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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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

Plaintiffs,

and

United States of America,

Plaintiff-Intervenor,

vs.

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

Defendants.

No. CV-07-2513-PHX-GMS

**JOINT REPORT RE CIVILIAN
INVESTIGATOR INFORMATION
FOR MONITOR**

As the Court directed at the August 11, 2023, hearing, counsel for all parties, and the Monitoring Team, conferred on Monday, August 21, 2023, regarding the information that the Maricopa County Sheriff's Office should provide to the Monitor to assist the Monitor in making the determination that civilian investigators satisfy the requirements of Paragraph 199 of this Court's Second Order. Representatives of MCSO also participated in this call.

1 This joint report sets forth the parties' positions regarding the information that
2 should be provided to the Monitor regarding applicants MCSO has approved for hire as
3 civilian investigators.

4 Paragraph 199 requires that "anyone tasked with investigating employee
5 misconduct possesses excellent investigative skills, a reputation for integrity, the ability
6 to write clear reports, and the ability to be fair and objective in determining whether an
7 employee committed misconduct." In addition, "[e]mployees with a history of multiple
8 sustained misconduct allegations or one sustained allegation of a Category 6 or Category
9 7 offense from MCSO's disciplinary matrices, will be presumptively ineligible to conduct
10 misconduct investigations. Employees with a history of conducting deficient
11 investigations will also be presumptively ineligible for these duties."

12 **I. MCSO's Proposed Submission to the Monitoring Team.**

13 MCSO has been providing the Monitoring Team with information on all civilian
14 investigators hired so that the Monitoring Team can determine that they comply with the
15 requirements of Paragraph 199. MCSO intends to provide the Monitor the following for
16 each applicant MCSO has approved for hire as a civilian investigator:

- 17 (1) **A memorandum from the Chief of Human MCSO Resources that explains**
18 **how the information collected through the hiring process confirms that the**
19 **person satisfies the requirements of Paragraph 199.** The memo will
20 specifically address each of the relevant criteria: investigative skills, ability to
21 write clear reports, integrity, ability to be fair and objective in determining
22 whether employee committed misconduct, and disciplinary history. The memo
23 will address the information for the particular applicant that is the subject of the
24 submission.
- 25 (2) **Materials submitted by the applicant.** This includes the application form and
26 any attachments the applicant submits with the application. The attachments
27 generally include a resume and may include a cover letter. The application form
28

solicits information about the candidate's education, work experience, certifications, languages, and identified skills.

(3) **MCSO report regarding complaints/discipline/commendations (internal applicants only).** The packet submitted would also include the standard MCSO report regarding discipline, complaints and commendations for any internal hires. This attachment is provided for internal applicants only because MCSO would not have the information in this form for applicants external to MCSO. For external applicants, any relevant information on these issues would be addressed in the cover memo based on information collected through the hiring background investigation processes.

(4) **Description of hiring process.** As additional background, MCSO will provide an overall description of the hiring process, which includes an initial screening, interviews by the Professional Standards Bureau and Human Resources, a criminal background check, follow up with previous employers, follow up with law enforcement agencies where the applicant has resided, and a polygraph.

Plaintiffs and the United States do not object to the submission described by MCSO.

II. Notice and Meet and Confer Requirement; Written Decisions

If the Monitor believes that the materials submitted do not support MCSO's conclusion that the person satisfies the requirements of Paragraph 199, MCSO requests that the Monitor be required to provide notice to MCSO of the alleged deficiencies and meet and confer with MCSO before making a final compliance determination.

MCSO also requests that the Monitor be required to provide MCSO its final compliance determination in writing.

Plaintiffs and the United States do not object to this requirement.

1 **III. Issues on Which the Parties Disagree.**

2 **Providing additional supporting documentation**

3 **United States' Position:** The United States is concerned that MCSO's proposed
4 submissions do not provide sufficient information for MCSO or the Monitor to assess
5 whether candidates meet the requirements of Paragraph 199. Therefore, we
6 recommend that MCSO include in its submission to the Monitor all documentation
7 supporting its conclusion that the applicant satisfies these requirements. The
8 documentation would include notes from the applicant's interview, notes from any
9 conversations with the applicant's references, and any written responses that the
10 applicant's references submitted. We believe these additional materials would help the
11 Monitor efficiently assess the conclusions in the memorandum. This proposal would
12 not require MCSO to alter its hiring procedures and would impose a minimal burden
13 on the agency, as the agency would be providing documents it had already created
14 during the hiring process.

15 **MCSO's Position:** MCSO opposes requiring that it submit the information described
16 above to the Monitor to establish compliance with Paragraph 199. The pertinent
17 information will be highlighted in the cover memorandum from the MCSO Chief
18 Human Resources Officer and the supporting information described previously should
19 be sufficient to assess the criteria under this Paragraph. If the Monitor has additional
20 questions that are not addressed in the submission described previously, MCSO
21 believes those issues are better addressed through meeting and conferring with MCSO
22 about a particular applicant rather than by the attachments that the United States
23 proposes to include.

24 **Plaintiffs Position:** Plaintiffs takes no position on this issue.

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1 Dated this 25th day of August, 2023.

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