversight, provided to the Monitor.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GC-4, *Employee Performance Appraisals* (Approved 11/28/2016 – Publication will occur after the EPA Training is delivered)
- GC-11, *Employee Probationary Periods* (Published 12/07/2016)
- GC-12, *Hiring and Promotional Procedures* (Published 02/01/2017)

When a promotional list is established, the PSB receives the eligibility list, and prior to any finalized promotion, PSB conducts a disciplinary check, the results of which are provided to those in executive command who are responsible for considering eligible candidates for promotion.

**Paragraph 174.** *Employees' and applicants' disciplinary history shall be considered in all hiring, promotion, and transfer decisions, and this consideration shall be documented. Employees and applicants whose disciplinary history demonstrates multiple sustained allegations of misconduct, or one sustained allegation of a Category 6 or Category 7 offense from MCSO's disciplinary matrices, shall be presumptively ineligible for hire or promotion. MCSO shall provide a written justification for hiring or promoting an employee or applicant who has a history demonstrating multiple sustained allegations of misconduct or a sustained Category 6 or Category 7 offense. This written justification shall be included in the employee's employment file and, during the period that the MCSO is subject to Monitor oversight, provided to the Monitor.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GC-12, *Hiring and Promotional Procedures* (Published 02/01/2017)

**Paragraph 175.** *As soon as practicable, commanders shall review the disciplinary history of all employees who are transferred to their command.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-5, *Early Identification System (EIS)* (Currently under revision)

As of August 2016, the PSB, the BIO, and the CID have submitted resumes and disciplinary histories of prospective employee transfers into the divisions for Monitor approval.

**Paragraph 176.** *The quality of investigators' internal affairs investigations and Supervisors' reviews of investigations shall be taken into account in their performance evaluations.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GC-4, *Employee Performance Appraisals* (Approved 11/28/2016 – Publication will occur after the EPA Training is delivered)

On November 28, 2016, the Monitor approved MCSO Policy GC-4 (Employee Performance Evaluations). The policy will not be published until the related EPA Training is delivered.

Multiple versions of the EPA Training were reviewed by the Monitor and parties and comments were provided to MCSO. For the last review of the EPA Training material the parties agreed to expedite the review. The Monitor approved the Training on March 02, 2017. The Train the Trainer is scheduled for March 14, 2017. MCSO thanks the Monitor and parties for their input and effort in helping MCSO finalize the EPA Training.

**Paragraph 177.** *There shall be no procedure referred to as a "name-clearing hearing." All pre-disciplinary hearings shall be referred to as "pre-determination hearings," regardless of the employment status of the principal.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- GC-17, *Employee Disciplinary* (currently under revision)

**Paragraph 178.** *Within three months of the finalization of these policies consistent with ¶ 165 of this Order, the Sheriff will have provided all Supervisors and all personnel assigned to the Professional Standards Bureau with 40 hours of comprehensive training on conducting employee misconduct investigations. This training shall be delivered by a person with subject matter expertise in misconduct investigation who shall be approved by the Monitor. This training will include instruction in:*

- a. investigative skills, including proper interrogation and interview techniques, gathering and objectively analyzing evidence, and data and case management;*
- b. the particular challenges of administrative law enforcement misconduct investigations, including identifying alleged misconduct that is not clearly stated in the complaint, or that becomes apparent during the investigation;*
- c. properly weighing the credibility of civilian witnesses against employees;*
- d. using objective evidence to resolve inconsistent statements;*

- e. the proper application of the appropriate standard of proof;*
- f. report-writing skills;*
- g. requirements related to the confidentiality of witnesses and/or complainants;*
- h. considerations in handling anonymous complaints;*
- i. relevant MCSO rules and policies, including protocols related to administrative investigations of alleged officer misconduct; and*
- j. relevant state and federal law, including Garrity v. New Jersey, and the requirements of this Court's orders.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- GC-17, *Employee Disciplinary* (currently under revision)

The Monitor agreed to assist MCSO by providing subject matter expertise in the initial development of the forty (40) hour comprehensive training on conducting employee misconduct investigations required under Paragraph 178. The PSB has actively consulted with the Monitor and provided information and feedback on a plan of instruction, proposed lesson plan, and training schedule. MCSO's timetable for developing and delivering this Training is partially controlled by the approval process set forth in Section IV (Paragraph 14-17) of the First Supplemental Order.

Although the 40 hour comprehensive training curriculum has not yet been developed or delivered, PSB personnel have continued to attend outside training with regard to the investigation of administrative investigations, interview and interrogation, and video analysis. Additionally, all PSB personnel are required to obtain their detective certification.

**Paragraph 179.** *All Supervisors and all personnel assigned to the Professional Standards Bureau also will receive eight hours of in-service training annually related to conducting misconduct investigations.*

*This training shall be delivered by a person with subject matter expertise in misconduct investigation who shall be approved by the Monitor.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)

MCSO believes it will meet and surpass this requirement, when all Supervisors members of PSB attend the forty (40) hour training required under Paragraph 178. However, MCSO will provide a minimum of eight (8) hours of in-service Training annually thereafter to comply with the requirements of this Paragraph. As a respectful reminder, MCSO's timetable for developing and delivering this Training is partially controlled by the approval process set forth in Section IV (Paragraph 14-17) of the First Supplemental Order.

Although the training curriculum for the eight hour in-service training has not yet been developed or delivered, PSB personnel have continued to attend outside training with regard to the investigation of administrative investigations, interview and interrogation, and video analysis. Additionally, all PSB personnel are required to obtain their detective certification.

**Paragraph 180.** *Within three months of the finalization of these policies consistent with ¶ 165 of this Order, the Sheriff will provide training that is adequate in quality, quantity, scope, and type, as determined by the Monitor, to all employees on MCSO's new or revised policies related to misconduct investigations, discipline, and grievances. This training shall include instruction on identifying and reporting misconduct, the consequences for failing to report misconduct, and the consequences for retaliating against a person for reporting misconduct or participating in a misconduct investigation.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- GC-16, *Employee Grievance Procedures* (Published 01/06/2017)
- GC-17, *Employee Disciplinary* (currently under revision)

The Monitor agreed to assist MCSO by providing subject matter expertise in the initial development of training on conducting employee misconduct investigations, including identifying and reporting misconduct. The PSB has actively consulted with the Monitor and provided information and feedback on a plan of instruction, proposed lesson plan, and training schedule.

MCSO understands that it must provide this Training once the Monitor approves the policies related to Paragraph 165. As a respectful reminder, MCSO's timetable for developing and delivering this Training is partially controlled by the approval process set forth in Section IV (Paragraph 14-17) of the First Supplemental Order.

**Paragraph 181.** *Within three months of the finalization of these policies consistent with ¶ 165 of this Order, the Sheriff will provide training that is adequate in quality, quantity, scope, and type, as determined by the Monitor, to all employees, including dispatchers, to properly handle civilian complaint intake, including how to provide complaint materials and information, and the consequences for failing to take complaints.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- GC-17, *Employee Disciplinary* (currently under revision)

The Monitor agreed to assist MCSO by providing subject matter expertise in the initial development of training on conducting employee misconduct investigations, civilian complaint intake. The PSB has actively consulted with the Monitor and provided information and feedback on a plan of instruction, proposed lesson plan, and training schedule.

MCSO understands that it must provide this training once the Monitor approves policies related to Paragraph 165. As a respectful reminder, MCSO's timetable for developing and delivering this Training is partially controlled by the approval process set forth in Section IV (Paragraph 14-17) of the First Supplemental Order.

**Paragraph 182.** *Within three months of the finalization of these policies consistent with ¶ 165 of this Order, the Sheriff will provide training that is adequate in quality, quantity, scope, and type, as*



*determined by the Monitor, to all Supervisors on their obligations when called to a scene by a subordinate to accept a civilian complaint about that subordinate's conduct and on their obligations when they are phoned or emailed directly by a civilian filing a complaint against one of their subordinates.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- GC-17, *Employee Disciplinary* (currently under revision)

The Monitor agreed to assist MCSO by providing subject matter expertise in the initial development of training on conducting employee misconduct investigations, including supervisor obligation and civilian complaint intake. The PSB has actively consulted with the Monitor and provided information and feedback on a plan of instruction, proposed lesson plan, and training schedule.

MCSO understands that it must provide this training once the Monitor approves policies related to Paragraph 165. As a respectful reminder, MCSO's timetable for developing and delivering this Training is partially controlled by the approval process set forth in Section IV (Paragraph 14-17) of the First Supplemental Order.

**Paragraph 184.** *All findings will be based on the appropriate standard of proof. These standards will be clearly delineated in policies, training, and procedures, and accompanied by detailed examples to ensure proper application by internal affairs investigators.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)

MCSO provides documents to the Monitor on a monthly basis to assess compliance with this Paragraph.

**Paragraph 185.** *Upon receipt of any allegation of misconduct, whether internally discovered or based upon a civilian complaint, employees shall immediately notify the Professional Standards Bureau.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

**Paragraph 186.** *Effective immediately, the Professional Standards Bureau shall maintain a centralized electronic numbering and tracking system for all allegations of misconduct, whether internally discovered or based upon a civilian complaint. Upon being notified of any allegation of misconduct, the Professional Standards Bureau will promptly assign a unique identifier to the incident. If the allegation was made through a civilian complaint, the unique identifier will be provided to the complainant at the time the complaint is made. The Professional Standards Bureau's centralized numbering and tracking system will maintain accurate and reliable data regarding the number,*



*nature, and status of all misconduct allegations, from initial intake to final disposition, including investigation timeliness and notification to the complainant of the interim status, if requested, and final disposition of the complaint. The system will be used to determine the status of misconduct investigations, as well as for periodic assessment of compliance with relevant policies and procedures and this Order, including requirements of timeliness of investigations. The system also will be used to monitor and maintain appropriate caseloads for internal affairs investigators.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

The PSB continues to comply with this paragraph by utilizing the IA Pro database. It serves as the centralized electronic numbering and tracking system for all allegations of misconduct, whether internally or externally discovered; provides a unique identifier to all misconduct complaints; maintains electronic investigative files of all documents relating to misconduct investigations and discipline; and sends alerts when deadlines are not met. The Monitor has access to the IA Pro database and has periodically audited and reviewed the system.

**Paragraph 187.** *The Professional Standards Bureau shall maintain a complete file of all documents within the MCSO's custody and control relating to any investigations and related disciplinary proceedings, including pre-determination hearings, grievance proceedings, and appeals to the Maricopa County Law Enforcement Merit System Council or a state court.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)

PSB continues to comply with this paragraph as it maintains both hard copy and electronic files, which contain all documents required for compliance with this paragraph. The Monitor has access to the IA Pro database and has periodically audited and reviewed the content of both hard copy and electronic files to ensure the file is complete.

MCSO requests to be placed in a compliance status with this Paragraph.

**Paragraph 188.** *Upon being notified of any allegation of misconduct, the Professional Standards Bureau will make an initial determination of the category of the alleged offense, to be used for the purposes of assigning the administrative investigation to an investigator. After initially categorizing the allegation, the Professional Standards Bureau will promptly assign an internal affairs investigator.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)

- Professional Standards Bureau Operations Manual, (currently under revision)

During the Monitor Team's technical assistance visit in August 2016, it was determined that compliance with this paragraph would be based upon the PSB's determination of the initial allegations, no which category of offense it will be once investigation is complete.

**Paragraph 189.** *The Professional Standards Bureau shall administratively investigate:*

- a. misconduct allegations of a serious nature, including any allegation that may result in suspension, demotion, or termination; and*
- b. misconduct indicating apparent criminal conduct by an employee.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- CP-2, *Code of Conduct* (Published 01/06/2017)
- CP-3, *Workplace Professionalism* (Published 12/15/2016)
- CP-5, *Truthfulness* (Published 12/21/2016)
- CP-11, *Anti-Retaliation* (Published 12/01/2016)
- GH-2, *Internal Investigations* (currently under revision)
- GC-17, *Employee Disciplinary* (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

**Paragraph 190.** *Allegations of employee misconduct that are of a minor nature may be administratively investigated by a trained and qualified Supervisor in the employee's District.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)

MCSO will train all supervisors who investigate misconduct by requiring them to attend the forty (40)-hour Misconduct Training mandated by Paragraph 178.

Phase 2 compliance is deferred pending the finalization of policy and the delivery of required training.

**Paragraph 191.** *If at any point during a misconduct investigation an investigating Supervisor outside of the Professional Standards Bureau believes that the principal may have committed misconduct of a serious or criminal nature, he or she shall immediately notify the Professional Standards Bureau, which shall take over the investigation.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)

**Paragraph 192.** *The Professional Standards Bureau shall review, at least semi-annually, all investigations assigned outside the Bureau to determine, among the other matters set forth in ¶ 251 below, whether the investigation is properly categorized, whether the investigation is being properly conducted, and whether appropriate findings have been reached.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- Professional Standards Bureau Operations Manual, (currently under revision)

The PSB reviews all cases assigned outside of the PSB to determine whether the investigation has been properly conducted, is thorough and complete, and appropriate findings have been reached, prior to the final acceptance at PSB. Additionally, PSB personnel have visited the districts to provide assistance during the investigation to assist in identifying allegations and policy violations; assist with interviews and report writing; and the determination of findings. This is done in "real time."

**Paragraph 193.** *When a single act of alleged misconduct would constitute multiple separate policy violations, all applicable policy violations shall be charged, but the most serious policy violation shall be used for determining the category of the offense. Exoneration on the most serious offense does not preclude discipline as to less serious offenses stemming from the same misconduct.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- GC-17, *Employee Disciplinary* (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)
- Compliance Division Operations Manual (currently under revision)

**Paragraph 194.** *The Commander of the Professional Standards Bureau shall ensure that investigations comply with MCSO policy and all requirements of this Order, including those related to training, investigators' disciplinary backgrounds, and conflicts of interest.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- CP-2, *Code of Conduct* (Published 01/06/2017)
- CP-3, *Workplace Professionalism* (Published 12/15/2016)
- CP-5, *Truthfulness* (Published 12/21/2016)
- CP-11, *Anti-Retaliation* (Published 12/01/2016)
- GH-2, *Internal Investigations* (currently under revision)
- GC-16, *Employee Grievance Procedures* (Published 01/06/2017)
- GC-17, *Employee Disciplinary* (currently under revision)
- Compliance Division Operations Manual (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

Per the Monitor's 10<sup>th</sup> Quarterly Report, Phase 2 compliance will be determined by a review of completed misconduct investigations conducted by MCSO personnel, the review of attendance by internal investigators at required misconduct training, and the disciplinary backgrounds of internal investigators.

MCSO practices the requirements of this Paragraph.

**Paragraph 195.** *Within six months of the entry of this Order, the Professional Standards Bureau shall include sufficient trained personnel to fulfill the requirements of this Order.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- Professional Standards Bureau Operations Manual, (currently under revision)

Phase 2 compliance requires PSB personnel attend the misconduct training prescribed in Paragraph 178 along with Monitor verification that PSB is sufficiently staffed with qualified personnel.

Pursuant to Paragraph 268 of the Second Supplemental Permanent Injunction/ Order, MCSO, with the Monitor's approval, has increased the number of PSB personnel by ten. This increase in personnel will have a positive effect on PSB's ability to process internal investigations.

Additionally, to assist compliance with this Paragraph, PSB is hired a management analyst in December 2016.

The PSB consistently reassesses staffing needs and adjusts accordingly based upon the fluctuating number of complaints received.

Although the training curriculums for the 40-hour comprehensive; or eight hour in-service training has not yet been developed or delivered, PSB personnel have continued to attend outside training with regard to the investigation of administrative investigations, interview and interrogation, and video analysis. Additionally, all PSB personnel are required to obtain their detective certification.

**Paragraph 196.** *Where appropriate to ensure the fact and appearance of impartiality, the Commander of the Professional Standards Bureau or the Chief Deputy may refer administrative misconduct investigations to another law enforcement agency or may retain a qualified outside investigator to conduct the investigation. Any outside investigator retained by the MCSO must possess the requisite background and level of experience of Internal Affairs investigators and must be free of any actual or perceived conflicts of interest.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- Professional Standards Bureau Operations Manual, (currently under revision)
- GH-2, *Internal Investigations* (currently under revision)

Following the issuance of the Second Permanent Supplemental Permanent Injunction, the PSB identified active administrative investigations that posed potential conflicts of interest and referred three of these investigations to the Arizona Department of Public Safety. Additionally, the PSB retained a qualified outside investigative authority and referred additional active investigations determined to be conflicts of interest; in addition to investigations into other acts of potential misconduct identified in the Finding of Facts, Doc 1677. The PSB referred a total of 12 investigations to the outside investigative authority.

**Paragraph 197.** *The Professional Standards Bureau will be headed by a qualified Commander. The Commander of the Professional Standards Bureau will have ultimate authority within the MCSO for reaching the findings of investigations and preliminarily determining any discipline to be imposed. If the Sheriff declines to designate a qualified Commander of the Professional Standards Bureau, the Court will designate a qualified candidate, which may be a Civilian Director in lieu of a sworn officer.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- GC-17, *Employee Disciplinary* (currently under revision)
- Compliance Division Operations Manual (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

**Paragraph 198.** *To promote independence and the confidentiality of investigations, the Professional Standards Bureau shall be physically located in a facility that is separate from other MCSO facilities, such as a professional office building or commercial retail space. This facility shall be easily accessible to the public, present a non-intimidating atmosphere, and have sufficient space and personnel for receiving members of the public and for permitting them to file complaints.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO Phase 1 compliance is not applicable. Phase 2 compliance is deferred.

During the July Site Visit, MCSO, members of the Monitor Team, and representatives of the DOJ and ACLU participated in a tour of the Maricopa County Superior Court East Court Library located at 101 W. Jefferson Street in Phoenix. Deputy County Manager Reid Spaulding conducted a tour of this facility and demonstrated how this space satisfies every requirement set forth in Paragraph 198. This space is ideal and *currently* available. The Presiding Judge, the Hon. Janet Barton, has embraced MCSO's use of this space for PSB's new location.

The East Court Building space would be ***rent free*** which would save Maricopa County hundreds of thousands of dollars in rental cost per year. As it is a court library open to the public, it is already equipped with an air handling system, public restrooms, and meeting and conference rooms. The vast open space where library stacks once stood will allow for inexpensive and flexible renovation plans. The space is also already wired for internet. In addition, Court Security is responsible for this library space, which will be self-contained once access to the courthouse is cut off. This East Court Building entrance is on the street level. With a bus stop right in front and a light rail stop immediately across the street, this space accommodates those who use public transportation. However, for those who drive, free public parking will be made available for PSB patrons. Furthermore, the Monitor's office is right across the street from the East Court Library.



MCSO also provided the list of and information regarding other properties considered for PSB's relocation. However, no other property comes close to the attributes of the East Court Building.

On February 08, 2017, the Monitor advised MCSO and the parties he has no objection to the proposal to relocate the PSB to the Maricopa County Superior Court East Court Library, and his approval is not required to move forward. Maricopa County is in the process of moving forward with the relocation of the PSB.

**Paragraph 199.** *The MCSO will ensure that the qualifications for service as an internal affairs investigator shall be clearly defined and that anyone tasked with investigating employee misconduct possesses excellent investigative skills, a reputation for integrity, the ability to write clear reports, and the ability to be fair and objective in determining whether an employee committed misconduct. Employees with a history of multiple sustained misconduct allegations, or one sustained allegation of a Category 6 or Category 7 offense from MCSO's disciplinary matrices, will be presumptively ineligible to conduct misconduct investigations. Employees with a history of conducting deficient investigations will also be presumptively ineligible for these duties.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

Upon issuance of the Second Supplemental Injunction/Order, the PSB Commander conducted disciplinary checks on all sworn supervisors and all PSB Investigators to ensure their eligibility to conduct misconduct investigations in compliance with this Paragraph. The PSB identified two supervisors who are ineligible to conduct administrative investigations based on the requirements of the Court's Order; and provided written documentation to the Monitor.

**Paragraph 200.** *In each misconduct investigation, investigators shall:*

- a. conduct investigations in a rigorous and impartial manner designed to determine the facts;*
- b. approach investigations without prejudging the facts and without permitting any preconceived impression of the principal or any witness to cloud the Investigation;*
- c. identify, collect, and consider all relevant circumstantial, direct, and physical evidence, including any audio or video recordings;*
- d. make reasonable attempts to locate and interview all witnesses, including civilian witnesses;*
- e. make reasonable attempts to interview any civilian complainant in person;*
- f. audio and video record all interviews;*
- g. when conducting interviews, avoid asking leading questions and questions that may suggest justifications for the alleged misconduct;*
- h. make credibility determinations, as appropriate; and*
- i. attempt to resolve material inconsistencies between employee, complainant, and witness statements.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)



- Professional Standards Bureau Operations Manual, (currently under revision)

**Paragraph 201.** *There will be no automatic preference for an employee's statement over a non-employee's statement. Internal affairs investigators will not disregard a witness's statement solely because the witness has some connection to either the complainant or the employee or because the witness or complainant has a criminal history, but may consider the witness's criminal history or any adjudicated findings of untruthfulness in evaluating that witness's statement. In conducting the investigation, internal affairs investigators may take into account the record of any witness, complainant, or officer who has been determined to have been deceptive or untruthful in any legal proceeding, misconduct investigation, or other investigation.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

**Paragraph 202.** *Internal affairs investigators will investigate any evidence of potential misconduct uncovered during the course of the investigation, regardless of whether the potential misconduct was part of the original allegation.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

**Paragraph 203.** *If the person involved in the encounter with the MCSO pleads guilty or is found guilty of an offense, internal affairs investigators will not consider that information alone to be determinative of whether an MCSO employee engaged in misconduct, nor will it by itself justify discontinuing the investigation. MCSO training materials and policies on internal investigations will acknowledge explicitly that the fact of a criminal conviction related to the administrative investigation is not determinative of whether an MCSO employee engaged in misconduct and that the mission of an internal affairs investigator is to determine whether any misconduct occurred.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

**Paragraph 204.** *Internal affairs investigators will complete their administrative investigations within 85 calendar days of the initiation of the investigation (60 calendar days if within a Division). Any request for an extension of time must be approved in writing by the Commander of the Professional Standards Bureau. Reasonable requests for extensions of time may be granted.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)

**Paragraph 205.** *The Professional Standards Bureau shall maintain a database to track all ongoing misconduct cases, and shall generate alerts to the responsible investigator and his or her Supervisor and the Commander of the Professional Standards Bureau when deadlines are not met.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-5, *Early Identification System* (currently under revision)
- GH-2, *Internal Investigations* (currently under revision)
- GC-16, *Employee Grievance Procedures* (Published 01/06/2017)
- GC-17, *Employee Disciplinary* (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

The PSB continues to comply with this paragraph by utilizing the IA Pro database. It serves as the centralized electronic numbering and tracking system for all allegations of misconduct, whether internally or externally discovered; provides a unique identifier to all misconduct complaints; maintains electronic investigative files of all documents relating to misconduct investigations and discipline; and sends alerts when deadlines are not met. The Monitor has access to the IA Pro database and has periodically audited and reviewed the system.

MCSO will work to gain compliance as soon as possible.

**Paragraph 206.** *At the conclusion of each investigation, internal affairs investigators will prepare an investigation report. The report will include:*

- a narrative description of the incident;*
- documentation of all evidence that was gathered, including names, phone numbers, and addresses of witnesses to the incident. In situations in which there are no known witnesses, the report will specifically state this fact. In situations in which witnesses were present but circumstances prevented the internal affairs investigator from determining the identification, phone number, or address of those witnesses, the report will state the reasons why. The report will also include all available identifying information for anyone who refuses to provide a statement;*
- documentation of whether employees were interviewed, and a transcript or recording of those interviews;*
- the names of all other MCSO employees who witnessed the incident;*
- the internal affairs investigator's evaluation of the incident, based on his or her review of the evidence gathered, including a determination of whether the employee's actions appear to be within MCSO policy, procedure, regulations, orders, or other standards of conduct required of MCSO employees;*
- in cases where the MCSO asserts that material inconsistencies were resolved, explicit credibility findings, including a precise description of the evidence that supports or detracts from the person's credibility;*
- in cases where material inconsistencies must be resolved between complainant, employee, and witness statements, explicit resolution of the inconsistencies, including a precise description of the evidence relied upon to resolve the inconsistencies;*

- h. an assessment of the incident for policy, training, tactical, or equipment concerns, including any recommendations for how those concerns will be addressed;*
- i. if a weapon was used, documentation that the employee's certification and training for the weapon were current; and*
- j. documentation of recommendations for initiation of the disciplinary process; and*
- k. in the instance of an externally generated complaint, documentation of all contacts and updates with the complainant.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)

MCSO is continuing to work at gaining full compliance with this Paragraph.

**Paragraph 207.** *In assessing the incident for policy, training, tactical, or equipment concerns, investigation reports will include an assessment of whether:*

- a. the law enforcement action was in compliance with training and legal standards;*
- b. the use of different tactics should or could have been employed;*
- c. the incident indicates a need for additional training, counseling, or other non-disciplinary corrective actions; and*
- d. the incident suggests that the MCSO should revise its policies, strategies, tactics, or training.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

MCSO continues to work toward Phase 2 compliance with this Paragraph.

**Paragraph 208.** *For each allegation of misconduct, internal affairs investigators shall explicitly identify and recommend one of the following dispositions for each allegation of misconduct in an administrative investigation:*

- a. "Unfounded," where the investigation determines, by clear and convincing evidence, that the allegation was false or not supported by fact;*
- b. "Sustained," where the investigation determines, by a preponderance of the evidence, that the alleged misconduct did occur and justifies a reasonable conclusion of a policy violation;*
- c. "Not Sustained," where the investigation determines that there is insufficient evidence to prove or disprove the allegation; or*
- d. "Exonerated," where the investigation determines that the alleged conduct did occur but did not violate MCSO policies, procedures, or training.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)

**Paragraph 209.** *For investigations carried out by Supervisors outside of the Professional Standards Bureau, the investigator shall forward the completed investigation report through his or her chain of command to his or her Division Commander. The Division Commander must approve the investigation and indicate his or her concurrence with the findings.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)

**Paragraph 210.** *For investigations carried out by the Professional Standards Bureau, the investigator shall forward the completed investigation report to the Commander.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)

**Paragraph 211.** *If the Commander—meaning the Commander of the PSB or the Commander of the Division in which the internal affairs investigation was conducted—determines that the findings of the investigation report are not supported by the appropriate standard of proof, the Commander shall return the investigation to the investigator for correction or additional investigative effort, shall document the inadequacies, and shall include this documentation as an addendum to the original investigation. The investigator's Supervisor shall take appropriate action to address the inadequately supported determination and any investigative deficiencies that led to it. The Commander shall be responsible for the accuracy and completeness of investigation reports prepared by internal affairs investigators under his or her command.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)

PSB took a proactive approach and continued to review all division level investigations and provide written feedback to division level investigators and their chains of command to: improve the thoroughness of the investigations; obtain structure and consistency in format; ensure the inclusion of proper forms; and provide assistance with future investigations. The intent of the feedback is to evaluate, educate, assist and provide suggestions for future division level investigations. The PSB also provided feedback regarding the efficiency and thoroughness with which the divisions undertake and complete administrative investigations. Lastly, the PSB reviewed division cases for quality control prior to final submission to the appointing authority for final findings.

The PSB continues to monitor and track investigative deficiencies that occur at the division level. Deficiencies are documented and the case is returned to the division level. The deficiency documentation is placed with the case file.

**Paragraph 212.** *Where an internal affairs investigator conducts a deficient misconduct investigation, the investigator shall receive the appropriate corrective and/or disciplinary action. An internal affairs investigator's failure to improve the quality of his or her investigations after corrective and/or disciplinary action is taken shall be grounds for demotion and/or removal from a supervisory position or the Professional Standards Bureau.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GB-2, *Command Responsibility* (Published 01/31/2017)
- GC-4, *Employee Performance Appraisals* (Approved 11/28/2016 – Publication will occur after the EPA Training is delivered)

MCSO continues to work towards gaining compliance with this Paragraph.

**Paragraph 213.** *Investigations of minor misconduct conducted outside of the Professional Standards Bureau must be conducted by a Supervisor and not by line-level deputies. After such investigations, the investigating Supervisor's Commander shall forward the investigation file to the Professional Standards Bureau after he or she finds that the misconduct investigation is complete and the findings are supported by the evidence. The Professional Standards Bureau shall review the misconduct investigation to ensure that it is complete and that the findings are supported by the evidence. The Professional Standards Bureau shall order additional investigation when it appears that there is additional relevant evidence that may assist in resolving inconsistencies or improving the reliability or credibility of the findings. Where the findings of the investigation report are not supported by the appropriate standard of proof, the Professional Standards Bureau shall document the reasons for this determination and shall include this documentation as an addendum to the original investigation.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)

PSB took a proactive approach and continued to review all division level investigations and provide written feedback to division level investigators and their chains of command to: improve the thoroughness of the investigations; obtain structure and consistency in format; ensure the inclusion of proper forms; and provide assistance with future investigations. The intent of the feedback is to evaluate, educate, assist and provide suggestions for future division level investigations. The PSB also provided feedback regarding the efficiency and thoroughness with which the divisions undertake and complete administrative investigations. Lastly, the PSB reviewed division cases for quality control prior to final submission to the appointing authority for final findings. The PSB continues to monitor and track investigative deficiencies that occur at the division level. The PSB continues to monitor and track investigative deficiencies that occur at the division level. Deficiencies are documented and the case is returned to the division level. The deficiency documentation is placed with the case file. Future corrective and/or disciplinary action will be considered once all supervisors have attended and completed the 40 hour comprehensive administrative investigation training.



**Paragraph 214.** *At the discretion of the Commander of the Professional Standards Bureau, a misconduct investigation may be assigned or re-assigned to another Supervisor with the approval of his or her Commander, whether within or outside of the District or Bureau in which the incident occurred, or may be returned to the original Supervisor for further investigation or analysis. This assignment or re assignment shall be explained in writing.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)

**Paragraph 215.** *If, after an investigation conducted outside of the Professional Standards Bureau, an employee's actions are found to violate policy, the investigating Supervisor's Commander shall direct and ensure appropriate discipline and/or corrective action. Where the incident indicates policy, training, tactical, or equipment concerns, the Commander shall also ensure that necessary training is delivered and that policy, tactical, or equipment concerns are resolved.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- GC-17, *Employee Disciplinary* (currently under revision)

**Paragraph 216.** *If, after an investigation conducted by the Professional Standards Bureau, an Employee's actions are found to violate policy; the Commander of the Professional Standards Bureau shall direct and ensure appropriate discipline and/or corrective action. Where the incident indicates policy, training, tactical, or equipment concerns, the Commander of the Professional Standards Bureau shall also ensure that necessary training is delivered and that policy, tactical, or equipment concerns are resolved.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- GC-17, *Employee Disciplinary* (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

Once an investigation is completed and the allegations are sustained, the PSB Commander initiates the discipline process. The PSB Commander reviews the case and provides a presumptive range of discipline for consideration. The compliance Division then coordinates the discipline process with the Appointing Authority. If the investigation indicates a policy, training, tactical, or equipment deficiency, the PSB Commander notifies the Policy Section or the Training Division of an employee's training deficiency to ensure the necessary training is delivered.

**Paragraph 217.** *The Professional Standards Bureau shall conduct targeted and random reviews of discipline imposed by Commanders for minor misconduct to ensure compliance with MCSO policy and legal standards.*



Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. Phase 2 compliance is not applicable.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

District and Division Commanders do not impose discipline for minor misconduct. In all cases, the PSB Commander determines the final findings and the presumptive range of discipline for those sustained investigations. The Appointing Authority makes the final determination of discipline. All discipline is coordinated through the Compliance Division.

**Paragraph 218.** *The Professional Standards Bureau shall maintain all administrative investigation reports and files after they are completed for record-keeping in accordance with applicable law.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

The PSB continues to comply with this paragraph by utilizing the IA Pro database. It serves as the centralized electronic numbering and tracking system for all allegations of misconduct, whether internally or externally discovered; provides a unique identifier to all misconduct complaints; maintains electronic investigative files of all documents relating to misconduct investigations and discipline; and sends alerts when deadlines are not met. The Monitor has access to the IA Pro database and has periodically audited and reviewed the system.

MCSO requests to be placed in a compliance status with this Paragraph.

**Paragraph 220.** *To ensure consistency in the imposition of discipline, the Sheriff shall review the MCSO's current disciplinary matrices and, upon approval of the parties and the Monitor, will amend them as necessary to ensure that they:*

- a. establish a presumptive range of discipline for each type of violation;*
- b. increase the presumptive discipline based on an employee's prior violations;*
- c. set out defined mitigating and aggravating factors;*
- d. prohibit consideration of the employee's race, gender, gender identity, sexual orientation, national origin, age, or ethnicity;*
- e. prohibit conflicts, nepotism, or bias of any kind in the administration of discipline;*
- f. prohibit consideration of the high (or low) profile nature of the incident, including media coverage or other public attention;*
- g. clearly define forms of discipline and define classes of discipline as used in policies and operations manuals;*
- h. provide that corrective action such as coaching or training is not considered to be discipline and should not be used as a substitute for discipline where the matrix calls for discipline;*
- i. provide that the MCSO will not take only non-disciplinary corrective action in cases in which the disciplinary matrices call for the imposition of discipline;*

- j. provide that the MCSO will consider whether non-disciplinary corrective action is also appropriate in a case where discipline has been imposed;*
- k. require that any departures from the discipline recommended under the disciplinary matrices be justified in writing and included in the employee's file; and*
- l. provide a disciplinary matrix for unclassified management level employees that is at least as demanding as the disciplinary matrix for management level employees.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- GC-17, *Employee Disciplinary* (currently under revision)
- Compliance Division Operations Manual (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

**Paragraph 221.** *The Sheriff shall mandate that each act or omission that results in a sustained misconduct allegation shall be treated as a separate offense for the purposes of imposing discipline.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- GC-17, *Employee Disciplinary* (currently under revision)

MCSO practices the requirements of this Paragraph.

**Paragraph 222.** *The Sheriff shall also provide that the Commander of the Professional Standards Bureau shall make preliminary determinations of the discipline to be imposed in all cases and shall document those determinations in writing, including the presumptive range of discipline for the sustained misconduct allegation, and the employee's disciplinary history.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- GC-17, *Employee Disciplinary* (currently under revision)

The PSB Commander documents in writing the presumptive range of discipline based upon the disciplinary matrix outlined in GC-17, *Employee Disciplinary Procedure*. Additionally, the category and offense number is provided and the investigative file includes the employee's disciplinary history.

**Paragraph 223.** *If the Commander of the Professional Standards Bureau makes a preliminary determination that serious discipline (defined as suspension, demotion, or termination) should be imposed, a designated member of MCSO's command staff will conduct a pre-determination hearing and will provide the employee with an opportunity to be heard.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- GC-17, *Employee Disciplinary* (currently under revision)

Phase 2 compliance is deferred until the Monitor is able to review any cases that are referred for a PDH. During the last quarter, none of the misconduct cases contained a recommendation for serious discipline by the PSB Commander. MCSO practices the requirements of this Paragraph.

**Paragraph 224.** *Pre-determination hearings will be audio and video recorded in their entirety, and the recording shall be maintained with the administrative investigation file.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GC-17, *Employee Disciplinary* (currently under revision)
- Compliance Division Operations Manual (currently under revision)

Phase 2 compliance is deferred until the Monitor is able to review any cases that are referred for a PDH. During the last quarter, none of the misconduct cases contained a recommendation for serious discipline by the PSB Commander.

**Paragraph 225.** *If an employee provides new or additional evidence at a pre-determination hearing, the hearing will be suspended and the matter will be returned to the internal affairs investigator for consideration or further investigation, as necessary. If after any further investigation or consideration of the new or additional evidence, there is no change in the determination of preliminary discipline, the matter will go back to the pre-determination hearing. The Professional Standards Bureau shall initiate a separate misconduct investigation if it appears that the employee intentionally withheld the new or additional evidence during the initial misconduct investigation.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GC-17, *Employee Disciplinary* (currently under revision)
- Compliance Division Operations Manual (currently under revision)

Phase 2 compliance is deferred until the Monitor is able to review any cases that are referred for a PDH. During the last quarter, none of the misconduct cases contained a recommendation for serious discipline by the PSB Commander.

**Paragraph 226.** *If the designated member of MCSO's command staff conducting the pre-determination hearing does not uphold the charges recommended by the Professional Standards Bureau in any respect, or does not impose the Commander of the Professional Standards Bureau's recommended discipline and/or non-disciplinary corrective action, the Sheriff shall require the*

*designated member of MCSO's command staff to set forth in writing his or her justification for doing so. This justification will be appended to the investigation file.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GC-17, *Employee Disciplinary* (currently under revision)
- Compliance Division Operations Manual (currently under revision)

Phase 2 compliance is deferred until the Monitor is able to review any cases that are referred for a PDH. During the last quarter, none of the misconduct cases contained a recommendation for serious discipline by the PSB Commander.

**Paragraph 227.** *The Sheriff shall promulgate MCSO policy which shall provide that the designated member of MCSO's command staff conducting a pre-determination hearing should apply the disciplinary matrix and set forth clear guidelines for the grounds on which a deviation is permitted. The Sheriff shall mandate that the designated member of MCSO's command staff may not consider the following as grounds for mitigation or reducing the level of discipline prescribed by the matrix:*

- a. his or her personal opinion about the employee's reputation;*
- b. the employee's past disciplinary history (or lack thereof), except as provided in the disciplinary matrix;*
- c. whether others were jointly responsible for the misconduct, except that the MCSO disciplinary decision maker may consider the measure of discipline imposed on other employees involved to the extent that discipline on others had been previously imposed and the conduct was similarly culpable.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GC-17, *Employee Disciplinary* (currently under revision)
- Compliance Division Operations Manual (currently under revision)

**Paragraph 228.** *The Sheriff or his designee has the authority to rescind, revoke or alter any disciplinary decision made by either the Commander of the Professional Standards Bureau or the appointed MCSO disciplinary authority so long as:*

- a. that decision does not relate to the Sheriff or his designee;*
- b. the Sheriff or his designee provides a thorough written and reasonable explanation for the grounds of the decision as to each employee involved;*
- c. the written explanation is placed in the employment files of all employees who were affected by the decision of the Sheriff or his designee; and*
- d. the written explanation is available to the public upon request.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GC-17, *Employee Disciplinary* (currently under revision)
- Compliance Division Operations Manual (currently under revision)

**Paragraph 229.** *Whenever an internal affairs investigator or Commander finds evidence of misconduct indicating apparent criminal conduct by an employee, the Sheriff shall require that the internal affairs investigator or Commander immediately notify the Commander of the Professional Standards Bureau. If the administrative misconduct investigation is being conducted by a Supervisor outside of the Professional Standards Bureau, the Sheriff shall require that the Professional Standards Bureau immediately take over the administrative investigation. If the evidence of misconduct pertains to someone who is superior in rank to the Commander of the Professional Standards Bureau and is within the Commander's chain of command, the Sheriff shall require the Commander to provide the evidence directly to what he or she believes is the appropriate prosecuting authority—the Maricopa County Attorney, the Arizona Attorney General, or the United States Attorney for the District of Arizona—without notifying those in his or her chain of command who may be the subject of a criminal investigation.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

**Paragraph 230.** *If a misconduct allegation will be investigated criminally, the Sheriff shall require that the Professional Standards Bureau not compel an interview of the principal pursuant to Garrity v. New Jersey, 385 U.S. 493 (1967), until it has first consulted with the criminal investigator and the relevant prosecuting authority. No other part of the administrative investigation shall be held in abeyance unless specifically authorized by the Commander of the Professional Standards Bureau in consultation with the entity conducting the criminal investigation. The Sheriff shall require the Professional Standards Bureau to document in writing all decisions regarding compelling an interview, all decisions to hold any aspect of an administrative investigation in abeyance, and all consultations with the criminal investigator and prosecuting authority.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

**Paragraph 231.** *The Sheriff shall require the Professional Standards Bureau to ensure that investigators conducting a criminal investigation do not have access to any statements by the principal that were compelled pursuant to Garrity.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)



The PSB Criminal Section and Administrative Section are located on different floors within the Headquarters Building. The Criminal Investigators do not have access to the IA Pro data base for administrative investigations; and there are separate file rooms for criminal and administrative investigative documents.

**Paragraph 232.** *The Sheriff shall require the Professional Standards Bureau to complete all such administrative investigations regardless of the outcome of any criminal investigation, including cases in which the prosecuting agency declines to prosecute or dismisses the criminal case after the initiation of criminal charges. The Sheriff shall require that all relevant provisions of MCSO policies and procedures and the operations manual for the Professional Standards Bureau shall remind members of the Bureau that administrative and criminal cases are held to different standards of proof, that the elements of a policy violation differ from those of a criminal offense, and that the purposes of the administrative investigation process differ from those of the criminal investigation process.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

**Paragraph 233.** *If the investigator conducting the criminal investigation decides to close the investigation without referring it to a prosecuting agency, this decision must be documented in writing and provided to the Professional Standards Bureau. The Commander of the Professional Standards Bureau shall separately consider whether to refer the matter to a prosecuting agency and shall document the decision in writing.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

**Paragraph 234.** *If the investigator conducting the criminal investigation decides to refer the matter to a prosecuting agency, the Professional Standards Bureau shall review the information provided to the prosecuting agency to ensure that it is of sufficient quality and completeness. The Commander of the Professional Standards Bureau shall direct that the investigator conduct additional investigation when it appears that there is additional relevant evidence that may improve the reliability or credibility of the investigation. Such directions shall be documented in writing and included in the investigatory file.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)



**Paragraph 235.** *If the prosecuting agency declines to prosecute or dismisses the criminal case after the initiation of criminal charges, the Professional Standards Bureau shall request an explanation for this decision, which shall be documented in writing and appended to the criminal investigation report.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

**Paragraph 236.** *The Sheriff shall require the Professional Standards Bureau to maintain all criminal investigation reports and files after they are completed for record-keeping in accordance with applicable law.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

The PSB continues to comply with this paragraph by utilizing the IA Pro database. It serves as the centralized electronic numbering and tracking system for all allegations of misconduct, whether internally or externally discovered; provides a unique identifier to all misconduct complaints; maintains electronic investigative files of all documents relating to misconduct investigations and discipline; and sends alerts when deadlines are not met. The Monitor has access to the IA Pro database and has periodically audited and reviewed the system.

MCSO requests to be placed in a compliance status with this Paragraph.

**Paragraph 238.** *The Sheriff shall require the MCSO to accept all civilian complaints, whether submitted verbally or in writing; in person, by phone, by mail, or online; by a complainant, someone acting on the complainant's behalf, or anonymously; and with or without a signature from the complainant. MCSO will document all complaints in writing.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)

**Paragraph 239.** *In locations clearly visible to members of the public at the reception desk at MCSO headquarters and at all District stations, the Sheriff and the MCSO will post and maintain permanent placards clearly and simply describing the civilian complaint process that is visible to the public at all hours. The placards shall include relevant contact information, including telephone numbers, email addresses, mailing addresses, and Internet sites. The placards shall be in both English and Spanish.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GJ-24, *Community Relations and Youth Services* (Published 01/07/2017)

The Monitor and parties approved MCSO's complaint and comment form. MCSO stocked the complaint and comment form in all District Patrol Stations as well as the lobby of the MCSO Headquarters building during the 4<sup>th</sup> Quarter of 2016. Also, during the 4<sup>th</sup> Quarter of 2016, MCSO began placing the complaint and comment form at non-county locations. During January 2017, MCSO re-stocked 70 county and non-county locations and provided this list of locations to the Monitor and parties.

**Paragraph 240.** *The Sheriff shall require all deputies to carry complaint forms in their MCSO vehicles. Upon request, deputies will provide individuals with complaint forms and information about how to file a complaint, their name and badge number, and the contact information, including telephone number and email address, of their immediate supervising officer. The Sheriff must provide all supervising officers with telephones. Supervising officers must timely respond to such complaints registered by civilians.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GJ-24, *Community Relations and Youth Services* (Published 01/07/2017)

During the 4<sup>th</sup> Quarter of 2016, all deputies began carrying the approved complaint and comment form in their MCSO vehicles as required by this Paragraph.

On February 27, 2017, CID was informed by MCSO Telecommunications that all sworn supervisors had been issued cellular phone as required by this Paragraph.

**Paragraph 241.** *The Sheriff will ensure that the Professional Standards Bureau facility is easily accessible to members of the public. There shall be a space available for receiving walk-in visitors and personnel who can assist the public with filing complaints and/or answer an individual's questions about the complaint investigation process.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report Phase 1 compliance is not applicable. MCSO is not in Phase 2 compliance.

The PSB is currently located at the MCSO Headquarters Building. It is easily accessible, with on street and visitor parking, and a lobby to accept walk in visitors. PSB personnel can be called to the lobby and assist the public with filing a complaint and answer questions about the complaint investigative process. Space is provided in the lobby, lobby private office, or within the PSB offices to speak with visitors.

On February 08, 2017, the Monitor advised MCSO and the parties he has no objection to the proposal to relocate the PSB to the Maricopa County Superior Court East Court Library, and his approval is not required to move forward. Maricopa County is in the process of moving forward with the relocation of the PSB.

**Paragraph 242.** *The Sheriff will also make complaint forms widely available at locations around the County including: the websites of MCSO and Maricopa County government; the lobby of MCSO's headquarters; each patrol District; and the Maricopa County government offices. The Sheriff will ask locations, such as public library branches and the offices and gathering places of community groups, to make these materials available.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GJ-24, *Community Relations and Youth Services* (Published 01/07/2017)

The Monitor and parties approved MCSO's complaint and comment form. MCSO stocked the complaint and comment form in all District Patrol Stations as well as the lobby of the MCSO Headquarters building during the 4<sup>th</sup> Quarter of 2016. Also, during the 4<sup>th</sup> Quarter of 2016, MCSO began placing the complaint and comment form at non-county locations. During January 2017, MCSO re-stocked 70 county and non-county locations and provided this list of locations to the Monitor and parties.

**Paragraph 243.** *The Sheriff shall establish a free, 24-hour hotline for members of the public to make complaints.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)

**Paragraph 244.** *The Sheriff shall ensure that the MCSO's complaint form does not contain any language that could reasonably be construed as discouraging the filing of a complaint, such as warnings about the potential criminal consequences for filing false complaints.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GJ-24, *Community Relations and Youth Services* (Published 01/07/2017)

**Paragraph 245.** *Within two months of the entry of this Order, complaint forms will be made available, at a minimum, in English and Spanish. The MCSO will make reasonable efforts to ensure that complainants who speak other languages (including sign language) and have limited English proficiency can file complaints in their preferred language. The fact that a complainant does not speak, read, or write in English, or is deaf or hard of hearing, will not be grounds to decline to accept or investigate a complaint.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GJ-24, *Community Relations and Youth Services* (Published 01/07/2017)

**Paragraph 246.** *In the course of investigating a civilian complaint, the Professional Standards Bureau will send periodic written updates to the complainant including:*

- within seven days of receipt of a complaint, the Professional Standards Bureau will send non anonymous complainants a written notice of receipt, including the tracking number assigned to the complaint and the name of the investigator assigned. The notice will inform the complainant how he or she may contact the Professional Standards Bureau to inquire about the status of a complaint;*
- when the Professional Standards Bureau concludes its investigation, the Bureau will notify the complainant that the investigation has been concluded and inform the complainant of the Bureau's findings as soon as is permitted by law; and*
- in cases where discipline is imposed, the Professional Standards Bureau will notify the complainant of the discipline as soon as is permitted by law.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)

**Paragraph 247.** *Notwithstanding the above written communications, a complainant and/or his or her representative may contact the Professional Standards Bureau at any time to determine the status of his or her complaint. The Sheriff shall require the MCSO to update the complainant with the status of the investigation.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)

**Paragraph 248.** *The Professional Standards Bureau will track, as a separate category of complaints, allegations of biased policing, including allegations that a deputy conducted an investigatory stop or arrest based on an individual's demographic category or used a slur based on an individual's actual or perceived race, ethnicity, nationality, or immigration status, sex, sexual orientation, or gender identity. The Professional Standards Bureau will require that complaints of biased policing are captured and tracked appropriately, even if the complainant does not so label the allegation.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

Each month the PSB provides to the Monitor a list of new complaints alleging bias policing. The PSB also provides all closed investigations where bias policing was alleged. Only allegations of bias policing that does not affect the Plaintiff's Class are reported as they are tracked in a separate category.

**Paragraph 249.** *The Professional Standards Bureau will track, as a separate category of complaints, allegations of unlawful investigatory stops, searches, seizures, or arrests.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

Each month the PSB provides a list of complaints alleging unlawful investigatory stops, searches and seizures, and arrests.

**Paragraph 250.** *The Professional Standards Bureau will conduct regular assessments of the types of complaints being received to identify and assess potential problematic patterns and trends.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- Professional Standards Bureau Operations Manual, (currently under revision)

PSB hired a Management Analyst whose responsibilities will include tracking separate categories of complaints and allegations (paragraph 248-249); conducting assessments of the types of complaints received to identify and assess potential problematic patterns and trends (paragraph 250); and producing a semi-annual public report on misconduct investigations (paragraph 251). The Management Analyst started work in January 2017.

**Paragraph 251.** *The Sheriff shall require the Professional Standards Bureau to produce a semi-annual public report on misconduct investigations, including, at a minimum, the following:*

- summary information, which does not name the specific employees involved, about any sustained allegations that an employee violated conflict-of-interest rules in conducting or reviewing misconduct investigations;*
- aggregate data on complaints received from the public, broken down by district; rank of principal(s); nature of contact (traffic stop, pedestrian stop, call for service, etc.); nature of allegation (rudeness, bias-based policing, etc.); complainants' demographic information; complaints received from anonymous complainants or third parties; and principals' demographic information;*
- analysis of whether any increase or decrease in the number of civilian complaints received from reporting period to reporting period is attributable to issues in the complaint intake process or other factors;*
- aggregate data on internally-generated misconduct allegations, broken down by similar categories as those for civilian complaints;*
- aggregate data on the processing of misconduct cases, including the number of cases assigned to Supervisors outside of the Professional Standards Bureau versus investigators in the Professional Standards Bureau; the average and median time from the initiation of an investigation to its submission by the investigator to his or her chain of command; the average and median time from the submission of the investigation by the investigator to a final decision regarding discipline, or other final disposition if no discipline is imposed; the number of investigations returned to the original investigator*



*due to conclusions not being supported by the evidence; and the number of investigations returned to the original investigator to conduct additional investigation;*

*f. aggregate data on the outcomes of misconduct investigations, including the number of sustained, not sustained, exonerated, and unfounded misconduct complaints; the number of misconduct allegations supported by the appropriate standard of proof; the number of sustained allegations resulting in a non-disciplinary outcome, coaching, written reprimand, suspension, demotion, and termination; the number of cases in which findings were changed after a pre-determination hearing, broken down by initial finding and final finding; the number of cases in which discipline was changed after a pre-determination hearing, broken down by initial discipline and final discipline; the number of cases in which findings were overruled, sustained, or changed by the Maricopa County Law Enforcement Merit System Council, broken down by the finding reached by the MCSO and the finding reached by the Council; and the number of cases in which discipline was altered by the Council, broken down by the discipline imposed by the MCSO and the disciplinary ruling of the Council; and similar information on appeals beyond the Council; and*

*g. aggregate data on employees with persistent or serious misconduct problems, including the number of employees who have been the subject of more than two misconduct investigations in the previous 12 months, broken down by serious and minor misconduct; the number of employees who have had more than one sustained allegation of minor misconduct in the previous 12 months, broken down by the number of sustained allegations; the number of employees who have had more than one sustained allegation of serious misconduct in the previous 12 months, broken down by the number of sustained allegations; and the number of criminal prosecutions of employees, broken down by criminal charge.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- Professional Standards Bureau Operations Manual, (currently under revision)

Management Analyst whose responsibilities will include tracking separate categories of complaints and allegations (paragraph 248-249); conducting assessments of the types of complaints received to identify and assess potential problematic patterns and trends (paragraph 250); and producing a semi-annual public report on misconduct investigations (paragraph 251). The Management Analyst started work in January 2017

**Paragraph 252.** *The Sheriff shall require the MCSO to make detailed summaries of completed internal affairs investigations readily available to the public to the full extent permitted under state law, in electronic form on a designated section of its website that is linked to directly from the MCSO's home page with prominent language that clearly indicates to the public that the link provides information about investigations of misconduct alleged against MCSO employees.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- Professional Standards Bureau Operations Manual, (currently under revision)

The PSB worked with the IT Bureau to designate a section on the MCSO website to provide detailed summaries of completed internal affairs investigations and make them readily available to the public. The PSB provided a sample summary to the Monitor to review and comment during the January 2017 Site Visit.



**Paragraph 253.** *The MCSO Bureau of Internal Oversight shall produce a semi-annual public audit report regarding misconduct investigations. This report shall analyze a stratified random sample of misconduct investigations that were completed during the previous six months to identify any procedural irregularities, including any instances in which:*

- a. complaint notification procedures were not followed;*
- b. a misconduct complaint was not assigned a unique identifier;*
- c. investigation assignment protocols were not followed, such as serious or criminal misconduct being investigated outside of the Professional Standards Bureau;*
- d. deadlines were not met;*
- e. an investigation was conducted by an employee who had not received required misconduct investigation training;*
- f. an investigation was conducted by an employee with a history of multiple sustained misconduct allegations, or one sustained allegation of a Category 6 or Category 7 offense from the MCSO's disciplinary matrices;*
- g. an investigation was conducted by an employee who was named as a principal or witness in any investigation of the underlying incident;*
- h. an investigation was conducted of a superior officer within the internal affairs investigator's chain of command;*
- i. any interviews were not recorded;*
- j. the investigation report was not reviewed by the appropriate personnel;*
- k. employees were promoted or received a salary increase while named as a principal in an ongoing misconduct investigation absent the required written justification;*
- l. a final finding was not reached on a misconduct allegation;*
- m. an employee's disciplinary history was not documented in a disciplinary recommendation; or*
- n. no written explanation was provided for the imposition of discipline inconsistent with the disciplinary matrix.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-4, *Bureau of Internal Oversight* (Published 12/14/2016)

MCSO is working with the Monitor to identify the best course of action to develop audit and audit report required by this Paragraph.

**Paragraph 254.** *The Sheriff shall initiate a testing program designed to assess civilian complaint Intake. Specifically, the testing program shall assess whether employees are providing civilians appropriate and accurate information about the complaint process and whether employees are notifying the Professional Standards Bureau upon the receipt of a civilian complaint.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-4, *Bureau of Internal Oversight* (Published 12/14/2016)
- Maricopa County Compliant Intake Testing Program. (currently under revision)

MCSO developed the preliminary methodology and provided it to the Monitor on August 08, 2016. MCSO received the combined comments back from the Monitor on September 06, 2016. On September

20, 2016, MCSO submitted to the Monitor and parties a revised methodology addressing the combined comments. MCSO thanks the parties and particularly the Department of Justice (DOJ) for providing general guidance on this project including the names of prospective outside vendors the DOJ has utilized in the past. MCSO is in the process of documenting the testing program into an operations manual.

MCSO completed a competitive bid process and selected two vendors, the Arizona Fair Housing Center, and Progressive Management Resources were identified as having the experience needed for intake complaint testing. The Arizona Fair Housing Center was selected for the in person testing. Progressive Management Resources was selected for the phone, mail, email, and web site testing. MCSO is continuing to work with the vendors, the Monitor, and the parties to develop acceptable testing methodologies and memorialize precisely how the testing program will work in writing.

**Paragraph 255.** *The testing program is not intended to assess investigations of civilian complaints, and the MCSO shall design the testing program in such a way that it does not waste resources investigating fictitious complaints made by testers.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-4, *Bureau of Internal Oversight* (Published 12/14/2016)
- Maricopa County Compliant Intake Testing Program. (currently under revision)

For a more detailed status on the testing program, please review the summary provided in relation to Paragraph 254.

**Paragraph 256.** *The testing program shall assess complaint intake for complaints made in person at MCSO facilities, complaints made telephonically, by mail, and complaints made electronically by email or through MCSO's website. Testers shall not interfere with deputies taking law enforcement action. Testers shall not attempt to assess complaint intake in the course of traffic stops or other law enforcement action being taken outside of MCSO facilities.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-4, *Bureau of Internal Oversight* (Published 12/14/2016)
- Maricopa County Compliant Intake Testing Program. (currently under revision)

For a more detailed status on the testing program, please review the summary provided in relation to Paragraph 254.

**Paragraph 257.** *The testing program shall include sufficient random and targeted testing to assess the complaint intake process, utilizing surreptitious video and/or audio recording, as permitted by state law, of testers' interactions with MCSO personnel to assess the appropriateness of responses and information provided.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-4, *Bureau of Internal Oversight* (Published 12/14/2016)

- Maricopa County Compliant Intake Testing Program. (currently under revision)

For a more detailed status on the testing program, please review the summary provided in relation to Paragraph 254.

**Paragraph 258.** *The testing program shall also assess whether employees promptly notify the Professional Standards Bureau of civilian complaints and provide accurate and complete information to the Bureau.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-4, *Bureau of Internal Oversight* (Published 12/14/2016)
- Maricopa County Compliant Intake Testing Program. (currently under revision)

For a more detailed status on the testing program, please review the summary provided in relation to Paragraph 254.

**Paragraph 259.** *MCSO shall not permit current or former employees to serve as testers.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-4, *Bureau of Internal Oversight* (Published 12/14/2016)
- Maricopa County Compliant Intake Testing Program. (currently under revision)

For a more detailed status on the testing program, please review the summary provided in relation to Paragraph 254.

**Paragraph 260.** *The MCSO shall produce an annual report on the testing program. This report shall include, at a minimum:*

- a. a description of the testing program, including the testing methodology and the number of tests conducted broken down by type (i.e., in-person, telephonic, mail, and electronic);*
- b. the number and proportion of tests in which employees responded inappropriately to a tester;*
- c. the number and proportion of tests in which employees provided inaccurate information about the complaint process to a tester;*
- d. the number and proportion of tests in which employees failed to promptly notify the Professional Standards Bureau of the civilian complaint;*
- e. the number and proportion of tests in which employees failed to convey accurate information about the complaint to the Professional Standards Bureau;*
- f. an evaluation of the civilian complaint intake based upon the results of the testing program; and*
- g. a description of any steps to be taken to improve civilian complaint intake as a result of the testing program.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-4, *Bureau of Internal Oversight* (Published 12/14/2016)
- Maricopa County Compliant Intake Testing Program. (currently under revision)

For a more detailed status on the testing program, please review the summary provided in relation to Paragraph 254.

**Paragraph 264.** *The Sheriff shall ensure that all patrol deputies shall be assigned to a primary, clearly identified, first-line supervisor.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report ***MCSO is in Phase 1 and Phase 2 compliance.***

MCSO will continue to provide the Monitor with any requested information to verify compliance with this Paragraph.

**Paragraph 265.** *First-line patrol supervisors shall be responsible for closely and consistently supervising all deputies under their primary command.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GB-2, *Command Responsibility* (Published 01/31/2017)

**Paragraph 266.** *First-line patrol supervisors shall be assigned as primary supervisor to no more persons than it is possible to effectively supervise. The Sheriff should seek to establish staffing that permits a supervisor to oversee no more than eight deputies, but in no event should a supervisor be responsible for more than ten persons. If the Sheriff determines that assignment complexity, the geographic size of a district, the volume of calls for service, or other circumstances warrant an increase or decrease in the level of supervision for any unit, squad, or shift, it shall explain such reasons in writing, and, during the period that the MCSO is subject to the Monitor, shall provide the Monitor with such explanations. The Monitor shall provide an assessment to the Court as to whether the reduced or increased ratio is appropriate in the circumstances indicated.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO Phase 1 compliance is deferred. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GB-2, *Command Responsibility* (Published 01/31/2017)
- CID Operations Manual (currently under revision)

**Paragraph 267.** *Supervisors shall be responsible for close and effective supervision of deputies under their command. Supervisors shall ensure that all deputies under their direct command comply with MCSO policy, federal, state and local law, and this Court's orders.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GB-2, *Command Responsibility* (Published 01/31/2017)

**Paragraph 268.** *During the term that a Monitor oversees the Sheriff and the MCSO in this action, any transfer of sworn personnel or supervisors in or out of the Professional Standards Bureau, the Bureau of Internal Oversight, and the Court Implementation Division shall require advanced approval from the Monitor. Prior to any transfer into any of these components, the MCSO shall provide the Court, the Monitor, and the parties with advance notice of the transfer and shall produce copies of the individual's résumé and disciplinary history. The Court may order the removal of the heads of these components if doing so is, in the Court's view, necessary to achieve compliance in a timely manner.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO Phase 1 compliance is deferred. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GC-7, *Transfer of Personnel* (Currently under revision)
- CID Operations Manual (Currently under revision)

**Paragraph 269.** *The Sheriff shall ensure that when the MCSO receives a document preservation notice from a litigant, the MCSO shall promptly communicate that document preservation notice to all personnel who might possibly have responsive documents.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GD-9, *Receipt of Litigation and Subpoenas* (Currently under revision)

MCSO is continuing to work with the Monitor to gain full compliance with this paragraph.

**Paragraph 270.** *The Sheriff shall ensure that when the MCSO receives a request for documents in the course of litigation, it shall:*

- a. promptly communicate the document request to all personnel who might possibly be in possession of responsive documents;*
- b. ensure that all existing electronic files, including email files and data stored on networked drives, are sequestered and preserved through a centralized process; and*
- c. ensure that a thorough and adequate search for documents is conducted, and that each employee who might possibly be in possession of responsive documents conducts a thorough and adequate search of all relevant physical and electronic files.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GD-9, *Receipt of Litigation and Subpoenas* (Currently under revision)

MCSO is continuing to work with the Monitor to gain full compliance with this paragraph.

**Paragraph 271.** *Within three months of the effective date of this Order, the Sheriff shall ensure that the MCSO Compliance Division promulgates detailed protocols for the preservation and production of documents requested in litigation. Such protocols shall be subject to the approval of the Monitor after a period of comment by the Parties.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 or Phase 2 compliance.



In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GD-9, *Receipt of Litigation and Subpoenas* (Currently under revision)
- The Compliance Division Operations Manual (Currently under revision)

MCSO is continuing to work with the Monitor to gain full compliance with this paragraph.

**Paragraph 272.** *The Sheriff shall ensure that MCSO policy provides that all employees must comply with document preservation and production requirements and that violators of this policy shall be subject to discipline and potentially other sanctions.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GD-9, *Receipt of Litigation and Subpoenas* (Currently under revision)

**Paragraph 273.** *Within two months of the entry of this Order, the Sheriff shall ensure that all employees are briefed and presented with the terms of the Order, along with relevant background information about the Court's May 13, 2016 Findings of Fact, (Doc. 1677), upon which this Order is based.*

Phase 1 compliance is not applicable. Based on the Monitor's 10<sup>th</sup> Quarterly Report, ***MCSO is in Phase 2 compliance.***

The PSB met with the Monitor Team in August 2016 to determine how compliance would be addressed. Both determined initial factors for consideration in assessing whether a complaint was a Class Remedial Matter (CRM) based on the complainant having a Latino surname, or any other information in the complaint that would suggest any possible bias affecting the Plaintiff's class. The PSB and the Monitor meet weekly to discuss existing and incoming complaints.

**Paragraph 276.** *The Monitor shall have the authority to direct and/or approve all aspects of the intake and investigation of Class Remedial Matters, the assignment of responsibility for such investigations including, if necessary, assignment to his own Monitor team or to other independent sources for investigation, the preliminary and final investigation of complaints and/or the determination of whether they should be criminally or administratively investigated, the determination of responsibility and the imposition of discipline on all matters, and any grievances filed in those matters.*

Phase 1 compliance is not applicable. Based on the Monitor's 10<sup>th</sup> Quarterly Report, ***MCSO is in Phase 2 compliance.***

**Paragraph 278.** *The Sheriff shall alert the Monitor in writing to all matters that could be considered Class Remedial Matters, and the Monitor has the authority to independently identify such matters. The Monitor shall provide an effective level of oversight to provide reasonable assurance that all Class Remedial Matters come to his attention.*

Phase 1 compliance is not applicable. Based on the Monitor's 10<sup>th</sup> Quarterly Report, ***MCSO is in Phase 2 compliance.***



Upon the issuance of the Second Supplemental Injunction/Order, PSB completed an initial review of all open administrative and criminal investigations and notified the Monitor of any potential CRMs. The PSB notifies the Monitor of new potential CRM's during weekly meetings and in writing..

**Paragraph 279.** *The Monitor shall have complete authority to conduct whatever review, research, and investigation he deems necessary to determine whether such matters qualify as Class Remedial Matters and whether the MCSO is dealing with such matters in a thorough, fair, consistent, and unbiased manner.*

Phase 1 compliance is not applicable. Based on the Monitor's 10<sup>th</sup> Quarterly Report, ***MCSO is in Phase 2 compliance.***

Upon issuance of the Second Supplemental Injunction, the PSB completed an initial review of all open administrative and criminal investigations and has consistently notified the Monitor in writing of any potential CRM's. The PSB Commander and the Monitor meet on a weekly basis to discuss potential CRM's and those investigations that have been determined to be CRM's. The PSB also provided to the Monitor access to IA Pro to complete independent case reviews.

**Paragraph 281.** *Subject to the authority of the Monitor, the Sheriff shall ensure that the MCSO receives and processes Class Remedial Matters consistent with: (1) the requirements of this Order and the previous orders of this Court, (2) MCSO policies promulgated pursuant to this Order, and (3) the manner in which, pursuant to policy, the MCSO handles all other complaints and disciplinary matters. The Sheriff will direct that the Professional Standards Bureau and the members of his appointed command staff arrive at a disciplinary decision in each Class Remedial Matter.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GB-2, *Command Responsibility* (Published 01/31/2017)
- GC-16, *Employee Grievance Procedures* (Published 01/06/2017)
- GC-17, *Employee Disciplinary Procedure* (Currently under revision)
- Compliance Division Operations Manual (Currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

MCSO continues to work to gain compliance with this Paragraph.

**Paragraph 282.** *The Sheriff and/or his appointee may exercise the authority given pursuant to this Order to direct and/or resolve such Class Remedial Matters, however, the decisions and directives of the Sheriff and/or his designee with respect to Class Remedial Matters may be vacated or overridden in whole or in part by the Monitor. Neither the Sheriff nor the MCSO has any authority, absent further order of this Court, to countermand any directions or decision of the Monitor with respect to Class Remedial Matters by grievance, appeal, briefing board, directive, or otherwise.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GB-2, *Command Responsibility* (Published 01/31/2017)
- GC-16, *Employee Grievance Procedures* (Published 01/06/2017)

- GC-17, *Employee Disciplinary Procedure* (Currently under revision)
- Compliance Division Operations Manual (Currently under revision)

**Paragraph 284.** *The Sheriff and the MCSO shall expeditiously implement the Monitor's directions, investigations, hearings, and disciplinary decisions. The Sheriff and the MCSO shall also provide any necessary facilities or resources without cost to the Monitor to facilitate the Monitor's directions and/or investigations.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GB-2, *Command Responsibility* (Published 01/31/2017)
- GC-16, *Employee Grievance Procedures* (Published 01/06/2017)
- GC-17, *Employee Disciplinary Procedure* (Currently under revision)
- Compliance Division Operations Manual (Currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

The PSB and the Monitor meet weekly to discuss existing and incoming CRM complaints in an appropriate location within MCSO Headquarters. The PSB also provided to the Monitor access to IA Pro to complete independent case reviews.

**Paragraph 286.** *Should the Monitor believe that a matter should be criminally investigated, he shall follow the procedures set forth in ¶¶ 229–36 above. The Commander of the Professional Standards Bureau shall then either confidentially initiate a Professional Standards Bureau criminal investigation overseen by the Monitor or report the matter directly and confidentially to the appropriate prosecuting agency. To the extent that the matter may involve the Commander of the Professional Standards Bureau as a principal, the Monitor shall report the matter directly and confidentially to the appropriate prosecuting agency. The Monitor shall then coordinate the administrative investigation with the criminal investigation in the manner set forth in ¶¶ 229–36 above.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

Upon issuance of the Second Supplemental Injunction, the PSB completed an initial review of all open administrative and criminal investigations and has consistently notified the Monitor in writing of any potential CRM's. The PSB Commander and the Monitor meet on a weekly basis to discuss potential CRM's and those investigations that have been determined to be CRM's. The PSB also provided to the Monitor access to IA Pro to complete independent case reviews.

**Paragraph 287.** *Any persons receiving discipline for any Class Remedial Matters that have been approved by the Monitor shall maintain any right they may have under Arizona law or MCSO policy to appeal or grieve that decision with the following alterations:*

*a. When minor discipline is imposed, a grievance may be filed with the Sheriff or his designee consistent with existing MCSO procedure. Nevertheless, the Sheriff or his designee shall immediately transmit the*

*grievance to the Monitor who shall have authority to and shall decide the grievance. If, in resolving the grievance, the Monitor changes the disciplinary decision in any respect, he shall explain his decision in writing.*

*b. disciplined MCSO employee maintains his or her right to appeal serious discipline to the Maricopa County Law Enforcement Merit System Council to the extent the employee has such a right. The Council may exercise its normal supervisory authority over discipline imposed by the Monitor.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 compliance. ***MCSO is in Phase 2 compliance.***

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GH-2, *Internal Investigations* (currently under revision)
- GC-16, *Employee Grievance Procedures* (Published 01/06/2017)
- GC-17, *Employee Disciplinary Procedure* (Currently under revision)
- Compliance Division Operations Manual (Currently under revision)
- Professional Standards Bureau Operations Manual, (currently under revision)

**Paragraph 288.** *The Monitor's authority over Class Remedial Matters will cease when both:*

- a. The final decision of the Professional Standards Bureau, the Division, or the Sheriff, or his designee, on Class Remedial Matters has concurred with the Monitor's independent decision on the same record at least 95% of the time for a period of three years.*
- b. The Court determines that for a period of three continuous years the MCSO has complied with the complaint intake procedures set forth in this Order, conducted appropriate internal affairs procedures, and adequately investigated and adjudicated all matters that come to its attention that should be investigated no matter how ascertained, has done so consistently, and has fairly applied its disciplinary policies and matrices with respect to all MCSO employees regardless of command level.*

Phase 1 compliance is not applicable for this Paragraph. Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 2 compliance.

MCSO will work to gain compliance as soon as possible.

**Paragraph 289.** *To make the determination required by subpart (b), the Court extends the scope of the Monitor's authority to inquire and report on all MCSO internal affairs investigations and not those merely that are related to Class Remedial Matters.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- CP-2, *Code of Conduct* (Published 01/06/2017)
- CP-3, *Workplace Professionalism* (Published 12/15/2016)
- CP-5, *Truthfulness* (Published 12/21/2016)
- CP-11, *Anti-Retaliation* (Published 12/01/2016)
- GC-16, *Employee Grievance Procedures* (Published 01/06/2017)
- GC-17, *Employee Disciplinary Procedure* (Currently under revision)
- GH-2, *Internal Investigations* (Approved 02/07/2017)
- Compliance Division Operations Manual (Currently under revision)

- Professional Standards Bureau Operations Manual, (currently under revision)

**Paragraph 291.** *The Monitor shall report to the Court, on a quarterly basis, whether the MCSO has fairly, adequately, thoroughly, and expeditiously assessed, investigated, disciplined, and made grievance decisions in a manner consistent with this Order during that quarter. This report is to cover all internal affairs matters within the MCSO whether or not the matters are Class Remedial Matters. The report shall also apprise the Court whether the MCSO has yet appropriately investigated and acted upon the misconduct identified in the Court's Findings of Fact, whether or not such matters constitute Class Remedial Matters.*

While MCSO is not rated on this specific Paragraph, it imported to note that the PSB reviewed the Finding of Facts, Doc 1677 in order to determine and identify other acts of potential misconduct; Six (6) potential acts of misconduct were identified. Five (5) of the six (6) investigations were determined to pose potential conflicts of interest and were referred to a qualified outside investigative authority.

**Paragraph 292.** *To make this assessment, the Monitor is to be given full access to all MCSO internal affairs investigations or matters that might have been the subject of an internal affairs investigation by the MCSO. In making and reporting his assessment, the Monitor shall take steps to comply with the rights of the principals under investigation in compliance with state law. While the Monitor can assess all internal affairs investigations conducted by the MCSO to evaluate their good faith compliance with this Order, the Monitor does not have authority to direct or participate in the investigations of or make any orders as to matters that do not qualify as Class Remedial Matters.*

Phase 1 compliance is not applicable for this Paragraph. **MCSO is in Phase 2 compliance.**

The PSB has provided the Monitor access to the IA Pro database; the Monitor has periodically audited and reviewed the IA Pro system and hard copy file rooms; is provided all closed investigations on a monthly basis; and is provided a list of new administrative investigations monthly. Additionally, the PSB Commander and Monitor meet weekly to discuss Class Remedial Matters; and to provide updates on both administrative and criminal investigations.

**Paragraph 300.** *The following potential misconduct is not sufficiently related to the rights of the members of the Plaintiff class to justify any independent investigation:*

- Uninvestigated untruthful statements made to the Court under oath by Chief Deputy Sheridan concerning the Montgomery investigation. (Doc. 1677 at ¶ 385).*
- Uninvestigated untruthful statements made to the Court under oath by Chief Deputy Sheridan concerning the existence of the McKessy investigation. (Id. at ¶ 816).*
- Chief Deputy Sheridan's untruthful statements to Lieutenant Seagraves made during the course of an internal investigation of Detective Mackiewicz to the effect that an investigation into the overtime allegations against Detective Mackiewicz had already been completed. (Id. at ¶ 823).*
- Other uninvestigated acts of misconduct of Chief Deputy Sheridan, Captain Bailey, Sergeant Tennyson, Detective Zebro, Detective Mackiewicz, or others that occurred during the McKessy investigation. (Id. at ¶¶ 766–825).*

Phase 1 compliance is not applicable for this Paragraph. MCSO is not in Phase 2 compliance at this time, but will continue to discuss with the Monitor what actions are needed to gain Phase 2 compliance.

**Paragraph 337.** *Nevertheless, when discipline is imposed by the Independent Disciplinary*

*Authority, the employee shall maintain his or her appeal rights following the 1 imposition of administrative discipline as specified by Arizona law and MCSO policy with the following exceptions:*

- a. When minor discipline is imposed, a grievance may be filed with the Sheriff or his designee consistent with existing MCSO procedure. Nevertheless, the Sheriff or his designee shall transmit the grievance to the Monitor who shall have authority to decide the grievance. If in resolving the grievance the Monitor changes the disciplinary decision in any respect, he shall explain his decision in writing.*
- b. A disciplined MCSO employee maintains his or her right to appeal serious discipline to the Maricopa County Law Enforcement Merit System Council to the extent the employee has such a right. The Council may exercise its normal supervisory authority over discipline imposed by the Independent Disciplinary Authority with one caveat. Arizona law allows the Council the discretion to vacate discipline if it finds that the MCSO did not make a good faith effort to investigate and impose the discipline within 180 days of learning of the misconduct. In the case of any of the disciplinary matters considered by the Independent Disciplinary Authority, the MCSO will not have made that effort. The delay, in fact, will have resulted from MCSO's bad faith effort to avoid the appropriate imposition of discipline on MCSO employees to the detriment of the members of the Plaintiff class. As such, the Council's determination to vacate discipline because it was not timely imposed would only serve to compound the harms imposed by the Defendants and to deprive the members of the Plaintiff class of the remedies to which they are entitled due to the constitutional violations they have suffered at the hands of the Defendants. As is more fully explained above, such a determination by the Council would constitute an undue impediment to the remedy that the Plaintiff class would have received for the constitutional violations inflicted by the MCSO if the MCSO had complied with its original obligations to this Court. In this rare instance, therefore, the Council may not explicitly or implicitly exercise its discretion to reduce discipline on the basis that the matter was not timely investigated or asserted by the MCSO. If the Plaintiff class believes the Council has done so, it may seek the reversal of such reduction with this Court pursuant to this Order.*

Based on the Monitor's 10<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 compliance. Phase 2 compliance is deferred.

In Order to achieve Phase 1 compliance, the following policies must be finalized:

- GC-16, *Employee Grievance Procedures* (Published 01/06/2017)



## Section 12: Conclusion

The Maricopa County Sheriff's Office is committed to achieving full and effective compliance with the Court's Orders and is working collaboratively with the Monitor and the attorneys representing the Plaintiffs and the DOJ. While this affects the pace of compliance, it represents MCSO's dedication to getting it right.

This report covers the compliance efforts during the last quarter when the office was led by the former Sheriff. Since this time period, for the first time in 24 years, a new Maricopa County Sheriff, Paul Penzone, was elected. The change in leadership was not only the Sheriff himself, but also other top administrators at MCSO including the Chief Deputy, a newly created Chief of Staff & Special Counsel position, Executive Chiefs of Compliance and Enforcement, Deputy Chiefs, Captains, and Directors as well as rebuilding the Public Information Office and Community Relations teams to help repair the office's relationship with the community it serves. Sheriff Penzone says these people have at least one key thing in common – they are ethical and have integrity.

Sheriff Penzone and MCSO believe strongly this process should not be adversarial and instead the Monitor, parties, and MCSO should work hand in hand to help the agency gain full and effective compliance with the Orders. While agreement may not be possible on all aspects of compliance, this should not set back compliance efforts as a whole.

An incredible amount of money and resources have been and will continue to be committed to the compliance effort. MCSO has acquired and implemented a great deal of technology-based solutions to allow the collection of data required by the Order. MCSO personnel have and continue to attend Order related training several times throughout the year. MCSO created CID and BIO as a result of the issuance of the First Supplemental Order. BIO is a very important aspect of the compliance effort as it proves MCSO can "police itself" once compliance is achieved.

Both internally and publicly, Sheriff Penzone has made it clear that compliance is a top priority; not just to satisfy the Court's orders, but because he believes it will ensure MCSO is deploying and following the current best police practices.



## Appendix A: MCSO Melendres Court Order Compliance Chart

Paragraph #	Requirement	In Compliance	Deferred	Not in Compliance	Not Applicable	In Compliance	Deferred	Not in Compliance	Not Applicable	Date of Full Compliance
		Phase 1: Development (Policy & Training)				Phase 2: Implementation				
Section III. MCSO Implementation Unit and Internal Agency-wide Assessment										
9	Form a Court Order Implementation Unit	X				X				Oct. 15, 2015
10	Collection and Maintenance of All Data and Records	X				X				Oct. 15, 2015
11	MCSO Quarterly Report	X				X				Oct. 15, 2015
12	MCSO Annual Internal Assessment	X				X				Feb. 9, 2016
13	MCSO Annual Internal Assessment	X				X				Feb. 9, 2016
Section V. Policies and Procedures										
19	Create and Disseminate Policy Regarding Biased- Free Policing	X					X			
21	Create and Disseminate Policy Regarding Biased- Free Policing	X					X			
22	Reinforce Discriminatory Policing is Unacceptable	X						X		
23	Modify Code of Conduct Policy (CP-2): Prohibited Use of County Property	X				X				Feb. 9, 2016
24	Ensure Operations are Not Motivated, Initiated, or Based on Race or Ethnicity			X			X			
25	Revise Policies to Ensure Bias-Free Traffic Enforcement	X					X			
26	Revise Policies to Ensure Bias-Free Investigatory Detentions and Arrests	X				X				Oct. 15, 2015
27	Remove LEAR Policy from Policies and Procedures	X				X				Sep. 18, 2014
28	Revise Policies Regarding Immigration-Related	X				X				Apr. 16, 2015
29	All Policies and Procedures shall Define Terms Clearly, Comply with Applicable Law and				X	X				Apr. 16, 2015
30	Submit All Policies to Monitor within 90 Days of Effective Date; and Have Approval by				X	X				Apr. 16, 2015
31	Ensure Personnel Receive, Read, and Understand Policy	X				X				Oct. 28, 2016
32	All Personnel shall Report Violations of Policy; and Employees shall be Held Accountable for			X				X		
33	Personnel Who Engage in Discriminatory Policing shall be Subject to Discipline			X				X		
34	On Annual Basis, Review Policy and Document It in Writing	X				X				Apr. 19, 2016
35	Monitor shall review mission statement, policies and operations documents of specialized units	X				X				
Section VI. Pre-Planned Operations										
36	Ensure Significant Ops or Patrols are Race-Neutral in Fashion; Written Protocol shall be	X				X				Apr. 16, 2015
37	Have Standard Template for Op Plans and Standard Instructions for Supervisors	X				X				Apr. 16, 2015
38	Create and Provide Monitor with Approved Documentation of Significant Op within 10	X				X				Apr. 16, 2015
40	Notify Monitor and Plaintiffs within 24 hrs. of any Immigration Related Traffic Enforcement	X				X				Apr. 16, 2015
Section VII. Training										
42	Selection and hiring of instructors for Supervisor Specific Training			X			X			
43	Training at Least 60% Live Training, 40% On-line Training, and Testing to Ensure			X			X			
44	Training Schedule, Keeping Attendance, and Training Records			X			X			
45	Training may Incorporate Role-Playing Scenarios, Interactive Exercises, and Lectures				X	X				Dec. 31, 2016
46	Curriculum, Training Materials, and Proposed Instructors				X	X				Dec. 31, 2016
47	Regularly Update Training (from Feedback and Changes in Law)			X			X			
48	Bias-Free Policing Training Requirements (12 hrs. Initially, then 6 hrs. Annually)				X	X				Apr. 16, 2015
49	Bias-Free Policing Training shall Incorporate Current Developments in Federal and State				X	X				Apr. 16, 2015
50	Fourth Amendment Training (6 hrs. Initially, then 4 hrs. Annually)				X	X				Apr. 16, 2015
51	Fourth Amendment Training shall Incorporate Current Developments in Federal and State				X	X				Apr. 16, 2015
52	Supervisor Responsibilities Training (6 hrs. Initially, then 4 hrs. Annually)				X	X				
53	Supervisor Responsibilities Training Curriculum				X	X				
Section VIII. Traffic Stop Documentation and Data Collection and Review										
54	Collection of Traffic Stop Data	X						X		
55	Assign Unique ID for Each Incident/Stop, So Other Documentation can Link to Stop	X				X				Dec. 15, 2014

Paragraph #	Requirement	In Compliance	Deferred	Not in Compliance	Not Applicable	In Compliance	Deferred	Not in Compliance	Not Applicable	Date of Full Compliance
		Phase 1: Development (Policy & Training)				Phase 2: Implementation				
56	Maintaining Integrity and Accuracy of Traffic Stop Data	X				X				Feb. 9, 2016
57	Ensure Recording of Stop Length Time and Providing Signed Receipt for Each Stop	X						X		
58	Ensure all Databases Containing Individual-Specific Data Comply with Federal and State Privacy	X				X				Sep. 18, 2014
59	Providing Monitors and Plaintiffs' Representative Full Access to Collected Data				X	X				Sep. 18, 2014
60	Develop System for Electronic Data Entry by Deputies	X				X				Feb. 9, 2016
61	Installing Functional Video and Audio Recording Equipment (Body-Cameras)	X				X				Oct. 28, 2016
62	Activation and Use of Recording Equipment (Body-Cameras)	X						X		
63	Retaining Traffic Stop Written Data and Camera Recordings			X			X			
64	Protocol for Periodic Analysis of Traffic Stop Data and Data Gathered for Significant Ops			X				X		
65	Designate Group to Analyze Collected Data			X			X			
66	Conduct Annual, Agency-Wide Comprehensive Analysis of Data	X						X		
67	Warning Signs or Indicia of Possible Racial Profiling or Other Misconduct	X						X		
68	Criteria for Analysis of Collected Patrol Data (Significant Ops)	X				X				Dec. 15, 2014
69	Supervisor Review of Collected Data for Deputies under Their Command			X				X		
70	Response to/Interventions for Deputies or Units Involved in Misconduct			X				X		
71	Providing Monitor and Plaintiffs' Representative Full Access to Supervisory and Agency Level				X	X				Apr. 16, 2015
Section IX. Early Identification System (EIS)										
72	Develop, implement, and maintain a computerized EIS			X				X		
73	Create Unit or Expand Role of MCSO IT to Develop, Implement, and Maintain EIS			X			X			
74	Develop and Implement Protocol for Capturing and Inputting Data			X				X		
75	EIS shall include a Computerized Relational Database			X				X		
76	EIS shall include Appropriate ID Info for Each Deputy	X						X		
77	Maintaining Computer Hardware and Software, All Personnel Have Ready and Secure Access				X	X				Apr. 16, 2015
78	Maintaining All Personally Identifiable Information			X				X		
79	EIS Computer Program and Hardware will be Operational, Fully Implemented, and Use in			X				X		
80	EIS Education and Training for all Employees			X				X		
81	Develop and Implement Protocol for Using EIS and Information Obtained From It			X				X		
Section X. Supervision and Evaluation of Officer Performance										
83	Provide effective supervision of Deputies	X						X		
84	Adequate Number of Supervisors (1 Field Supervisor to 12 Deputies)	X				X				Oct. 28, 2016
85	Supervisors Discuss and Document Traffic Stops with Deputies	X						X		
86	Availability of On-Duty Field Supervisors	X						X		
87	Quality and Effectiveness of Commanders and Supervisors	X						X		
88	Supervisors in Specialized Units (Those Enforcing Immigration-Related Laws) Directly Supervise LE	X				X				Feb. 9, 2016
89	Deputies Notify a Supervisor Before Initiating any Immigration Status Investigation and/or Arrest	X				X				Oct. 28, 2016
90	Deputies Submit Documentation of All Stops and Investigatory Detentions Conducted to Their	X						X		
91	Supervisors Document any Investigatory Stops and Detentions that Appear Unsupported by	X						X		
92	Supervisors Use EIS to Track Subordinate's Violations or Deficiencies in Investigatory Stops			X				X		
93	Deputies Complete All Incident Reports Before End of Shift. Field Supervisors Review Incident Reports	X				X				Dec. 31, 2016
94	Supervisor Documentation of Any Arrests that are Unsupported by Probable Cause or Violate Policy	X				X				Dec. 31, 2016
95	Supervisors Use EIS to Track Subordinate's Violations or Deficiencies in Arrests and the			X				X		

Paragraph #	Requirement	In Compliance	Deferred	Not in Compliance	Not Applicable	In Compliance	Deferred	Not in Compliance	Not Applicable	Date of Full Compliance
		Phase 1: Development (Policy & Training)				Phase 2: Implementation				
96	Command Review of All Supervisory Review Related to Arrests that are Unsupported by	X				X				Oct. 28, 2016
97	Commander and Supervisor Review of EIS Reports			X				X		
98	System for Regular Employee Performance Evaluations			X				X		
99	Review of All Compliant Investigations, Complaints, Discipline, Commendations, Awards,			X				X		
100	Quality of Supervisory Reviews Taken into Account in Supervisor's Own Performance Evaluation			X				X		
101	Eligibility Criteria for Assignment to Specialized Units	X				X				Feb. 9, 2016
Section XI. Misconduct and Complaints										
102	Reporting alleged or apparent misconduct			X				X		
103	Audit Check Plan to Detect Deputy Misconduct			X				X		
104	Deputy Cooperation with Administrative Investigations	X				X				Dec. 31, 2016
105	Investigator Access to Collected Data, Records, Complaints, and Evaluations	X						X		
106	Disclosure of Records of Complaints and Investigations				X	X				April 19, 2016
SECOND ORDER Section XII. Misconduct Investigations, Discipline and Grievances										
165	Conduct comprehensive review all policies, procedures, manuals and written directives related to misconduct investigations, employee discipline				X		X			
167	Ensure provision of policies pertaining to any and all reports of misconduct			X			X			
168	All forms of alleged reprisal, discouragement, intimidation, coercion or adverse action against any person reporting or attempting to report misconduct is strictly prohibited.			X			X			
169	Ensure policies identify no retaliation to an employee for reporting misconduct			X			X			
170	Ensures completed investigations of all complaints including third-party and anonymous complaints			X		X				
171	Ensures administrative investigations are not terminated due to withdrawal, unavailability or unwillingness of complainant			X		X				
172	Provide instruction to employees that all relevant evidence and information for investigations be submitted and intention withholding shall result in			X			X			
173	Ensure disciplinary checks are conducted by PSB prior to any promotion process			X			X			
174	Ensure disciplinary history is considered and documented prior to hiring, promotion and transfers			X			X			
175	Ensure Commanders review disciplinary history who are transferred to their command in timely fashion			X				X		
176	Quality of IA investigations and Supervisors review of investigations be taken into account in performance evaluations			X				X		
177	Removal of <i>name-clearing hearings</i> and referenced as <i>pre-determination hearings</i>			X			X			
178	Provide 40 hours of comprehensive training to all Supervisors and PSB staff for conducting employee misconduct investigations			X				X		
179	Provide 8 hours annually of <i>in-service</i> to all Supervisors and PSB staff for conducting misconduct investigations			X			X			
180	Provide training to all employee's on MCSO's new or revised policies related to misconduct investigation, discipline and grievances			X				X		
181	Provide adequate training to all employees to properly handle civilian complaint intake and providing information			X				X		
182	Provide adequate training to all Supervisors as their obligations to properly handle civilian complaints			X				X		
184	Standards will be clearly delineated in policies, training and procedures. Samples must be included			X				X		
185	Any allegation of misconduct must be reported to PSB upon receipt			X		X				

Paragraph #	Requirement	In Compliance	Deferred	Not in Compliance	Not Applicable	In Compliance	Deferred	Not in Compliance	Not Applicable	Date of Full Compliance
		Phase 1: Development (Policy & Training)				Phase 2: Implementation				
186	PSB must maintain a centralized electronic numbering and tracking system for all allegations of misconduct			X		X				
187	PSB must maintain a complete file of all documents relating to any investigations, disciplinary proceedings, pre-determination			X			X			
188	PSB will promptly assign IA investigator after initial determination of the category of alleged offense			X		X				
189	PSB shall investigate misconduct allegation of a serious nature, or that result in suspension, demotion, termination or indication apparent criminal conduct by employee			X		X				
190	Allegations of misconduct that are minor in nature may be handled by trained and qualified District Supervisor			X			X			
191	Trained Supervisor must immediately contact PSB if it is believed the principal may have committed misconduct of a serious or criminal nature			X		X				
192	PSB shall review investigations outside of the Bureau at least semi-annually			X				X		
193	The most serious policy violation shall be used for determination of category of offense when multiple separate policy violations are present in a			X		X				
194	PSM Commander ensures investigations comply with MCSO policy, requirement of this Order including those related to training, investigators			X				X		
195	PSB shall include sufficient trained personnel to fulfill requirements of Order with in six months			X			X			
196	Commander of PSB or the Chief Deputy may refer misconduct investigations to another law enforcement agency or retain qualified outside investigator to conduct the investigation			X			X			
197	PSB will be headed by qualified Commander. If designation is declined by Sheriff, the Court will designate a qualified candidate			X		X				
198	PSB shall be physically located in separate facility of MCSO facilities and must be accessible to public and present a non-intimidating atmosphere to file complaints				X		X			
199	Ensure qualifications for an internal affairs investigator are clearly defined and candidates are eligible to conduct investigations			X		X				
200	Investigations shall be conducted in a rigorous and impartial manner without prejudging the facts, and completed in a thorough manner			X		X				
201	No preference shall be given for an employee's statement over a non-employee statement, nor disregard a witness's statement solely because the			X		X				
202	Investigate any evidence of potential misconduct uncovered during the course of the investigation regardless whether the potential misconduct was			X		X				
203	Despite a person being involved in an encounter with MCSO and pleading guilty or found guilty of offense, IA investigators will not consider that information alone to determine whether the MCSO employee engaged in misconduct			X		X				
204	Complete investigations within 85 calendar days of the initiation of the investigation, or 60 calendar days if within a Division			X				X		
205	PSB maintain database to track cases which generates alerts when deadlines are not met			X			X			
206	At conclusion of each investigation, IA will prepare an investigation report which includes elements from the eleven subsections of this paragraph			X				X		

Paragraph #	Requirement	In Compliance	Deferred	Not in Compliance	Not Applicable	In Compliance	Deferred	Not in Compliance	Not Applicable	Date of Full Compliance
		Phase 1: Development (Policy & Training)				Phase 2: Implementation				
207	When investigating the incident for policy, training, tactical or equipment concerns, the report must include compliance with standards, use of tactics and indicate need for training and suggestion of policy changes			X				X		
208	Each allegation of misconduct shall explicitly identify and recommend a disposition for each allegation			X		X				
209	Investigation forms completed by Supervisors outside of PSB shall be sent through Chain of Command to Division Commander for approval			X		X				
210	Investigation forms completed by PSB shall be sent to the Commander			X		X				
211	Commander shall return report to investigator for correction when inadequacies are noted			X			X			
212	IA investigator shall receive corrective or disciplinary action for a deficient misconduct investigation. Failure to improve is grounds for demotion or removal from PSB			X			X			
213	Minor misconduct investigations must be conducted by Supervisor (not by line-level deputies) and file forwarded to PSB			X		X				
214	Misconduct investigation can be assigned or re-assigned at the discretion of the PSB Commander			X		X				
215	Investigations conducted by Supervisors (outside of PSB) shall direct and ensure appropriate discipline and/or corrective action			X			X			
216	PSB Commander shall direct and ensure appropriate discipline and/or corrective action for investigations conducted by PSB			X				X		
217	PSB shall conduct targeted and random reviews of discipline imposed by Commanders for minor misconduct			X					N/A	
218	Maintain all administrative reports and files for recording keeping in accordance with applicable law			X			X			
220	Sheriff shall review MCSO disciplinary matrices and ensure consistency discipline is imposed			X			X			
221	Sheriff shall mandate misconduct allegation is treated as a separate offense for imposing discipline			X				X		
222	Sheriff shall provide that Commander of PSB preliminary determinations of the discipline and comment in writing			X		X				
223	MCSO Command staff shall conduct a pre-determination hearing if serious discipline should be imposed based on the preliminary determination			X			X			
224	Pre-determination hearings will be audio and video recorded in their entirety and maintained with investigation file			X			X			
225	Pre-determination hearings will be suspended and returned to investigator if employee provides new or additional evidence			X			X			
226	If designated member of MCSO command staff conducting the pre-determination hearing does not uphold charges and/or discipline recommended by PSB a written justification by that member is required			X			X			
227	MCSO shall issue policy providing the designated member conducting the pre-determination hearing with instructions to apply the disciplinary matrix and set guidelines when deviation is permitted.			X			X			

Paragraph #	Requirement	In Compliance	Deferred	Not in Compliance	Not Applicable	In Compliance	Deferred	Not in Compliance	Not Applicable	Date of Full Compliance
		Phase 1: Development (Policy & Training)				Phase 2: Implementation				
228	Sheriff or designee has authority to rescind, revoke or alter disciplinary decisions			X		X				
229	When an IA investigator or Commander finds evidence of misconduct indicating apparent criminal conduct by employee the PSB Command must be immediately notified, PSB will assume any admin misconduct investigation outside PSB,			X		X				
230	PBS must first consult with the criminal investigator and the relevant prosecuting authority if a misconduct allegation is being investigated criminally, prior to a compelled interview pursuant to Garrity v. New Jersey. No admin investigation shall be held in abeyance unless authorized by Commander of PSB. Any deviations must be documented by PSB.			X		X				
231	Sheriff shall ensure investigators conducting a criminal investigation do not have access to any statement by the principal that were compelled pursuant to Garrity			X		X				
232	PBS shall complete admin investigations regardless of the outcome of any criminal investigation. MCSO policies and procedures and the PSB Ops manual shall remind members of PSB that			X		X				
233	Criminal investigations closed without referring it to a prosecuting agency must be documented in writing and provided to PSB			X		X				
234	Criminal investigations referred to a prosecuting agency shall be reviewed by PSB to ensure quality and completeness			X		X				
235	PSB shall request explanation and document any decisions by the prosecuting agency to decline or dismiss the initiation of criminal charges			X		X				
236	Sheriff shall require PSB to maintain all criminal investigation reports and files as applicable by law			X			X			
238	Sheriff shall require MCSO to accept all forms of civilian complaints and document in writing			X		X				
239	Clearly display placards (English and Spanish) describing the complaint process at MCSO headquarters and all district stations			X				X		
240	Sheriff shall require all deputies to carry complaint forms in their MCSO vehicles			X				X		
241	Sheriff shall ensure that PSB is easily accessible to member of public and available for walk-ins				X			X		
242	Make complaint forms widely available at locations around the County: website, HQ lobby, Districts, MC offices and public locations			X				X		
243	Establish a free 24-hour hotline for reporting complaints			X		X				
244	Ensure complaint form does not contain language that can be construed as to discourage the filing of a complaint			X		X				
245	Complaints forms will be made available in English and Spanish			X		X				
246	PSB will send periodic written updates to the complainant during the course of investigation			X		X				
247	Complainant make contact the PAS at any time to obtain status of their complaint			X		X				
248	PSB will track allegations of biased policing as a separate category of complaints			X		X				
249	PSB will track allegations of unlawful investigatory stops, searches, seizures or arrests as a separate category of complaints			X		X				



Paragraph #	Requirement	In Compliance	Deferred	Not in Compliance	Not Applicable	In Compliance	Deferred	Not in Compliance	Not Applicable	Date of Full Compliance
		Phase 1: Development (Policy & Training)				Phase 2: Implementation				
250	PSB will conduct regular assessments of complaints to identify potential problematic patterns and trends			X				X		
251	PSB shall produce a semi-annual public report on misconduct investigations			X				X		
252	Make detailed summaries of completed IA investigations readily available to the public			X				X		
253	BIO shall produce a semi-annual public audit report regarding misconduct investigations			X				X		
254	Initiate a testing program designed to assess civilian complaint intake			X				X		
255	Testing program for investigation of civilian complaints should not use fictitious complaints			X				X		
256	Testing program shall assess complaint intake for complaints made in person, telephonically, by mail, email or website.			X				X		
257	Testing program shall include sufficient random and targeted testing to assess the complaint intake process			X				X		
258	Testing program shall assess if employees promptly notify PSB of citizen complaints with accurate and complete information			X				X		
259	Current or former employees cannot serve as testers			X				X		
260	Produce annual report on the testing program			X				X		
SECOND ORDER Section XIII. Community Outreach and Community Advisory Board										
261	Community Advisory Board may conduct a study to identify barriers to the filing of civilian				X				X	
262	The Boards shall be provided annual funding to support activities				X				X	
SECOND ORDER Section XIV. Supervision and Staffing										
264	Sheriff to ensure all patrol deputies are assigned to clearly identified first-line supervisor	X				X				Dec. 31, 2016
265	First-line Supervisors shall be responsible for closely and consistently supervising all deputies under their command			X			X			
266	Provide written explanation of deficiencies for number of Deputies assigned to a First-line Supervisors (no more than 10 deputies)		X			X				
267	Supervisors shall be responsible for close and effective supervision and ensure staff complies with MCSO policy, federal, state and local law, and this Court Order			X			X			
268	Approval by Monitor for any transfers of sworn personnel or Supervisors in or out of PSB, BIO or CID		X			X				
SECOND ORDER Section XV. Document Preservation and Production										
269	Promptly communicate any document preservation notices to all personnel who have responsive documents			X				X		
270	Sheriff shall ensure a request for documents in the course of litigation is promptly communicated to all personnel and the need of preservation of all files			X				X		
271	Sheriff shall ensure Compliance Division promulgates detailed protocols for the preservation and production of documents requested in litigation			X				X		
272	Ensure MCSO policy provides that all employees comply with document preservation and production requirements and maybe subject to discipline if violated			X		X				
SECOND ORDER Section XVI. Additional Training										

Paragraph #	Requirement	In Compliance	Deferred	Not in Compliance	Not Applicable	In Compliance	Deferred	Not in Compliance	Not Applicable	Date of Full Compliance
		Phase 1: Development (Policy & Training)				Phase 2: Implementation				
273	Within two months of the entry of this Order, the Sheriff shall ensure that all employees are briefed and presented with the terms of the Order, along with relevant background information about the Court's May 13, 2016 Findings of Fact, (Doc. 1677) upon which this order is based				X	X				Dec. 31, 2016
SECOND ORDER Section XVII. Complaints and Misconduct Investigation Relating to Members of the Plaintiff Class										
276	Monitor shall have the authority to direct and/or approve all aspects of the intake and investigation of Class Remedial Matters and the assignment of these investigations				X	X				Dec. 31, 2016
278	Sheriff shall alert the Monitor in writing to matters that could be considered Class Remedial Matters and has the authority to independently identify such matters				X	X				Dec. 31, 2016
279	Monitor has complete authority to conduct review, research and investigation deemed necessary to determine if matters qualify as Class Remedial Matters and MCSO is dealing in a thorough, fair, consistent and unbiased manner				X	X				Dec. 31, 2016
281	Sheriff shall ensure MCSO receives and processes Remedial Matters consistently with the requirements of the orders of the Court, MCSO policies, and the manner in which all other disciplinary matters are handled per policy			X				X		
282	Sheriff and/or appointee may exercise the authority given pursuant to this Order to direct and/or resolve such Class Remedial Matters. The decisions and/or directives may be vacated or overridden by the Monitors.			X		X				
284	MCSO must expeditiously implement the Monitor's directions, investigations, hearings and disciplinary decisions			X		X				
286	Monitor shall instruct PSB to initiate a confidential criminal investigation and oversee the matter or report to the appropriate prosecuting agency			X		X				
287	Persons receiving discipline approved by Monitor shall maintain any rights they have under Arizona law or MCSO policy			X		X				
288	Monitor's authority will cease when the elements of the two subsections of this paragraph have been met				X			X		
289	To make the determination required by subpart (b), the Court extends the scope of the Monitor's authority to inquire and report on all MCSO internal affairs investigations and not those merely that are related to Class Remedial Matters			X				X		
292	Monitor is to given full access to all MCSO Internal affairs investigation or matters that have been the subject of investigation, Monitor shall comply with rights of principals under investigation				X	X				Dec. 31, 2016
300	Uninvestigated untruthful statements made to the Court under oath by Chief Deputy Sheridan concerning the Montgomery investigation, the existence of the McKessy investigation, the untruthful statements to Lt. Seagraves and other uninvestigated acts of his do not justify an independent investigation				X			X		
337	When discipline is imposed by the Independent Disciplinary Authority, the employee shall maintain his or her appeal rights following the imposition of administrative discipline as specified by Arizona law and MCSO policy with the following exceptions with the two exceptions documented within the two subparagraphs.			X			X			
Totals:		48	2	130	26	93	40	70	2	47
Percent Complete:		27%	1%	72%		46%	20%	34%		23%

## **Appendix B: List of MCSO Acronyms**

ATU:	Anti-Trafficking Unit
AIU:	Audits and Inspections Unit
BIO:	Bureau of Internal Oversight
CAD:	Computer Aided Dispatch
CID:	Court Implementation Division
CEU:	Criminal Employment Unit
EIS:	Early Identification System
EIU:	Early Intervention Unit
FMLA:	Family Medical Leave Act
MCAO:	Maricopa County Attorney's Office
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

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