

1 **WO**

2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

8 Manuel de Jesus Ortega Melendres, on
9 behalf of himself and all others similarly
situated; et al.

No. CV-07-2513-PHX-GMS

ORDER

10 Plaintiffs,

11 and

12 United States of America,

13 Plaintiff-Intervenor,

14 v.

15 Paul Penzone, in his official capacity as
16 Sheriff of Maricopa County, Arizona; et al.

17 Defendants.

18
19 **BACKGROUND**

20 On August 12, 2021, this Court issued an Order to Show Cause pertaining to
21 Defendants' continual noncompliance with the injunction ordered on July 26, 2016.
22 (Doc. 2681.) As referenced in the Order to Show Cause, this Court will appoint a
23 management expert to provide the Court with recommendations on how best the Maricopa
24 County Sheriff's Office can both come into compliance with the Court's order pertaining
25 to the time limits for completing internal investigations and remain in compliance with
26 such limits as required by the injunction and thereafter by state law.

27 **APPOINTMENT**

28 Having considered all proposed candidates for appointment of a management

1 expert,

2 **IT IS HEREBY ORDERED** that Michael Gennaco of the OIR Group is hereby
 3 **APPOINTED** to serve as the Court's expert. Mr. Gennaco may be reached at
 4 michael.gennaco@oirgroup.com.

5 **IT IS FURTHER ORDERED** that Mr. Gennaco shall be impartial and function at
 6 the request of the Court pursuant to this Order. The purpose of his appointment shall be to
 7 conduct an investigation and create a report reviewing the Maricopa County Sheriff's
 8 Office's operations and procedures. The report should determine the causes of Maricopa
 9 County Sheriff's Office's noncompliance with this Court's injunction and propose
 10 measures the Court could order to ensure future completion of internal investigations
 11 within the timeframe contemplated by the injunction and state law. Mr. Gennaco is
 12 authorized to retain reasonable staff assistance necessary to conduct the investigation, and
 13 the Maricopa County Sheriff's Office and/or Maricopa County shall provide Mr. Gennaco
 14 with full access to all materials he requests. If circumstances dictate it, Mr. Gennaco may
 15 call upon the Monitor to assist him in securing needed documents and other materials.
 16 Materials provided to Mr. Gennaco will be disclosed to the parties.¹

17 **COMPENSATION OF EXPERT**

18 **IT IS FURTHER ORDERED** that if the OIR Group desires, Maricopa County
 19 shall enter a contract with Mr. Gennaco and OIR group for the provision of his services.
 20 In any event, Maricopa County shall timely reimburse OIR Group and/or Mr. Gennaco for
 21 the work outlined above. OIR Group shall be paid on a monthly basis and shall provide
 22 Maricopa County redacted invoices sufficient to support his charges. After the
 23 investigation has concluded, Mr. Gennaco shall provide non-redacted itemized statements
 24 of his services to the parties.

25 **REQUESTS BY COUNSEL**

26 During the status conference on August 27, 2021, counsel for Plaintiff-Intervenor
 27 United States asked for a number of procedures to govern the expert's investigation. Mr.

28 _____
¹ The Court will issue protective orders as needed.

1 Gennaco and the OIR Group are hereby authorized to conduct their investigation in the
2 way they deem best fit, and with the exception of the matters individually specified below,
3 the requests by the Plaintiff–Intervenor are **DENIED**.

4 **IT IS HEREBY ORDERED**

- 5 1. Plaintiff–Intervenor’s request for limited discovery before the Court’s decision
6 on remedies is **DEFERRED**.
- 7 2. To the extent that Plaintiff–Intervenor would be more comfortable with the
8 result, the Court shall not have ex parte communications with the expert, beyond
9 the administrative communication necessary for his engagement and the
10 completion of this Order which has already occurred. As a result, the Court
11 authorizes the expert to make all of his own determinations about the nature and
12 scope of the investigation and about how he will conduct it. For its part, the
13 Court notes that it requires an efficient, expeditious, and thorough report and
14 recommendation from the expert. Should the expert desire to have any
15 communication with the Court, he shall file a request with the Court copied to
16 the parties, and the Court shall expeditiously schedule a date for a hearing.
17 Nevertheless, Plaintiff–Intervenor’s request that there be no ex parte
18 communications between the Monitor and the expert is **DENIED**. Counsel’s
19 request that there be no ex parte communication between the expert and any
20 party is **DENIED**. Mr. Gennaco may have ex parte communications as needed
21 to complete the investigation in a thorough, expeditious, and not overly
22 convoluted manner.
- 23 3. Plaintiff–Intervenor’s request for disclosure of the materials upon which the
24 expert relies is **GRANTED** subject to any necessary protective orders.
- 25 4. Plaintiff–Intervenor’s request that the parties be able to review the expert’s
26 preliminary report before it is finalized is **GRANTED**.
- 27 5. Plaintiff–Intervenor’s request that the expert include a timeline for
28 implementation and an estimate of costs in his report is **GRANTED IN PART**.

Mr. Gennaco will be expected to make reasonable efforts to approximate implementation costs.

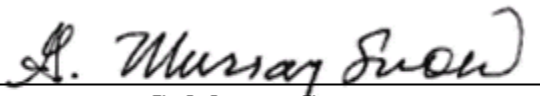
6. Plaintiff–Intervenor’s request for a status conference after the expert’s report is complete is **GRANTED**.

7. Plaintiff–Intervenor’s request to put on its own expert at the final evidentiary hearing is **DEFERRED**.

IT IS FURTHER ORDERED setting Telephonic² Oral Argument on Defendant MCSO’s Motion to Amend Correct (Doc. 2674) for **September 24, 2021 at 10:30 a.m. (AZ Time)**. Defendants shall provide a call-in number to the parties and the Court no later than **Noon on September 21, 2021**. Each party shall have 20 minutes to argue its position.

IT IS FURTHER ORDERED that at the Telephonic Status Conference scheduled on **September 17, 2021 at 10:30 a.m. (AZ Time)**, the parties should be prepared to discuss the Court meeting with each party’s experts pertaining to the remaining issue on the Joint Motion to Enforce Paragraph 70 (Doc. 2607).

Dated this 7th day of September, 2021.


G. Murray Snow
Chief United States District Judge

² To avoid challenges posed by the use of cell phones, headsets or other devices, the parties are directed to utilize landlines for the Telephonic Oral Argument to enable clear communication with the Court and accurate transcription by the Court Reporter. The parties are reminded that the PUBLIC listen only line is for *public and media only*. It is not for attorneys or parties calling in.