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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Manuel de Jesus Ortega Melendres, et al.,

10 Plaintiffs,

11 v.

12 County of Maricopa, et al.,

13 Defendants.
14

No. CV-07-02513-PHX-GMS

ORDER

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16 Pending before the Court is the Plaintiff class and United States’ (“Plaintiff–
17 Intervenor”) Joint Motion to Enforce Paragraph 70 of Supplemental Permanent
18 Injunction/Judgment Order (Doc. 2607). After holding a conference with experts from the
19 Maricopa County Sheriff’s Office (“MCSO”) and the Plaintiff–Intervenor, the Court issues
20 the following order.¹

21 **BACKGROUND**

22 In October 2013, this Court entered a permanent injunction (“First Order”) requiring
23 the MCSO to, among other things, collect traffic-stop data from MCSO deputies “to look
24 for warning signs or indicia [of] possible racial profiling or other improper conduct under
25 this Order.” (Doc. 606 at 31.) Under the First Order, the MCSO was to “analyze the
26 collected data on a monthly, quarterly and annual basis, and report their findings to the
27 Monitor and the Parties.” (Doc. 606 at 31.) Paragraph 70 of the First Order—at issue

28 ¹ Unless otherwise noted, the following facts are taken from the conference with the parties’
experts held on October 27, 2021.

1 here—states:

2 If any one of the foregoing reviews and analyses of the traffic stop data
3 indicates that a particular Deputy or unit may be engaging in racial profiling,
4 unlawful searches or seizures, or unlawful immigration enforcement, or that
5 there may be systemic problems regarding any of the foregoing, MCSO shall
6 take reasonable steps to investigate and closely monitor the situation.
7 Interventions may include but are not limited to counseling, Training,
8 Supervisor ride-alongs, ordering changes in practice or procedure, changing
9 duty assignments, Discipline, or of other supervised, monitored, and
10 documented action plans and strategies designed to modify activity. If the
11 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.

12 (Doc. 606 at 33.)

13 The required monthly analysis, called the Traffic Stop Monthly Report (“TSMR”),
14 is intended to screen traffic-stop data for indicia of “outlier” racial bias. (Doc. 2632 at 2-3.)
15 The analysis compares the traffic-stop data of an individual MCSO deputy against
16 comparable stops conducted by similarly situated peer officers. If the individual deputy’s
17 traffic stops differ from the comparison stops in a statistically significant way, the analysis
18 “flags” the deputy for further review. MCSO then “vets” the flag to determine whether the
19 deputy should be investigated and an “intervention”² provided. This monthly analysis
20 began last April, and its statistical apparatus was the culmination of years of effort by Dr.
21 Greg Ridgeway, representing the Plaintiffs and Plaintiff–Intervenor; with MCSO being
22 represented at various times throughout this process by ASU, CNA, and then Dr. Andrew
23 Prelog; and Commander John Girvin and Dr. John Carnevale coordinating and
24 implementing this effort on behalf of the Monitor. (Doc. 2632 at 2, 5–6, 9.) The Court
25 understands the effort to have largely been a collaborative one and appreciates the efforts
26 expended in getting the TSMR coordinated and functioning. It has taken a long time. But

27 ² An “intervention” educates deputies on “how to correct their conduct, using a range of
28 methods such as formal and informal training, supervisor ride-alongs, action plans, review
of implicit bias videos, and/or review and discussion of the deputy’s own body-worn
camera recordings.” (Doc. 2632 at 3.)

1 it remains, as Dr. Carnevale mentioned, a pilot program and is not impervious to testing
2 and improvement.

3 It was after the effort was in large part complete, that Plaintiff–Intervenor hired Dr.
4 Dean Knox to review the overall effort independent of Dr. Ridgeway. Plaintiff–Intervenor
5 then filed this motion. If, as MCSO asserts, the Motion has been somewhat of a moving
6 target, it is also true that during the pendency of this Motion, at least two of the
7 improvements that Plaintiffs sought through it have been agreed to by the Parties.
8 Plaintiff–Intervenor continues to assert, however, that the TSMR’s current methodology
9 for flagging potentially problematic officers is flawed because it (1) fails to properly
10 accommodate for location and time in generating comparison stops, resulting in false
11 positive and false negative results; and (2) employs a descriptive rather than comparative
12 analysis on the data from deputies who perform less than twenty stops in a twelve-month
13 period—approximately 40% of all MCSO deputies. (Doc. 2635 at 4–5 & n.1.) The Court
14 held a conference on these issues in October 2021, where it heard from Plaintiff–
15 Intervenor’s expert Dr. Dean Knox and MCSO’s expert Dr. Andrew Prelog as well as the
16 Monitor’s subject-matter expert Dr. John Carnevale. Dr. Greg Ridgeway was not present.

17 **DISCUSSION**

18 While the Court understands after listening to Dr. Knox’s testimony that it might be
19 possible to use location and time-logging techniques that make each stop a closer
20 comparative match to other stops, the Court continues to have questions whether the
21 implementation of such a system would: (a) generate enough data to make comparisons
22 statistically significant; (b) make a sufficiently practical difference in terms of the “hits”
23 that the system generates of deputies that actually prove to need corrective intervention; or
24 (c) require additional testing to determine whether individual subdivisions of the MCSO
25 are engaging in patterns of bias different from other subdivisions, as well as the time,
26 expense and feasibility of such tests.

27 As it pertains to adjusting the period to obtain comparative stops for those who do
28 not make twenty traffic stops in a year, the Court understands concerns expressed by the

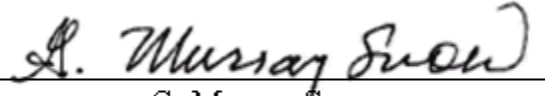
1 Monitor and MCSO about fairness among deputies, timeliness of the analysis, and whether
2 any gains made in officers subject to comparison prove to be marginal in terms of the
3 number of “hits” that the system generates of deputies that need corrective intervention.
4 The Court also wonders whether it is not better to assess deputies whose performance
5 escapes comparative analysis by descriptive analysis rather than no analysis at all. The
6 Court recognizes that some of these are “policy” and pragmatic issues rather than issues
7 related to what might be a theoretically optimal comparative analysis.

8 Because this project has been largely collaborative and the Court would like to keep
9 it so, and because the Plaintiff–Intervenor has not supplied this Court with sufficient
10 information upon which to order any adjustments, the Court declines to order any
11 adjustments at this time. Nevertheless, all parties express a willingness to evaluate the
12 critiques provided by Dr. Knox (and perhaps earlier by Dr. Ridgeway.) And this program
13 is a pilot program, and thus, especially in its initial stages, is subject to reasonable
14 adjustments to improve the performance of the pilot. Dr. Knox believes he could quickly
15 determine the answers to the statistical questions posed above by the Court (and
16 presumably other reasonable inquiries presented by the parties) should he be given access
17 to the relevant data. There is no question among the parties that he is entitled to it. And
18 the parties are open to cooperation and coordination with Dr. Knox in conducting such
19 research. However, it became clear during the conference that because of data flaws and
20 differences in the statistical software used, the experts have had difficulty in understanding
21 and verifying each other’s work. The Court therefore orders the parties to work with each
22 other and the Monitor to bridge this communication gap and to evaluate feasible and
23 practically desirable improvements to the current methodology. The Court expects this to
24 be a collaborative process between the parties, the experts, and the Monitoring team.
25 Although the Court will hear any disagreements the parties may have with the Monitor’s
26 decision, the Monitor shall make implementation decisions before these issues reach the
27 Court, and any challenges to those decisions should be promptly brought.

1 **CONCLUSION**

2 MCSO should timely supply the relevant data to Plaintiff–Intervenor and Dr. Knox.
3 However, in the meantime, MCSO should continue with the current TSMR methodology,
4 implementing changes when so instructed by the Monitoring team. The Court declines to
5 alter the methods at this time.

6 Dated this 29th day of October, 2021.

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9 G. Murray Snow
Chief United States District Judge