

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



Reporting Period – Third Quarter 2016
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Independent Monitor
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Section 1: Introduction

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

As noted in our last report, on May 13, 2016 the Court issued its Findings of Fact in the civil contempt proceedings that commenced in April 2015. This led to the issuance of a Second Supplemental Permanent Injunction/Judgment Order ("Second Order") on July 20, 2016, significantly expanding the duties of the Monitor. While we provided a brief overview of the Second Order in our last report, this will be the first report in which we assess compliance with the applicable Paragraphs contained therein. We have made some adjustments to our reporting format and style; and most likely, we will continue to do so in the next few reporting periods as we address the additional requirements of the Second Order while continuing to document MCSO's compliance efforts with the First Supplemental Permanent Injunction/Judgment Order ("First Order") issued in October 2013. We will provide summaries of compliance with both Orders separately, as well as a summary of MCSO's overall, or combined compliance. As expected, MCSO's compliance with the requirements of the Second Order – particularly as it relates to policy development – is low, while its steady improvement in Phase 2 compliance with the First Order continues.

The compliance Paragraphs of the Second Order commence where the First Order ends, and they are numbered from Paragraph 160 through and including Paragraph 337. Not all are subject to our review. For example, the Second Order outlines the duties of the newly created Independent Investigator and the Independent Disciplinary Authority. These are autonomous positions, not subject to oversight of the Court or its Monitor.

The Second Order also delineates in great detail additional requirements in the areas of misconduct investigations, training, discipline and discipline review, transparency and reporting, community outreach, document preservation, and misconduct investigations involving members of the Plaintiffs' class. The Monitor was given the authority to supervise and direct all of the investigations that fall into the latter category.

Paragraph 165 of the Second Order requires that "[w]ithin one month of the entry of this Order, the Sheriff shall conduct a comprehensive review of all policies, procedures, manuals, and other written directives related to misconduct investigations, employee discipline, and grievances, and shall provide to the Monitor and Plaintiffs new policies and procedures or revise existing policies and procedures." MCSO provided well over 30 policies, attachments, and forms for our review and that of the Parties. Many of MCSO's policies required extensive modifications, and all involved in the review process – including MCSO personnel – spent countless hours reviewing, commenting, and responding to suggested changes. We also utilized meeting time during our site visit, as well as conference calls and virtual meetings, to review some of the more complicated policies. Despite everyone's best efforts, revisions were not completed within this reporting period; nor were they completed by the deadline set by the Court (three

months after issuance of the Second Order). MCSO sought and was granted an extension, but many of the policies remain in the review process as of the writing of this report.

In our last report, we noted in detail (as did the Parties in their opportunities to comment) that MCSO mishandled the addressing of outliers identified in the First Annual Traffic Stop Analysis. During this reporting period, MCSO requested technical assistance from our Team to correct the deficiencies in their initial process. We began providing assistance before our most recent site visit, and met with MCSO during our site visit to continue our discussions. Subsequent to the site visit, we suggested that the Plaintiffs and Plaintiff-Intervenors join in the technical assistance project. MCSO agreed, and the Parties have active participated and provided worthwhile contributions. The technical assistance remains in progress; we will provide further details in our next report.

Section 2: Methodology and Compliance Summary

The Monitor's primary responsibility is to determine the status of compliance of the Maricopa County Sheriff's Office (MCSO) with the requirements of the requirements in the Order. To accomplish this, the Monitoring Team makes quarterly visits to Maricopa County to meet with the agency's Court Implementation Division (CID) and other Office personnel – at Headquarters, in Patrol District offices, or at the office that we occupy when onsite. We also observe Office practices; review Office policies and procedures; collect and analyze data using appropriate sampling and analytic procedures; and inform the Parties and, on a quarterly basis, the Court, about the status of MCSO's compliance.

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

We use four levels of compliance: In compliance; Not in compliance; Deferred; and Not applicable. "In" compliance and "Not" in compliance are self-explanatory. We use "Deferred" in circumstances in which we are unable to fully determine the compliance status – due to a lack of data or information, incomplete data, or other reasons that we explain in the narrative of our report. We will also use "Deferred" in those situations in which MCSO, in practice, is fulfilling the requirements of a Paragraph, but has not yet memorialized the requirements in a formal policy. (In light of the large number of policies that either had to be created or revised as a result of the Second Order, described above, we have deviated from this practice for this report. If we note that MCSO is complying in practice with Paragraph requirements that have not yet been memorialized in policy, we are, for now, still recognizing Phase 2 compliance for these Paragraphs, to document MCSO's practices during the policy development process. However, we consider this an accommodation that will not last indefinitely and shall be continued only if we are satisfied that there is an organizational resolve to commit the time and resources to create and revise policies as required. There was one such instance in the First Order, and 44 in the Second Order. If MCSO does not publish the requisite policies within the time constraints contained in the Second Order – as amended – compliance with these Paragraphs will revert to Deferred.) We use "Not applicable" when describing Phase 1 compliance, and is reserved for those Paragraphs where a policy is not required.

The tables below summarize the compliance status of Paragraphs tracked in this report.¹ As noted above, this is our first quarterly status report in which we report on MCSO's compliance with both the First and Second Orders. During this reporting period, MCSO's overall Phase 1 compliance with the First Order rate decreased by seven percentage points, from 67% to 60%. This drop is primarily due to the number of policies requiring changes for the Second Order,

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

which are also used for compliance with the First Order. MCSO's overall First Order Phase 2 compliance rate increased by five percentage points, from 44% to 49%. This continues MCSO's slow but steady increase in Phase 2 compliance from quarter to quarter.

Tenth Quarterly Report First Order Summary		
Compliance Status	Phase 1	Phase 2
Not Applicable	14	0
Deferred	0	11
Not in Compliance	30	34
In Compliance	45	44
Percent in Compliance	60%	49%

Tenth Quarterly Report Second Order Summary		
Compliance Status	Phase 1	Phase 2
Not Applicable	18	9
Deferred	2	29
Not in Compliance	102	36
In Compliance	1	49
Percent in Compliance	1%	43%

Tenth Quarterly Report Overall Summary		
Compliance Status	Phase 1	Phase 2
Not Applicable	32	9
Deferred	2	40
Not in Compliance	132	70
In Compliance	46	93
Percent in Compliance	26%	46%

MCSO's Compliance with the Requirements of the First Order (<i>October 2, 2013</i>)										
	Report 1	Report 2	Report 3	Report 4	Report 5	Report 6	Report 7	Report 8	Report 9	Report 10
Phase 1	4%	10%	44%	40%	51%	57%	61%	60%	67%	60%
Phase 2	0%	0%	26%	25%	28%	37%	38%	39%	44%	49%

MCSO's Compliance with the Requirements of the Second Order (<i>July 20, 2016</i>)										
	Report 1	Report 2	Report 3	Report 4	Report 5	Report 6	Report 7	Report 8	Report 9	Report 10
Phase 1	N/A									1%
Phase 2	N/A									43%

First Supplemental Permanent Injunction/Judgment Order

Section 3: Implementation Unit Creation and Documentation Requests

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

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

Phase 1²: In compliance

- Court Implementation Division Operations Manual, published June 29, 2015.

Phase 2: In compliance

To verify Phase 2 compliance with this Paragraph, we reviewed monthly rosters for this reporting period. By the time of our October site visit, the CID Captain had already notified us of changes within the division. CID consists of one captain, two lieutenants, six sergeants, two deputies, one management assistant, and one administrative assistant. CID continues to be supported by MCAO attorneys and outside counsel, who frequently participate in our meetings and telephone calls with division personnel.

During this reporting period, CID continued to provide documents through MCSO's counsel via an Internet-based application. The Monitoring Team, the Plaintiffs, and the Plaintiff-Intervenors receive all files and documents simultaneously, with only a few exceptions centering on open internal investigations.

² In an effort to streamline the length of our reports, particularly given the added requirements of the Second Order, we are simply listing the applicable policies in each Paragraph's Phase 1 compliance section, along with an indication of whether the policies are published or under revision.

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.*

Phase 1: In compliance

- Court Implementation Division Operations Manual, published June 29, 2015.

Phase 2: In compliance

As discussed above, during this reporting period, CID continued to be responsive to our 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.*

Phase 1: In compliance

- Court Implementation Division Operations Manual, published June 29, 2015.

Phase 2: In compliance

On December 17, 2016, CID published its most recent quarterly report as required by this Paragraph. The report covers the period from July 1, through September 30, 2016. This report is divided into the Order sections, which in turn are divided among its numbered Paragraphs. For each section, MCSO provides an overview of compliance and provides greater detail on the agency's activities working toward compliance. For each Paragraph, MCSO offers comments on the compliance status and provides responses to concerns raised in the Monitor's previous quarterly status report, published October 28, 2016. The report, as in the past, includes a table developed with the information provided in our previous quarterly report.

In its report, MCSO acknowledges the implementation of several ideas provided by the Monitoring Team – such as the CID Liaison Program, which was created on August 2016; holding site visit meetings outside of the MCSO Headquarters; and increasing personnel in PSB CID – to increase the pace of compliance. In addition, MCSO reports that the Monitoring Team's technical assistance, as well as collaboration from the Parties, have had a positive impact on MCSO's compliance. Such examples include the Annual Combined Training, the benchmarks and methodology for compliance with the traffic stop data collection, and the agency's response to the ASU report.

The report includes additional information on MCSO's efforts in furtherance of the requirements of the First and Second Orders. For example, during the period covered by the report, MCSO submitted 28 policies to the Monitoring Team and the Parties for review under the First Order and 22 policies for review under the Second Order. As to training, MCSO reported that it adopted a number of the Monitoring Team's recommendations, including the application of the Seven-Step Training Cycle to all training, and that the Field Training Officers (FTOs) undergo a PSB review. Also during this period, BIO's quarterly inspections to verify that no discriminatory policing occurred and that no County property was used in a discriminatory fashion reflected compliance rates between 89.58-100%. The report also notes MCSO's progress in assigning an additional sworn lieutenant to PSB to liaise with the other divisions and review all division level cases for thoroughness and accuracy, improving its Patrol Activity Logs, and updating EIPro to make the program a searchable relational database where supervisors can search the data in EIS. MCSO also submits that it organized 86 events of community outreach and participated in 31 public events during the reporting period.

***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.*

Phase 1: In compliance

- Court Implementation Division Operations Manual, published June 29, 2015.

Phase 2: In compliance

See Paragraph 13.

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).*

Phase 1: In compliance

- Court Implementation Division Operations Manual, published June 29, 2015.

Phase 2: In compliance

CID and the Monitoring Team established that the schedule for the submission of comprehensive annual assessments as required by these Paragraphs will run according to MCSO's fiscal year cycle, July 1 to June 30. MCSO will submit reports on or before September 15 of each year.

Consistent with this agreement, on September 15, 2016, MCSO filed with the Court its 2016 Annual Compliance Report in compliance with this Paragraph. We reviewed this report in detail and raised follow-up questions with CID personnel during our October 2016 site visit. Until such time as MCSO files its next Annual Compliance Report, MCSO remains in compliance with this Paragraph.

Section 4: Policies and Procedures

COURT ORDER V. POLICIES AND PROCEDURES

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

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

Phase 1: In compliance

- GA-1 (Development of Written Orders), published November 7, 2015.

Phase 2: Deferred

MCSO has taken steps toward a comprehensive review of its Patrol Operations Policies and Procedures in four phases. First, on December 31, 2013, prior to my appointment as Monitor, MCSO filed with the Court all of its policies and procedures, with amendments, that MCSO believed complied with the various Paragraphs of the Order. Second, in the internal assessment referenced above, MCSO discussed its ongoing evaluation of Patrol Operations and its development of policies and procedures. Third, in response to our requests, MCSO provided all of the policies and procedures it believes are applicable to the Order for our review and that of the Plaintiffs. MCSO received our feedback on these policies, which also included the Plaintiffs' comments, on August 12, 2014. Based on that feedback, MCSO made adjustments to many of the policies, concentrating first on those policies to be disseminated in Detentions, Arrests, and the Enforcement of Immigration-Related Laws Training; and the Bias Free Policing Training (often referred to as Fourth and Fourteenth Amendment Training) that commenced in early September. We reviewed MCSO's updated policies and provided our approval for several on August 25, 2014.

Fourth, in discussions during our April and July 2016 site visits, MCSO requested more specific guidance on what we considered to be Patrol-related policies and procedures. In response, on August 5, 2016, we provided MCSO with a list of the Patrol-related policies for the purposes of Paragraph 19. We included on this list policies that were not recently revised or currently under review, and we informed MCSO that it could achieve compliance with Paragraph 19 when it provided sufficient documentation of its completed review of all Patrol-related policies.

In its response, MCSO noted that several Office policies were currently in compliance with the Court Orders dated October 2, 2013 and July 20, 2016. However, MCSO also determined that five policies (EA-3, EA-9, EA-20, ED-3, and GI-1) require changes to be in compliance with the First Court Order; and five policies (EA-2, GC-22, GI-4, GI-5, and GJ-24) require changes to be in compliance with the Second Court Order.

For this reason, we are continuing to defer our compliance assessment with Paragraph 19 for this reporting period.

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

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.*

Phase 1: In compliance

- CP-2 (Code of Conduct), currently under revision.
- CP-8 (Preventing Racial and other Bias-Based Policing), most recently amended November 17, 2015.
- EA-5 (Enforcement Communications), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EA-11 (Arrest Procedures), published June 15, 2016.
- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), published September 22, 2014.
- EB-2 (Traffic Stop Data), published September 22, 2014.
- GJ-33 (Significant Operations), most recently revised November 18, 2015.

Phase 2: Deferred

After addressing the policy deficiencies previously noted by the Monitoring Team, MCSO has developed and published the policies required by Paragraph 21. MCSO has distributed and specifically trained to these policies to agency personnel during the required Fourth and Fourteenth Amendment training conducted by MCSO in 2014. A Monitoring Team member observed specific references to areas of required compliance in this Section during the training.

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

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

Phase 1: In compliance

- CP-8 (Preventing Racial and other Bias-Based Policing), most recently amended November 17, 2015.
- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), published September 22, 2014.

Phase 2: Not in compliance

BIO has made some changes and adjustments in the way it captures and reports information related to sworn and Detention supervisors reinforcing the prohibition against discriminatory policing. In the first quarter of 2016, we agreed to a methodology that randomly selects the personnel to be inspected during the first month of the reporting period. The Supervisory Notes on these same employees are then inspected for the remaining two months of the reporting period, as well. This allows for the review of all notes on individual employees for a full three-month period; and this allows us to better review and evaluate supervisors' interactions with employees as it relates to the reinforcement that discriminatory policing is unacceptable. We have also continued to remind MCSO that compliance with this Paragraph is dependent on specific and articulated reinforcement from a supervisor – not just an entry that there is no indication of any discriminatory policing.

For the audit of Supervisory Notes of sworn personnel for this reporting period, we selected a random sample of 33 employees. MCSO then audited the Supervisory Notes pertaining to the selected employees. In its inspection report dated October 3, 2016, BIO found that Supervisory Notes for seven deputies lacked the required documentation that a conversation between the employee and his/her supervisor, regarding discriminatory policing, had occurred. BIO reported an 85.71% compliance rate for this quarter. We reviewed the same Supervisory Notes and affirmed BIO's findings that MCSO underachieved this quarter, although our calculations reflect a lower compliance rate. Supervisory Notes for sworn personnel were previously at 100% compliance, so this is somewhat of a step back. We encourage MCSO to continue in its efforts to meet the requirements of this Paragraph.

For purposes of the review of Detention Supervisory Notes this reporting period, the Monitoring Team randomly selected 35 employees. MCSO then conducted an audit of the Supervisory Notes pertaining to the selected employees. BIO found that 32 of the 35 employees had an appropriate supervisory entry reiterating that discriminatory policing is unacceptable. BIO reported a 91.43% compliance rate for Detention Supervisory Notes. We reviewed the same Detention Supervisory Notes and affirmed BIO's findings. Although the compliance rate is still below the minimum number required, we recognize that MCSO has improved as it relates to Detention Supervisory Notes and compliance with this Paragraph.

During our October site visit, we met with command personnel at MCSO Districts 3 and 4, and discussed with them the importance of regularly reinforcing to their personnel that discriminatory policing is prohibited.

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

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.*

Phase 1: In compliance

- CP-2 (Code of Conduct), currently under revision.

Phase 2: In compliance

BIO uses a randomizing program to select samples for each inspection. BIO reviews CAD messages in an effort to identify compliance with MCSO policies CP-2 (Code of Conduct), CP-3 (Workplace Professionalism), and GM-1 (Electronic Communications and Voicemail). In its submission to our Team, MCSO includes the specific nature of any potential concerns identified during the audits. In May 2016, a Monitoring Team member observed the processes BIO uses to conduct CAD and email audits, to ensure that we thoroughly understand the process and mechanics involved in conducting these audits. For CAD and email audits, the Monitoring Team receives copies of the audits completed by BIO, the details of any violations found, and copies of the memorandums of concern or BIO Action Forms that are completed.

During this reporting period, MCSO conducted three CAD and Alpha Paging audits. BIO inspected 7,156 CAD/Alpha Paging messages for July 2016 and reported a 100% compliance rate. BIO inspected 8,432 CAD/Alpha Paging messages for August 2016 and reported a 100% compliance rate. BIO inspected 8,367 CAD/Alpha Paging messages for September 2016 and reported a 100% compliance rate.

During this reporting period, MCSO conducted three email audits. For July 2016, BIO inspected 6,708 emails and reported a 100% compliance rate; it did not find any deficiencies. BIO inspected 9,640 emails for August 2016 and reported a 99.98% compliance rate, finding three deficiencies. BIO appropriately addressed all three deficiencies, and none were relevant to the requirements of this Paragraph. BIO inspected 7,436 emails for September 2016 and reported a 99.91% compliance rate, finding five deficiencies. BIO appropriately addressed all five deficiencies; none were relevant to the requirements of this Paragraph.

During this reporting period, BIO conducted three facility inspections: two in August and one in September. These inspections were conducted at the Estrella Jail, Lower Buckeye Jail, and District 6. All three audits found that there was no evidence indicating that any of the facilities were being used in a manner that would discriminate, or denigrate anyone on the basis of race, color, national origin, age, religious beliefs, gender, culture, sexual orientation, veteran status, or disability. We reviewed the matrix checklist used for these inspections, and it contains a specific question regarding the use of any Office or County equipment that would be a violation of this Paragraph. During our October 2016 site visit, we visited Districts 1, 3, and 4, and Lakes Patrol, and found no signage, pictures, or other indication of County property being used in violation of this Paragraph.

MCSO continues its efforts to ensure that County property is not used to violate the requirements of this Paragraph – and when deficiencies have been noted, MCSO has taken appropriate action. We continue to note that consistent compliance with this Paragraph underscores the value of conducting these audits and inspections on an ongoing basis.

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.*

Phase 1: Not in compliance

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

We will assess Phase 1 compliance with this Paragraph once MCSO publishes the policies and procedures for the new SILO Unit.

Phase 2: Deferred

In April 2014, we met with MCSO personnel to determine what methods they employed to receive information from the public regarding criminal activity. Since that time, MCSO has provided us with the information on all hotlines and tip-lines currently in use.

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

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

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

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

We continue to review the tip information received by Major Crimes, Enforcement Support, Civil, and Special Investigations for each reporting period; and find generally that all tips are consistent with the mission of each tip-line. During this reporting period, the drug line received one tip regarding illegal individuals allegedly conducting illegal activities that could have been relevant to compliance with this Paragraph. We inquired if the same complainant sent any other emails, and if MCSO took any follow-up action. MCSO advised us that it forwarded the information to ICE/Border Patrol and closed out the tip. MCSO also informed us that it had not received any other correspondence from the email address in question. We reviewed the information submitted by the original complainant. The information alluded to "illegals" who may have entered the country with fraudulent documents, and suggested that there may be illegal activity taking place. The complainant did not specify the race, ethnicity, place of origin of the individuals, or what type of illegal activity was occurring. While we are sensitive to information that may impact the protected class, in this case, there was no information to suggest any type of bias. MCSO acted appropriately by referring the information to ICE/Border Patrol and closing out the tip.

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

- District 1 reported, "All calls of this nature would be directed to MCSO Communications to dispatch a Deputy to respond and take a report. Any call regarding drug activity would be directed to MCSO Drug Hotline, which is administrated by MCSO Special Investigations Division." District 1 advised that it had no system outside of those noted that would allow a community member to call in and report a crime. If a community member called the District, s/he would be referred to MCSO

Communications. District 1 did not report any activity relevant to this Paragraph during this reporting period.

- District 2 reported that it does not have any dedicated hotline or tip-line telephone numbers or other such methods specifically to capture or receive complaints from community members regarding potential criminal activity. In general, the District has a main telephone number for any calls incoming to the District. During this reporting period, District 2 did not report any activity relevant to this Paragraph.
- District 3 reported that it accepts complaints from community members regarding potential criminal activity through mail, email, telephone, and walk-up traffic. It does not track actions taken regarding these complaints, but reported that they are generally assigned to the supervisor most able to respond to the complaint. During this reporting period, District 3 did not report any activity relevant to this Paragraph.
- District 4 reported that it does not currently have a hotline designated to receive complaints from members of the community within its jurisdiction. District 4 reported that it receives complaints from community members in the following ways: walk-up traffic; telephone calls; emails; and notifications of complaints through mcso.org (forwarded to the captain from Headquarters). District 4 reported receiving information from community members during this reporting period, but it did not initiate any operations; and none of the complaints provided in District 4's response for this reporting period were relevant to compliance with this Paragraph.
- District 6 reported that it serves the town of Queen Creek pursuant to a law enforcement contract. As Queen Creek's primary law enforcement organization, it is responsible to police town ordinances/codes as well as applicable state law. District 6 reported that it has a web-based application that is used to report local issues related to town services. District 6 received concerns from the public during this reporting period. None of the concerns provided in the response for this reporting period were related to compliance with this Paragraph, and no operations were initiated.
- District 7 reported that it uses a Request for Enforcement Services/Community Service Form, which members of the public complete for specific enforcement for patrols such as speed enforcement or extra patrols because of potentially reoccurring problems such as criminal damage or vandalism. These forms are given to the Patrol sergeants to assign to deputies. District 7 has reported that it does not track or keep any documentation as to what follow-up is completed. District 7 also reported that it participates in "Text-A-Tip" in Fountain Hills. Tips generated in this program are completely anonymous. District 7 investigates the tips whenever possible, but reports that the tips are not always entered into the website. District 7 received "Text-A-Tips" during this reporting period. We reviewed the documentation submitted and did not find any tips that were relevant to compliance with the requirements of this Paragraph. District 7 personnel reported that they did not initiate any operations during this reporting period.

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

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

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

MCSO personnel advised us that they would draft a policy and an SOP for the unit; but that the unit’s primary responsibility would be to vet, corroborate, and disseminate to the appropriate divisions valid tip information that requires follow-up action. MCSO informed us that it currently receives between 200-400 tips per month, in multiple divisions and via multiple ways within the agency. This is consistent with our observations. Our review of hotline information to date has shown that the majority of tips are related to deadbeat parents, warrants, animal abuse, and narcotics. In addition to creating this specialized unit, MCSO will also identify specific personnel in other law enforcement agencies to whom it can forward tip information when appropriate.

During our April 2016 site visit, we met with MCSO personnel to discuss any updates on the implementation of the SILO Unit and the development of any relevant policies. At that time, MCSO hired two criminal intelligence analysts, and was in the process of hiring a civilian unit supervisor and two investigative research specialists. MCSO had confirmed that the unit would be managed out of the ACTIC, completed the first draft of the unit policy, expected to have the unit operational by June 2016, and was still in the process of identifying division liaisons and contact personnel in other law enforcement agencies.

During our July site visit, we met again with MCSO personnel to discuss updates on the implementation of the SILO Unit. MCSO submitted its first draft of GI-7 (Bias Free Tip and Information Processing) to the Monitoring Team for review. MCSO has hired all of the unit personnel, and continues to work on the general policy for the unit and the database, which MCSO personnel believed would be functional within six to eight weeks after our site visit.

During our October site visit, we met with MCSO personnel to discuss updates regarding the SILO Unit. At that time, GI-7 (Bias Free Tip and Information Processing) was in the final stages of review before being published. GN-1 (Criminal Intelligence Operations) sets guidelines on the collection, evaluation, and dissemination of criminal intelligence; this policy was in the revision process, as well. We were advised that MCSO was also working on end-user issues related to the database that will be used for tracking tips. Once it is operational, MCSO plans to conduct regular monthly audits of the database to ensure compliance.

Once the aforementioned policies and databases are in place, MCSO plans to conduct E-Learning training for sworn, Detention, and civilian personnel. MCSO expects to have the SILO Unit up and running, and fully operational, by the end of March 2017. In the interim, we will continue to use the same methodology for reviewing and evaluating information relative to this Paragraph.

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

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

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

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

Phase 1: In compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), most recently amended December 17, 2015.
- EB-2 (Traffic Stop Data Collection), most recently amended October 29, 2015.
- EA-5 (Enforcement Communications), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- CP-8 (Preventing Racial and other Bias-Based Policing), most recently amended November 17, 2015.
- EA-11 (Arrest Procedures), most recently amended June 15, 2016.

Phase 2: Deferred

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

To verify Phase 2 compliance with this Paragraph, we reviewed MCSO's Vehicle Stop Contact Form, Vehicle Stop Contact Form Supplemental Sheet, Incidental Contact Sheet, Written Warning/Repair Form, Arizona Traffic Ticket and Complaint Form, Internet I/Viewer Event Form, Justice Web Interface Form, CAD printout, and any Incident Report generated by the traffic stop. MCSO created many of these forms to capture the requirements of the Order for Paragraphs 25 and 54. In addition, we met with Arizona State University personnel during each of our site visits and reviewed the analysis of the traffic stop data they presented. Since our July 2015 site visit, there has been significant improvement in the TraCS system that has enhanced the reliability and validity of the data provided by MCSO. We also compared traffic stop data between Latino and non-Latino drivers in the samples provided to us.

Paragraph 25.a. prohibits racial profiling in the enforcement of traffic laws, including the selection of which vehicles to stop based to any degree on race or ethnicity, even where an officer has reasonable suspicion or probable cause to believe a violation is being or has been

committed. The selection of the sample size and the sampling methodology employed for drawing our sample is detailed in Section 7: Traffic Stop Documentation and Data Collection. Our review of a sample of 105 traffic stops (from a total of 6,354) that occurred during this reporting period in Districts 1, 2, 3, 4, 6, and 7, and Lakes Patrol indicated that MCSO was following protocol, and that the stops did not violate the Order or internal policies. During our October 2016 site visit, we met with the District 3 commander, who advised us that District 3 had not received any complaints during this reporting period from Latino drivers alleging racial profiling, deputies selecting which vehicles to stop, or deputies targeting specific communities to enforce traffic laws based to any degree on race. Paragraphs 66 and 67 require an annual comprehensive analysis of all traffic stop data, which will more accurately determine if the requirements of this Paragraph are being met. 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.

Paragraph 25.b. requires MCSO to provide deputies with guidance on effective traffic enforcement, including the prioritization of traffic enforcement resources to promote public safety. MCSO policy EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), Sections A-E address these concerns. The policy specifies that driving under the influence and speeding are the main causes of accidents, and should be the focus of traffic enforcement. Based on our review of the data provided for the reporting period, the most common traffic stop violations are as follows:

- 61 stops for speed above the posted limit (58%);
- 17 stops for failure to possess valid registrations or tags (16%);
- 13 stops for failing to obey official traffic control devices (12%); and
- 12 stops for equipment violations (11%).

Since speeding violations are specifically identified in the policy as being one of the contributing factors in causing traffic accidents, MCSO deputies have placed emphasis on this violation. In our review, we break down the specific traffic violation for each stop and use each traffic stop form completed by MCSO deputies during the stop to make a determination if the stop is justified and fulfills the requirements of the Paragraph. When we review the 105 sample traffic stops from across all Districts during the reporting period, we note of the locations of the stops contained on the Vehicle Stop Contact Form, the CAD printout, and the I/Viewer system to ensure that they are accurate. Our review of the data indicates MCSO is in compliance with this Subparagraph.

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

District 6 received complaints from the school district, the administrators from the town of Queen Creek, and residents due to the high volume of traffic accidents occurring in and around the town. The District captain contacted the Governor's Highway Safety Program and secured funding for 65 hours of overtime for special traffic enforcement to address these concerns. In September 2016, the additional traffic enforcement began. From the sample of 105 traffic stops, District 6 conducted nine traffic stops in Queen Creek for the months of July and August and made 12 stops in the month of September, which coincides with the grant funding. MCSO is in compliance with this Subparagraph.

Paragraph 25.d. requires MCSO to prohibit the selection of which motor vehicle occupants to question or investigate based, to any degree, on race or ethnicity. During this review of the traffic stop data, we reviewed 34 instances where the deputy contacted passengers; in 15 cases, the contact was due to the driver not having a valid driver's license, a suspended plate, or a passenger was the owner of the vehicle, and therefore the driver was unable to operate the vehicle. In these cases, in lieu of towing, the deputy allowed a passenger or another person to drive the vehicle. In the remaining instances where MCSO made contact with passengers, the following occurred:

- In eight cases, the passenger initiated contact for an explanation of the traffic violation or to engage the deputy for additional information.
- In two cases, the driver was arrested for DUI, and the deputy advised the passengers of the arrest.
- In two cases, the passenger interpreted for the deputy. In one of these cases, the passenger contact was not indicated on the VSCF. We located the contact with the passenger when we reviewed the Incident Report.
- In one case, a 16-year-old white female was racing another vehicle in her parents' vehicle at speeds up to 100 mph. Once the vehicle was stopped, the deputy observed two juvenile passengers in the rear seat and spoke to both. The driver was cited, and the deputy called the parents to the scene to pick up the driver and the two juvenile passengers.
- In one case, a driver was speeding to a hospital due to his wife having a medical emergency. Once the stop was made, the deputy spoke to the driver's wife and called for medical personnel to the scene.
- In one case, the deputy stopped and cited (for speeding) a Latino driver accompanied by a teenage Latina female. The deputy indicated that the contact with the passenger was for possible underage consumption, but does not further elaborate as to what gave him that impression.

- In one case, a white female driver was stopped for speeding. When the deputy approached the vehicle, he could smell the odor of alcohol, and he asked both driver and passenger if they had been drinking. The deputy observed an open container of alcohol in the vehicle and cited the driver for the open container violation.
- In one case, the deputy made a stop of a white female and she was cited. The deputy had prior knowledge of open warrants on the passenger, made contact, and conducted an arrest. The deputy advised in the IR that he was aware the passenger had open warrants.
- In one case, the deputy stopped a Latino male for failing to obey a traffic control device. The driver was also wanted on warrants for transporting and selling narcotics. The warrant check revealed the driver was armed and dangerous. The Latino passenger was warned for not wearing the seat belt and was released.
- In one case, a Latino man driving a work truck was stopped for a traffic violation; his Latino co-worker sat in the passenger seat. The deputy, looking through the driver's window stated to the passenger, "Can I see your ID"? When the passenger responded that he did not have identification on his person, the deputy then asked him if he could get his name. The passenger voluntarily gave the deputy his correct name and date of birth, and a subsequent warrant check revealed three open warrants. Our review of the BWC indicated the deputy's request was without intimidation. However, the driver was not arrested, nor was the vehicle towed, which typically are reasons for a passenger contact and the asking for identification from a passenger. In our sample, there were no other requests by deputies to run warrant checks on passengers in these circumstances. We see no reason for the passenger contact and request for identification.

We found no explicit indications from the sample that deputies based their questioning of passengers, to any degree, on race or ethnicity. Sixteen percent of the 105 drivers in our sample during this reporting period had suspended driver's licenses or registrations; therefore, it was not unusual for the deputy to run license checks on passengers to ensure that they possess a valid driver's license. We found one stop where deputies did not fully articulate the reason for contact with a passenger. In another stop involving a Latino driver and Latino passenger, the deputy requested identification from the passenger. The majority of cases where a passenger is asked for identification are instances where the driver's license of the driver has been suspended and the passenger is asked if s/he has a valid driver's license in lieu of towing the vehicle. In this case, the driver was cited and released; and the deputy did not have to request the passenger's identification. In our experience reviewing traffic stop data, questioning or investigating passengers occurs infrequently. For this review, we pulled samples for all traffic stops during the quarter. There were 6,354 traffic stops that contained 34 instances where passengers were contacted.

We reviewed the demographic data of Maricopa County (according to 2014 U.S. Census data, 30.3% of the population is Latino), and found that the ratio of the ethnicity of the violators and passengers in the population was in range with the ethnicity of the individuals stopped. (See Paragraph 54.e.). A review of citizen complaints for the quarter did not reveal any accusations against MCSO personnel that would indicate deputies were conducting pre-textual traffic stops to question drivers or passengers regarding their ethnicity or to determine whether they are

unlawfully present in the country. Body-worn cameras have been fully implemented, and we review a sample of the recordings to verify if deputies are questioning occupants to determine if they are legally in the country. Overall, we found the compliance rate to be 94% for this reporting period for this Subparagraph.

Paragraph 25.e. requires MCSO to prohibit the use of particular tactics or procedures on a traffic stop based on race or ethnicity. (See Paragraph 54.e.) We reviewed a sample of 30 CAD audio recordings of traffic stops and 105 CAD printouts where the dispatcher enters the reason for the stop when advised by the deputy in the field. We also reviewed 29 body-worn camera recordings of deputies making traffic stops. The methodology that we employed to select our samples is described in detail in Section 7. Prior to making the stop, the deputies advised dispatch of the stop with location, tag/state, and reason for the stop in all but one case. None of the stops in the sample involved the use of traffic checkpoints. All stops appeared to comport with policy. There was one reported Incidental Contact contained in the samples for this reporting period. This case involved a vehicle operated by a Latino driver with an expired registration. As the deputy approached the vehicle from the rear, he noticed a valid temporary tag in the window. The deputy issued an Incidental Contact Form to the driver.

During our previous ride-alongs with deputies, there were many instances where, at the time of the stop, we could not determine the ethnicity or gender of the driver until the vehicle was approached. We inquired of MCSO commanders during our October 2016 site visit if, during this reporting period, any Latino drivers or passengers made any complaints regarding deputies using particular tactics or procedures to target Latinos. Our review of the sample data indicated that traffic stops generally were not based on race or ethnicity and reflected the general makeup of the population of the County; therefore, MCSO is in compliance with this Subparagraph.

Paragraph 25.f. requires deputies at the beginning of each stop, before making contact with the vehicle, to verbally contact dispatch and state the reason for the stop unless exigent circumstances make it unsafe for the deputy to contact dispatch. We reviewed 30 CAD audio recordings and the deputy advised dispatch of the reason for the stop, prior to making contact with the vehicle occupants. In our sample request of 30 BWC reviews each quarter, one deputy failed to activate his recording equipment; and therefore, we were unable to utilize the video to determine if the deputy advised dispatch of the stop. The CAD printout indicated the deputy so advised. In 75 other cases that were part of our sample, we reviewed the VSCF and the CAD printout, if included in the documentation, to ensure that deputies were properly advising dispatch of the reason for the stop prior to making contact with the violator. Our review indicates that MCSO is in compliance with this Subparagraph. When the deputy advises Communications of the location, tag number, and reason for the stop, this information is digitally logged on the CAD printout. (See Paragraph 54.e.) MCSO is in compliance (99%) with this Subparagraph.

Paragraph 25.g. prohibits deputies from extending the duration of any traffic stop longer than the time that is necessary to address the original purpose for the stop and/or to resolve any apparent criminal violation for which the deputy has or acquires reasonable suspicion or probable cause to believe has been committed or is being committed. In our review of 105 traffic stops, we determined that 16 stops were extended and justified due to the circumstances of the stop. The particulars of these extended stops are as follows:

- A white female driver stopped was for expired registration. Upon further investigation, it was discovered the driver had a suspended license and two outstanding warrants. The driver was arrested and the vehicle was towed.
- A Latina driver stopped for speeding admitted she never had a driver's license issued from any state. She produced an Arizona Identification Card as proof of identity. She was issued a civil citation and released, and the vehicle was towed.
- A white female was stopped for an expired registration. A warrant check on the driver revealed her driver's license had been suspended. The driver was booked and the vehicle was towed.
- A white male driver was stopped for an expired registration, and no driver's license or insurance. The driver was cited for all three violations. The extended stop was due to the deputy allowing the driver to call for a licensed driver to come to the scene and drive the vehicle.
- A Black female driver failed to obey a stop sign and was pulled over. The deputy issued a warning and was having difficulty with the scanner in capturing the driver's signature on the form. The deputy advised of the scanner failure on the TraCS forms, which caused a slight delay in releasing the driver.
- Two females, one Latina and one white, were speeding (84 mph in a 65 mph zone) on their respective motorcycles. They were stopped at the same time and both issued citations. The delay in this stop was due to the deputy issuing two citations and completing two Vehicle Stop Contact forms.
- A white male driver was stopped for an expired registration. A warrant check also revealed the driver had a suspended driver's license and an outstanding warrant for narcotics. The driver was booked and the vehicle was towed.
- A Latina driver was driving at night with only one headlight and was stopped by the deputy. The driver was never issued a driver's license. The deputy issued a warning for the headlight violation and issued a citation for failure to have a license.
- A white female driver failed to stop for a stopped school bus. The deputy experienced issues with accessing the TraCS system and so noted. The driver was cited and released with minimal delay. An investigation resulted in the license plate being seized, and the driver was cited and released.
- A Latina driver was cited for operating a vehicle with a suspended license plate. The slight delay in releasing the driver was due to the deputy removing the license plate from the vehicle.
- A white male was cited for a stop sign violation and a warrants check revealed the driver's license had been suspended. The driver was cited and released, the vehicle was towed, and the driver's license was seized.
- A Latina driver was driving to her mother's house and drove on the shoulder of the road to go around traffic. The driver had received a call that indicated her mother had fallen

in her house, and she was trying to expedite her arrival. She requested that the deputy call the EMTs to respond to the mother's house. The deputy issued a warning to the driver and released her.

- A Latino male driving a work truck was stopped for speeding (77 mph in a 55 mph zone) and issued a citation. During the stop, the deputy asked the passenger if he could see his identification. The passenger indicated that he did not have any identification on his person. The deputy then asked the passenger if he could get his name and date of birth. The passenger provided the deputy with his correct name and date of birth. When a warrants check was run on the passenger, it came back with three open warrants. While reviewing the body-worn camera recording, the passenger admitted to the deputy that he was aware of one of the warrants. Since the driver was being cited and released, there was no valid reason the deputy should have asked the passenger to identify himself.
- A Latino male operating a motorcycle was caught on radar at 77 mph in a 45 zone and cited. The driver had in his possession a .45 caliber handgun. The stop began at 8:41 in the morning and concluded at 9:10 AM. A record check of the gun occurred at 8:46 and returned negative at 8:47 AM. This stop lasted for 29 minutes, 13 minutes after the gun check returned negative. There may have been an unnecessary delay in releasing the driver due to the nature of the gun check but the deputy did not elaborate.
- A white teenage female driver, along with the driver of another vehicle, were racing at very high speeds (excess of 100 mph) and were stopped. The deputy called the driver's parents to come to the scene and take possession of the vehicle and escort the two teenage passengers home.
- A white male driver, the second driver in the above case, was also cited and had a handgun in the vehicle, which was checked through CAD. The handgun had no effect on the length of the stop. The driver was subsequently released from the scene. The delay in this and the above stop was due to the deputy having to complete two separate Vehicle Stop Contact Forms, I/Viewer warrant checks and citations.

During our July 2016 site visit, we discussed the issue of what constituted an extended stop. As a result, MCSO proposed a solution to address these issues by analyzing length of stop with other vehicle extended stops that have similar characteristics. The proposed solution was to add additional fields to the VSCF form listing these characteristics that could be corroborated through alternative means such as body-worn camera recordings, CAD information, and radio transmissions. During our October 2016 site visit, EIU personnel informed us that they have experienced some difficulty in adding the additional fields to the VSCF. All but one of the extended stops was justified to address the original purpose of the traffic contact. MCSO is in compliance with this Subparagraph. (See Subparagraph 54.i.)

Paragraph 25.h. requires the duration of each traffic stop to be recorded. In our review, we determined that the duration was recorded accurately in 103 of the 105 traffic stops. In the two stops, there was a difference of five or more minutes in the start or end time of the stop, when we compared the Vehicle Stop Contact Form and the dispatch CAD printout. Yet the deputies did not provide an explanation as to why there were disparities. In one traffic stop, the driver

was a Latino who was stopped for displaying an expired license plate. While approaching the vehicle, the deputy observed a valid temporary registration in the vehicle's rear window; and the deputy completed an Incidental Contact report for the stop. The total time of the stop was eight minutes, and the deputy did not take any further action. In the second stop, the Latino driver was stopped for a stop sign violation and also had a driver's license that was suspended. The deputy cited the driver for both violations. BIO forwarded these deficiencies to the Districts for resolution.

In our experience reviewing MCSO's traffic stop forms, the majority of violations with documenting the beginning and ending times of the stop is attributed to the deputy inaccurately inputting times on the VSCF. The supervisor is required to review all activity by deputies within 72 hours and should catch any discrepancies and provide appropriate counseling to the involved subordinates. Proper and timely supervision should reduce the number of deficiencies. (See Paragraphs 54.b. and 54.i.) MCSO is in compliance with this Subparagraph, with a 98% compliance rating.

Paragraph 25.i. requires that MCSO provide deputies with a list and/or description of forms of identification deemed acceptable for drivers and passengers (in circumstances where identification is required of them) who are unable to present a driver license or other state-issued identification. The Plaintiffs' attorneys and MCSO have agreed on acceptable forms of identification, and this information has been included in the Fourth and Fourteenth Amendment training conducted by outside consultants. Policy EA-11 (Arrest Procedures), most recently revised on June 15, 2016, provides a list of acceptable forms of identification if a valid or invalid driver's license cannot be produced. Only driver licenses, with five exceptions (driver did not have a valid license on his person), were presented to deputies in each of the cases provided in our sample. Two of these exceptions involved Latina drivers. The five cases are described in detail below:

- A white female driver was stopped for an expired registration and had an expired driver's license. She admitted her driver's license had been suspended, and she produced an Arizona Identification card as proof of identify. A warrants check revealed two outstanding warrants. The driver was cited and arrested on the warrants. The vehicle was impounded.
- A Latina driver was stopped for speeding. She produced an Arizona Identification card as proof of identity. She advised the deputy she had never been issued a driver's license from any state. The vehicle was towed and the driver cited and released.
- A white male driver was stopped for an expired registration. When the deputy approached the vehicle, the driver advised that he did not have his driver's license or any identification on his person. The deputy ran a license check on the driver and it came back as the driver having a valid license. The driver was issued a warning for the expired registration and released.
- A Latina driver was stopped for an equipment violation. She advised the deputy that she never applied for a driver's license and produced an Arizona Identification card as proof of identity. The deputy issued a citation for the driver's license violation and a warning for the equipment violation.

- A Latino driver was stopped for speeding and issued a citation and released. During the stop, the deputy requested identification from the Latino passenger. The video from this stop revealed no circumstance where there was a need to request identification from the passenger.

MCSO is in compliance with this Subparagraph due to previous compliance.

Paragraph 25.j. requires MCSO to instruct deputies that they are not to ask for the Social Security Number or card of any motorist who has provided a valid form of identification, unless it is needed to complete a citation or report. EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) prohibits deputies from asking for the Social Security Number of any motorist who has provided a valid form of identification. For this reporting period, we did not find in our sample any instances where a deputy requested – or was provided with – a Social Security Number by the driver or passengers. In three cases, the deputy accepted alternative forms of identification as proof of identity. MCSO began employing body-worn cameras in November 2015, and all Districts were online and fully operational with the body-worn cameras during this reporting period. We reviewed 29 traffic stops to evaluate the body-worn camera video/audio interactions of the deputies to determine if they are abiding by the requirements of the Order. In September 2015, MCSO added fields to the Vehicle Stop Contact Form to include the documentation of on-body camera recordings. MCSO is in compliance with this Subparagraph.

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

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

- 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;*
- 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;*
- 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;*
- 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;*
- 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*
- 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).*

Phase 1: In compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), most recently amended December 17, 2015.
- EA-11 (Arrest Procedures), most recently amended June 15, 2016.

Phase 2: In compliance

During this reporting period, MCSO again reported that there were no immigration-related arrests or investigations; or investigations for misconduct with weapons, forgery, or any other immigration-related crime. MCSO reported one arrest for identify theft during this reporting period. This case involved an individual who tried to withdraw funds from a bank, using a fraudulent driver's license. We reviewed the documents pertaining to this arrest and found no issues of concern.

This Paragraph requires that a deputy notify his/her supervisor of any arrest of a vehicle passenger for any crime related to the lack of an identity document. MCSO reported that no such arrests occurred during this reporting period.

MCSO reported two incidents where drivers had charges pertaining to lack of identity documents. MCSO reported three incidents where drivers had charges pertaining to driving with suspended licenses, two of which involved subjects with warrants for their arrest. One arrest was of a subject who was involved in burglaries and the fraudulent use of credit cards. One arrest involved a subject who attempted to elude a deputy, after the individual was observed driving with an expired license plate. There were eight individuals arrested in total; three were Latino males, three were white males, one was a white female, and one was a Black male.

For the third quarter, we reviewed 68 incidents involving arrest and 97 incidents involving criminal citations. Based on our review of the above incidents and the documentation provided by MCSO, the actions of deputies at each scene appear to be consistent with acceptable law enforcement practices. There was no indication that race or ethnicity was a factor in determining any law enforcement action that MCSO personnel took in any of these investigations.

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

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

Phase 1: In compliance

MCSO asserts that it does not have an agency LEAR policy, and our Team's review of agency policies confirms that assertion.

Phase 2: In compliance

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

- a. specify that unauthorized presence in the United States is not a crime and does not itself constitute reasonable suspicion or probable cause to believe that a person has committed or is committing any crime;*
- b. prohibit officers from detaining any individual based on actual or suspected “unlawful presence,” without something more;*
- c. prohibit officers from initiating a pre-textual vehicle stop where an officer has reasonable suspicion or probable cause to believe a traffic or equipment violation has been or is being committed in order to determine whether the driver or passengers are unlawfully present;*
- d. prohibit the Deputies from relying on race or apparent Latino ancestry to any degree to select whom to stop or to investigate for an Immigration-Related Crime (except in connection with a specific suspect description);*
- e. prohibit Deputies from relying on a suspect’s speaking Spanish, or speaking English with an accent, or appearance as a day laborer as a factor in developing reasonable suspicion or probable cause to believe a person has committed or is committing any crime, or reasonable suspicion to believe that an individual is in the country without authorization;*
- f. unless the officer has reasonable suspicion that the person is in the country unlawfully and probable cause to believe the individual has committed or is committing a crime, the MCSO shall prohibit officers from (a) questioning any individual as to his/her alienage or immigration status; (b) investigating an individual’s identity or searching the individual in order to develop evidence of unlawful status; or (c) detaining an individual while contacting ICE/CBP with an inquiry about immigration status or awaiting a response from ICE/CBP. In such cases, the officer must still comply with Paragraph 25(g) of this Order. Notwithstanding the foregoing, an officer may (a) briefly question an individual as to his/her alienage or immigration status; (b) contact ICE/CBP and await a response from federal authorities if the officer has reasonable suspicion to believe the person is in the country unlawfully and reasonable suspicion to believe the person is engaged in an Immigration-Related Crime for which unlawful immigration status is an element, so long as doing so does not unreasonably extend the stop in violation of Paragraph 25(g) of this Order;*
- g. prohibit Deputies from transporting or delivering an individual to ICE/CBP custody from a traffic stop unless a request to do so has been voluntarily made by the individual;*
- h. Require that, before any questioning as to alienage or immigration status or any contact with ICE/CBP is initiated, an officer check with a Supervisor to ensure that the circumstances justify such an action under MCSO policy and receive approval to proceed. Officers must also document, in every such case, (a) the reason(s) for making the immigration-status inquiry or contacting ICE/CBP, (b) the time approval was*

received, (c) when ICE/CBP was contacted, (d) the time it took to receive a response from ICE/CBP, if applicable, and (e) whether the individual was then transferred to ICE/CBP custody.

Phase 1: In compliance

- CP-8 (Preventing Racial and other Bias-Based Policing), most recently amended November 17, 2015.
- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), most recently amended December 17, 2015.
- EA-11 (Arrest Procedures), most recently amended June 15, 2016.

Phase 2: In compliance

With the exception of one contact with ICE/Border Patrol in December 2015, MCSO has consistently reported no instances of any subject being transported to ICE/Border Patrol, no instances of deputies having contacts with ICE/Border Patrol for the purpose of making an immigration status inquiry, and no arrests for any immigration-related investigation, or for any immigration-related crime.

The December 2015 stop involved deputies detaining a person to verify what turned out to be an administrative ICE warrant. We discussed this stop during our April 2016 site visit, and MCSO informed us that it was following up on the stop. Following our site visit, we conducted additional follow-up and reviewed the associated body-worn camera recordings. We noted our concerns regarding the apparent lack of understanding by deputies regarding administrative warrants and the deputies' failure to leave the body-worn cameras activated for the duration of the stop. Following our site visit, we requested and received documentation from MCSO regarding the actions it took.

On April 14, 2016, MCSO distributed Briefing Board 16-17, which reinforces that deputies must leave body-worn cameras activated for the duration of a traffic stop unless there are specified circumstances that warrant deactivation of the camera. While no administrative investigation was initiated on this incident, CID personnel met personally with the two deputies involved and discussed the incident with them. The deputies' sergeant also informed CID that he briefed his entire squad on these types of warrants after becoming aware of the concerns with this stop. We believe that MCSO has addressed the stop appropriately, and taken steps to ensure that similar incidents do not occur in the future. The Annual Combined Training, which includes an explanation of administrative warrants, an example of an administrative warrant, a screenshot of an ICE administrative warrant hit, and reinforcement that MCSO does not have the authority to detain or arrest for these types of warrants, began in September 2016 and will be completed by the end of the year.

During this reporting period, MCSO reported that there were no instances of any subject being transported to ICE/Border Patrol, no instances of deputies having contacts with ICE/Border Patrol for the purpose of making an immigration status inquiry, and no arrests made following any immigration-related investigation or for any immigration-related crime. MCSO reported one incident in August, in which MCSO received a call from an underage subject who stated

that he lived in Mexico and wanted to return home. Deputies were dispatched to assist the individual. They found out that the subject had crossed the border two days before, but wanted to return home because he had learned that his mother was ill. MCSO contacted Border Patrol, who would not take custody because the individual was a minor. MCSO contacted the Department of Child Services, and the agency accepted custody of the individual.

e. Policies and Procedures Generally

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

Phase 1: Not applicable

Phase 2: In compliance

See Paragraph 30.

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: Not applicable

Phase 2: In compliance

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

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.*

Phase 1: In compliance

- GA-1 (Development of Written Orders), published on November 7, 2015.

Phase 2: In compliance

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

During our April 2016 site visit, we received an overview and demonstration of the E-Policy System, a companion program to the computer-based training program, E-Learning, which MCSO has been using for years. MCSO first advised Office personnel of the launch of the E-Policy program in Briefing Board 15-02, issued January 21, 2015. The Briefing Board states, “Effective immediately, E-Policy will be used by the Office to ensure employees, posse members, and reserve deputies have access to all Office policy [Critical (C), General (G), Detention (D), and Enforcement (E)], as well as updates to, and revisions of all Office policy. E-Policy will also be the mechanism in which the Office will be able to verify the receipt of policy by employees, Posse members, and reserve deputies, as well as an acknowledgement that the policy was reviewed and understood.” The Briefing Board further states, “In those cases involving Critical Policy and other select policies, the E-Policy requirement will also include the need to correctly answer questions regarding the revised policy.”

We have advised MCSO that in those cases where formal training is required by the Order, the E-Policy questions – which test comprehension of a policy – cannot serve as a substitute for the training. During this reporting period, on August 27, 2016, MCSO amended one new Order-related General Order, GC-13 (Awards). Several additional General Orders are currently in development. During this reporting period, MCSO also issued two Briefing Boards and several Administrative Broadcasts that touched on Order-related topics.

During this reporting period, we verified via a Skills Manager System compliance report that at least 95% of relevant MCSO employees received EA-11 (Arrest Procedures) within 60 days of its publication. Each Skills Manager report lists the MCSO personnel who are required, according to the Training Division, to receive the particular policy via the E-Policy System; and the date upon which the employee received and read the policy.

During our July 2016 site visit, we learned that MCSO, as part of a Countywide initiative, would soon replace its E-Policy System with a new online software program, Cornerstone. According to Training Division personnel, Cornerstone would be more user-friendly and offer more features than E-Policy. At that time, MCSO personnel anticipated that the new software would be adopted by the end of August 2016. During subsequent communications and also during our October 2016 site visit, we learned that County officials delayed the implementation of Cornerstone until early 2017. We will follow these developments closely, and look forward to learning more about this new system in our upcoming site visit.

In the meantime, as MCSO awaits the adoption of Cornerstone, we will continue to review MCSO's records in E-Policy for the training of relevant personnel on its published policies, and report on this in our next report. MCSO is in Phase 2 compliance with this Paragraph.

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.*

Phase 1: Not in compliance

- CP-2 (Code of Conduct), currently under revision.
- CP-3 (Workplace Professionalism), currently under revision.
- CP-5 (Truthfulness), currently under revision.
- CP-11 (Anti-Retaliation), currently under revision.
- GH-2 (Internal Investigations), currently under revision.
- GC-16 (Employee Grievance Procedures), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

Since we began reviewing internal investigations conducted by MCSO, we have reviewed more than 350 administrative investigations involving MCSO Patrol personnel. During our reviews, we have found numerous issues with the formatting of reports, and the failure to include all information required.

During each site visit, we meet with PSB personnel and provide them with information regarding the cases that we find to be deficient in structure, format, and reporting requirements. PSB has now developed and implemented the use of an investigative checklist and specific formats for the completion of internal investigations. These protocols have resulted in improvement in the structure and procedural completeness of the investigations conducted. All of the supervisors who conduct IA investigations have been trained in the use of these documents. A member of our Team attended two of the training sessions. In both training sessions, there was very positive feedback from the attendees regarding both the development of the protocols and the training. Effective June 1, 2016, use of these investigative protocol documents is required for all administrative investigations.

More disturbing than the problems with the structure and format of these investigations has been our observation that many of the cases have simply not been properly and thoroughly investigated. We have noted numerous concerns, including: failure to conduct a timely investigation; failure to interview all parties, failure to make the appropriate credibility determination; failure to conduct a thorough investigation; findings that are not supported by the investigation; and discipline that is inconsistent or falls outside of the Disciplinary Matrix. We have noted our further concerns with the Pre-Determination Hearings, where discipline has been reduced without any documented justification.

During our site visits, we have met with PSB personnel to discuss our concerns with the overall quality of administrative investigations, and we have provided specific case examples that illustrate our concerns. PSB personnel have been responsive to our concerns, and their recent investigations show significant improvement in overall quality. In the last reporting period, we found there were no investigations conducted by PSB where we had either significant concerns or disagreed with the findings. In some cases, we considered the investigations conducted by PSB to be excellent examples of complete and thorough investigations.

However, we continue to note ongoing problems with those administrative investigations conducted by Districts and Enforcement Support. While we have observed some improvement in these investigations, we continue to observe numerous problems with both the structure and quality of these investigations. MCSO also has a continuing problem completing the many delinquent cases that are still outstanding. PSB now has a lieutenant assigned to the bureau who reviews Division and District cases when they are received. We have reviewed a number of his emails to District personnel regarding cases they have completed. These emails provide excellent feedback, guidance – and in some cases, direction – to make necessary corrections to the report, or conduct further investigation.

Prior to our October 2016 site visit, we requested specific information regarding the status of delinquent cases in Districts and Divisions. We received memorandums from each District and Division, and a number of emails and other communications that had been sent out to District and Division command staff regarding these cases. During our October 2016 site visit, in addition to meeting with PSB regarding case concerns, we met with all District and Division Commanders to discuss both delinquent and deficient administrative investigations. We stressed the importance of these investigations, explained our review process, and emphasized that improvement must occur for MCSO to attain compliance with those Paragraphs related to administrative investigations. This meeting was also attended by a Deputy Chief and the

Executive Deputy Chief, who emphasized that these investigations needed to be properly and expeditiously completed. When we asked what the consequences would be for not having these delinquent investigations completed, their response was that as this point, mandatory attendance at the site visit meeting was the consequence. This response was troubling, and highlights the lack of understanding on the part of executive staff regarding the basic concepts of holding personnel accountable.

During this reporting period, we reviewed 66 cases involving 88 sworn, Posse, or reserve personnel that were submitted in compliance with the requirements of Paragraph 32. There were 137 potential policy violations. Fifty-nine of the cases were completed prior to the Second Order. Seven cases were completed after July 20, 2016.

Eighteen of the 66 investigations resulted in sustained violations against one or more employees. While we agreed with all of the sustained findings, we disagreed with the discipline imposed in five of the cases, all of which were completed prior to the Second Order. Discipline in the 18 cases included, one termination (Posse member); one 16-hour suspension; six written reprimands; eight coaching sessions, one verbal counseling, and one informal training.

Of the 59 cases completed prior to July 20, 2016, 32 of the investigations were not completed within the 60 or 85 days required by MCSO policy. Nineteen cases were not reviewed and finalized within the 180-day timeframe. While many of these cases are those that are still being completed from 2014 and 2015, there were also a number of cases initiated during 2016 that were not completed within the required timeframes. Four of the seven cases completed after July 20, 2016 were not completed within the required timeframes.

PSB investigated seven of the cases submitted for review for compliance with this Paragraph, four of which were completed after the July 20, 2016 Order. We found no serious concerns in any of the three cases completed prior to July 20, 2016. The investigations were thorough and well-documented, and the findings were supported by the investigations. We agree with all of the findings in these cases and continue to note the positive efforts of PSB. None of the four cases investigated by PSB after July 20, 2016 was in full compliance with the Second Order. While we again found these investigations to be generally properly investigated and well-written, they were missing a number of the compliance requirements in the Second Order. We did not find any cases where we believe PSB should have arrived at a sustained finding, but failed to do so. The specific deficiencies related to the Second Order will be addressed in later Paragraphs of this report.

During a meeting with PSB personnel after our October 2016 site visit, we advised them of the required elements that were consistently missing from the reports completed after July 20, 2016. They advised us that they would be revising the checklist to include these areas once the new policies are finalized. In the interim, they will add this information to the narrative of the report in future investigations.

District or Enforcement Support Bureau personnel completed 59 of the cases we reviewed for this Paragraph. We continued to see concerns with the quality of the investigations and the findings, in addition to those cases that were not completed within the required timeframes. Of the 59 cases we reviewed, we had concerns with 17, and we disagreed with the findings in 12 of the cases. Our level of concern has not decreased since the previous reporting period. As with

the four PSB investigations completed after July 20, 2016, the three District cases that were completed after July 20, 2016 also had a number of deficiencies specifically related to the requirements of the Second Order.

While there has been some improvement in the overall completion of administrative investigations at the District and Division level during this reporting period, compliance remains unacceptable. Compliance is not the sole responsibility of PSB, but is dependent on all those who complete, review, or approve these investigations. The leadership of the organization must provide proper oversight and ensure that there are consequences for those who continue to fail to comply with these requirements. The requirements of the Second Order dictate additional requirements, and will require an even greater commitment from MCSO to attain compliance. The failure to properly and expeditiously address misconduct complaints remains a disservice to the community and to the MCSO employees who are subjects of these complaints.

As during our October 2016 site visit, we will meet with PSB, District, and Division command personnel during our next site to discuss MCSO's compliance with this Paragraph. While policies may be finalized and approved during the next reporting period allowing for Phase 1 compliance, we will not find MCSO in Phase 2 compliance with this Paragraph until MCSO addresses the substantive issues we continue to find in our reviews of MCSO's internal investigations.

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.*

Phase 1: Not in compliance

- CP-8 (Preventing Racial and other Bias-Based Policing), most recently amended November 17, 2015.
- GH-2 (Internal Investigations), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.

Phase 2: Not in compliance

The Monitoring Team has previously reviewed 25 administrative investigations relevant to compliance with this Paragraph. We have disagreed with the findings in five cases and noted other concerns, including the appropriateness of a disciplinary sanction, and a two-year delay in conducting an investigation. We have continued to discuss our concerns with these investigations with PSB personnel during our site visits.

During this reporting period, MCSO completed and submitted two administrative investigations in compliance with this Paragraph. Both were conducted by PSB personnel.

The first case was initiated and completed prior to the Second Order, and therefore, was not investigated as a Class Remedial Matter (CRM).³ This case involved several allegations. The complainant alleged that the principal in this investigation targeted him for a vehicle stop based on observing that the complainant appeared to be Latino and had numerous tattoos. The complainant alleged that it was only after the stop that the principal determined that the complainant's vehicle license plate was suspended. He alleged that the principal put faulty information on the citation and should not have towed his vehicle. He also alleged that the principal drove by his residence several times in the days following the traffic stop without any reason to do so.

We have thoroughly reviewed the misconduct investigative report, CAD data, citations issued, vehicle tow information, audio and video recordings of interviews, and the TraCS data on this employee. None of the allegations made by this complainant that were investigated by MCSO were supported by the documentation we reviewed. The documentation shows that the principal ran the license plate prior to stopping the vehicle, properly cited the complainant for both driving on a suspended license and for suspended plates, and impounded the vehicle as required by A.R.S. 28-3511 that mandates a vehicle tow in these circumstances. The principal could have cited the complainant for the additional violation of not having a child properly restrained in a child safety device, and could have arrested and booked the complainant for the suspension violations. He did neither. There was no allegation that the principal used any racial slurs or other inappropriate language during the stop that might have indicated any racial bias.

The investigator failed to address the allegation made by the complainant that the principal had driven by his residence several times in the days following the stop, referring to this activity as "stalking." The complainant clearly made this allegation during the phone contact he had with the lieutenant who took the initial complaint and it should have been addressed in the investigation. This is an example of a needless omission that when aggregated brings about community suspicion and concern about the agency. We will discuss this case with PSB personnel during our next site visit.

The second case reviewed for this reporting period was completed after July 20, 2016. The complainant alleged that MCSO personnel had targeted her based on her political beliefs and her ethnicity (Irish). The allegations were investigated and properly unfounded. As with the cases in Paragraph 32, there were several issues with compliance with the requirements of the Second Order noted in this investigation.

PSB closed two additional cases this reporting period that involved bias policing allegations. Both of these cases were closed after July 20, 2016 and were determined to be CRMs. They will be reported in the Paragraphs related to CRMs later in this report.

We have now reviewed 27 administrative investigations relevant to Phase 2 compliance with this Paragraph. MCSO is not in Phase 2 compliance based on the deficiencies we have found

³ A Class Remedial Manner is defined in the Second Order as "possible misconduct involving members of the Plaintiff class and the MCSO or the remedies to which such class members are entitled as set forth in the Findings of Fact and various supplemental orders of this Court."

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

***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.*

Phase 1: In compliance

- GA-1 (Development of Written Orders), published on November 7, 2015.

Phase 2: In compliance

MCSO policy GA-1 states, “The Policy Section shall conduct an annual policy review of all Critical Policies, as well as the specific policies related to relevant court orders or judgments. The purpose of this annual review is to ensure that the policies provide effective direction to Office personnel and remain consistent with any court order or judgment, current law, and professional standards. The annual review shall be documented in writing.”

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

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

MCSO submitted its second annual policy review, a section of its 2016 Annual Compliance Report, on September 15, 2016. The report covers the period of July 1, 2015 through June 30, 2016. It also briefly describes MCSO’s four-step process for the review and revision of policies; and lists the Order-related policies, Briefing Boards, and Administrative Broadcasts issued during that time period.

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

Section 5: Pre-Planned Operations

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

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

COURT ORDER VI. PRE-PLANNED OPERATIONS

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

Phase 1: In compliance

- Special Investigations Division Operations Manual, published May 15, 2015.
- Special Investigations Division Organizational Chart, published February 15, 2015.
- Memorandum from Executive Chief Trombi to Deputy Chief Lopez directing the elimination of the Criminal Employment Unit, dated January 6, 2015.

Phase 2: In compliance

To verify Phase 2 compliance with this Paragraph, we confirmed that the Criminal Employment Unit (CEU) has been disbanded and removed from the Special Investigations Division organizational chart. The Human Smuggling Unit (HSU) has also been disbanded and personnel reassigned to the Anti-Trafficking Unit (ATU).

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

During this reporting period, MCSO reported that it did not engage in any investigations of human smuggling and did not make any arrests for immigration or other human smuggling violations. The continued focus on narcotics crimes by the ATU is demonstrated in the monthly reports we review that reflect documentation of these types of investigations and arrests.

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.*

Phase 1: In compliance

- GJ-33 (Significant Operations), most recently revised November 18, 2015.

Phase 2: In compliance

Since the requirements for conducting significant operations were implemented, MCSO has reported conducting only one significant operation that invoked the requirements of this Paragraph. “Operation Borderline” was conducted from October 20-27, 2014, to interdict the flow of illegal narcotics into Maricopa County. MCSO met all the requirements of this Paragraph during this operation.

During February 2016, we became aware of “Operation No Drug Bust Too Small,” and requested details on this operation from MCSO. After reviewing the documentation regarding this operation, we were satisfied that it did not meet the reporting requirements of this Paragraph.

For this reporting period, MCSO reported that it did not conduct any significant operations or patrols that require reporting under the requirements of this Paragraph.

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.*

Phase 1: In compliance

- GJ-33 (Significant Operations), most recently revised November 18, 2015.

Phase 2: In compliance

Since September 2014, we have reviewed all of the documentation submitted by MCSO regarding the only significant operation MCSO has reported conducting. This operation, conducted from October 20-27, 2014 was intended to interdict the flow of illegal narcotics into Maricopa County and fully complied with the requirements of this Paragraph.

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

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

- a. documentation of the specific justification/reason for the operation, certified as drafted prior to the operation (this documentation must include analysis of relevant, reliable, and comparative crime data);*
- b. information that triggered the operation and/or selection of the particular site for the operation;*
- c. documentation of the steps taken to corroborate any information or intelligence received from non-law enforcement personnel;*
- d. documentation of command staff review and approval of the operation and operations plans;*
- e. a listing of specific operational objectives for the patrol;*
- f. documentation of specific operational objectives and instructions as communicated to participating MCSO Personnel;*
- g. any operations plans, other instructions, guidance or post-operation feedback or debriefing provided to participating MCSO Personnel;*
- h. a post-operation analysis of the patrol, including a detailed report of any significant events that occurred during the patrol;*
- i. arrest lists, officer participation logs and records for the patrol; and*
- j. data about each contact made during the operation, including whether it resulted in a citation or arrest.*

Phase 1: In compliance

- GJ-33 (Significant Operations), most recently revised November 18, 2015.

Phase 2: In compliance

Since the publication of the Significant Operations policy, MCSO has reported conducting only one significant operation, "Operation Borderline," in October 2014. At the time of this operation, we reviewed MCSO's compliance with policy; attended the operational briefing; and verified the inclusion of all the required protocols, planning checklists, supervisor daily checklists, and post-operation reports. MCSO was in full compliance with this Paragraph for this operation.

During this reporting period, MCSO again reported that it did not conduct any significant operations invoking the requirements of this Paragraph.

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

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

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

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

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

Phase 1: In compliance

- GJ-33 (Significant Operations), most recently revised November 18, 2015.

Phase 2: In compliance

Since MCSO developed the Significant Operation Policy in 2014, MCSO has reported conducting only one operation, "Operation Borderline," that required compliance with this Paragraph. We verified that MCSO utilized the appropriate protocols and made all required notifications. MCSO was in full compliance with this Paragraph during this operation.

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

MCSO has continued to report that MCSO has not conducted any operations that meet the reporting qualifications for this Paragraph since October 2014.

Section 6: Training

COURT ORDER VII. TRAINING

a. General Provisions

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

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

Phase 1: Not in compliance

- 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: Deferred

To verify Phase 2 compliance with this Paragraph, we reviewed the files – including the resumes – of 14 proposed instructors for the 2016 Annual Combined Training (ACT) for consistency with the requirements of this Paragraph. We noted that each proposed instructor appeared to be competent and possessed the requisite law degree. During our July 2016 site visit, MCSO informed us that it planned to use the Bid Sync system to procure instructors for the 2016 ACT and to facilitate the payment of instructors acquired for this training. We did not oppose the use of this process, and MCSO reaffirmed its intent to conform to the Section IV review process of the Order for instructor selection. All of these instructors are vendors to MCSO, and therefore did not require a PSB review.

The Monitoring Team and the Parties approved the 2016 ACT instructor list on September 12, 2016. One additional instructor was approved on September 22, 2016 to assist in the training delivery. Prior to coming on board, this instructor was required to observe a class delivered by an approved instructor.

No other instructors for Order-related training were identified during this reporting period.

There were no Field Training Officers identified during this reporting period.

The Training Division did not conduct annual PSB reviews of incumbent instructors during this reporting period. We will continue to conduct further reviews of instructor files for content and consistency with the requirements of GG-1.

Although GG-1 (Peace Officer Training Administration) and GG-2 (Detention/Civilian Training Administration) were not published during this reporting period, to its credit, MCSO continues to utilize the instructor selection criteria established in these draft policies.

The Training Division Operations Manual was also not published during this reporting period. Upon publication of GG-1 and GG-2, MCSO will achieve Phase 1 compliance while pursuing the completion and approval for the Training Division Operations Manual.

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.*

Phase 1: Not in compliance

- 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: Deferred

To verify compliance with this Paragraph, we reviewed the most recent version of GG-1. MCSO incorporated all of the Parties' recommendations related to student tests, instructor critiques, and course evaluations. During our October 2016 site visit, Training Division command personnel provided a draft course evaluation document, requesting a review and comment from our Team. Encouragingly, this document demonstrates the Training Division command's implementation of the training cycle. We provided comments and recommendations on this document to assist in its further development.

During this reporting period, MCSO delivered one class of the 2014 Detention, Arrests, and Immigration Related Laws, and Bias Free Policing training. Thirty-five Posse applicant personnel attended the class. Three students failed the initial testing but were successful after completing the remedial test.

MCSO delivered 11 classes of the 2016 Annual Combined Training (ACT) during this reporting period. One Train-the-Trainer class was delivered to 11 instructors, all of whom are vendors to MCSO. A total of 182 personnel (131 sworn, five reserve, one retired reserve, and 45 Posse) received the training; and all successfully completed testing. The 2016 ACT training program will continue into the next reporting period.

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.

MCSO delivered four classes of the 2016 Supervisor Responsibilities: Effective Law Enforcement (SRELE) training during this reporting period; 100 sworn personnel received the training. All personnel successfully completed testing. All supervisory personnel have now received the first delivery of the required supervisory training, absent the misconduct investigatory component.

MCSO did not deliver the 2014 EIS “Blue Team Entry System for IAPro” training during this reporting period. Neither the revised lesson plan nor a testing tool was approved during this reporting period.

MCSO delivered one class of TraCS training during this reporting period. One sworn person successfully completed the test. MCSO advised us that the TraCS lesson plan and test remain under revision.

MCSO delivered one class of Body-Worn Camera Training during this reporting period. One sworn person successfully completed the test. MCSO advised us that the Body-Worn Camera training lesson plan and test remain under revision.

MCSO delivered one class of the 2016 Administrative Investigations Checklist class. One supervisor attended the class and successfully completed the test.

***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.*

Phase 1: Not in compliance

- 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: Deferred

To verify compliance with this Paragraph, we reviewed the current Master Training Calendar. The use of this calendar has been incorporated into the latest revisions to GG-1. MCSO appears to have addressed previously identified inaccuracies in the calendar. During our most recent site visit, MCSO advised us that responsibility for the maintenance and accuracy of this document has been assigned to a command person within the Training Division. We continue to recommend that MCSO include projected training dates to assist in maintaining timely training development. We note that the calendar provided to us prior to the end of this reporting period began on October 3, 2016 and ends on October 8, 2017. Between January 1, 2017 and April 6, 2017, there are only Detention classes indicated. Between January 1, 2017 and October 8, 2017, no tentative dates for Order-related training are indicated.

The Sworn Master Roster – September Report indicates that MCSO has 726 sworn personnel who are required to receive Order-related training. This number reflects a decrease of 13 personnel.

The Reserve Master Roster – September Report indicates that 33 reserve personnel are required to receive Order-related training. This represents an increase of two personnel.

The Retired Reserve Master Roster – June Report indicates that 35 retired reserve personnel will be required to receive Order-related training. This represents an increase of eight personnel.

The Posse Roster – September Report indicates that 793 Posse personnel will be required to receive Order-related training. This represents a decrease of 27 personnel.

The Supervisor Responsibilities: Effective Law Enforcement (SRELE) Mandatory Attendance Roster – July indicates that a total of 187 supervisors (17 Captains, five Deputy Chiefs, 37 lieutenants, and 128 sergeants) are required to receive Order-related Supervisory Training programs.

2016 Supervisor Responsibilities: Effective Law Enforcement Training was delivered four times during this reporting period to 100 supervisory personnel.

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

MCSO delivered one 2015 TraCS Training to one sworn person during this reporting period.

MCSO delivered one 2015 Body-Worn Camera Training to one sworn person during this reporting period.

MCSO delivered one 2016 Administrative Investigations Checklist Training to one supervisory person during this reporting period.

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

Phase 1: Not applicable

Phase 2: In compliance

To verify compliance with this Paragraph, we reviewed all newly developed lesson plans, as well as all of the lesson plans being revised. Additionally, the most recent version of GG-1 includes language to address the requirements of this Paragraph by including adult-learning methodology.

The EIS2 curriculum was not reviewed or approved during this reporting period.

The Body-Worn Camera curriculum was not reviewed or approved during this reporting period.

The TraCS curriculum was not reviewed or approved during this reporting period.

***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.*

Phase 1: Not applicable

Phase 2: In compliance

MCSO has embraced the training cycle concept and used it extensively during this reporting period. The adoption of this process has enhanced the timely production of training materials.

Supervisory Training:

MCSO delivered the 2016 Supervisory Training to 100 of 186 personnel during this reporting period.

EIS Blue Team Training:

MCSO did not deliver the 2015 EIS Blue Team Training during this reporting period. The EIS2 lesson plan is currently under review by the Parties and us.

TraCS Training:

MCSO delivered the 2015 TraCS Training to one sworn person during this reporting period.

The TraCS lesson plan is currently under review by the Training Division.

Body-Worn Camera Training:

MCSO delivered the 2015 Body-Worn Camera Training to one sworn person during this reporting period.

The Body-Worn Camera Training lesson plan is currently under review by the Training Division.

Administrative Investigations Checklist Training:

MCSO delivered the 2015 Administrative Investigations Checklist Course to one supervisor during this reporting period.

Annual Combined Training:

MCSO delivered 11 classes of the 2016 ACT training to 182 personnel (131 sworn, five reserve, one retired reserve, 45 Posse) during this reporting period.

During this reporting period, MCSO continued to actively engage our Team while we provided technical assistance and jointly developed lesson plans and other training documents. For the training delivered during this reporting period, MCSO followed the curriculum and instructor review process.

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.

Phase 1: Not in compliance

- 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: Deferred

During our most recent site visit, Training Division personnel informed us about the status of the forthcoming Countywide implementation of Cornerstone, an online learning management software that MCSO had originally anticipated would be operational in late summer 2016. Once implemented, Cornerstone may positively impact the manner in which the Training Division accomplishes its mission.

Currently, the Training Division believes that a projected January 2017 implementation date is unrealistic, and maintains that February may be better suited for beta-testing. The implementation was delayed, in part, by a licensing issue that took five months to resolve. During our October site visit meetings, CID personnel were unable to provide a status of the MCSO IT gap analysis, and IT personnel were unable to attend our meetings to provide further insight. Training personnel believe the system interface is more user-friendly for supervisors and provides greater interactivity with PowerPoint programs for training program developers. The use of this system should provide the Training Division with a comprehensive annual review of lesson plans, supporting documents, and post-analysis of all training programs. With the publishing of GG-1 and GG-2, and the continued use of the 7-Step Training Cycle, the annual update for each lesson plan with new developments in law, participant feedback, and comments, training evaluations, and internal review processes will become standardized.

During our most recent site visit, the Training Division provided us with a draft course evaluation it sought comments on. The Training Division is continuing to develop tools consistent with the 7-Step Training Cycle that will enhance MCSO's training program and ability to conduct thorough updates.

The TraCS lesson plan is currently under review by the Training Division.

The Body-Worn Camera lesson plan is currently under review by the Training Division.

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

B. Bias-Free Policing Training

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

Phase 1: Not applicable

Phase 2: In compliance

During this reporting period, MCSO delivered one class of the 2014 Detention, Arrests, and Immigration Related Laws, and Bias Free Policing training; 35 Posse applicant personnel attended the class. Three students failed the initial testing but were successful after completing the remedial test.

MCSO delivered 11 classes for the 2016 Annual Combined Training (ACT) during this reporting period. One Train-the-Trainer class was delivered to 11 instructors, all of whom are vendors to MCSO. A total of 182 personnel (131 sworn, five reserve, one retired reserve, and 45 Posse) received the training. All personnel successfully completed testing. The 2016 ACT training program will continue into the next reporting period.

MCSO remains in compliance because of the initial 2014 Bias-Free Policing and Detentions, Arrests, and Immigration Related Laws training that commenced in September 2014; the initiation of the 2015 Annual Combined Training that commenced in December 2015 and was completed in June 2016; and the current delivery of the 2016 ACT.

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: Not applicable

Phase 2: In compliance

MCSO delivered 11 classes for the 2016 Annual Combined Training (ACT) during this reporting period. One Train-the-Trainer class was delivered to 11 instructors, all of whom are vendors to MCSO. A total of 182 personnel (131 sworn, five reserve, one retired reserve, and 45 Posse) received the training. All personnel successfully completed testing. The 2016 ACT Training program will continue into the next reporting period.

MCSO remains in compliance because of the initial 2014 Bias-Free Policing and Detentions, Arrests, and Immigration Related Laws training that commenced in September 2014; the initiation of the 2015 Annual Combined Training that commenced in December 2015 and was completed in June 2016; and the current delivery of the 2016 ACT.

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

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

Phase 1: Not applicable

Phase 2: In compliance

During this reporting period, MCSO delivered one class of the 2014 Detention, Arrests, and Immigration Related Laws, and Bias Free Policing training; 35 Posse applicant personnel attended the class. Three students failed the initial testing but were successful after completing the remedial test.

MCSO delivered 11 classes for the 2016 Annual Combined Training (ACT) during this reporting period. One Train-the-Trainer class was delivered to 11 instructors, all of whom are vendors to MCSO. A total of 182 personnel (131 sworn, five reserve, one retired reserve, and 45 Posse) received the training. All personnel successfully completed testing. The 2016 ACT training program will continue into the next reporting period.

MCSO remains in compliance because of the initial 2014 Bias-Free Policing and Detentions, Arrests, and Immigration Related Laws training that commenced in September 2014; the initiation of the 2015 Annual Combined Training that commenced in December 2015 and was completed in June 2016; and the current delivery of the 2016 ACT.

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: Not applicable

Phase 2: In compliance

During this reporting period, MCSO delivered one class of the 2014 Detention, Arrests, and Immigration Related Laws, and Bias Free Policing training; 35 Posse applicant personnel attended the class. Three students failed the initial testing but were successful after completing the remedial test.

MCSO delivered 11 classes for the 2016 Annual Combined Training (ACT) during this reporting period. One Train-the-Trainer class was delivered to 11 instructors, all of whom are vendors to MCSO. A total of 182 personnel (131 sworn, five reserve, one retired reserve, and 45 Posse) received the training. All personnel successfully completed testing. The 2016 ACT training program will continue into the next reporting period.

MCSO remains in compliance because of the initial 2014 Bias-Free Policing and Detentions, Arrests, and Immigration Related Laws training that commenced in September 2014; the initiation of the 2015 Annual Combined Training that commenced in December 2015 and was completed in June 2016; and the current delivery of the 2016 ACT.

d. Supervisor and Command Level Training

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

Phase 1: Not applicable

Phase 2: In compliance

MCSO delivered four classes of the 2016 Supervisor Responsibilities: Effective Law Enforcement (SRELE) training during this reporting period; 100 sworn personnel received the training during this reporting period. All personnel successfully completed testing. All supervisory personnel have now received the first delivery of the required supervisory training, absent the misconduct investigatory components.

This lesson plan was approved without the inclusion of the requirements of Paragraph 53.i. and j. Misconduct investigative training is currently under development in conjunction with our Team and will include the requirements of Paragraphs 53.i. and j.

***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: Not applicable

Phase 2: In compliance

MCSO delivered four classes of the 2016 Supervisor Responsibilities: Effective Law Enforcement (SRELE) training during this reporting period; 186 of 187 supervisory personnel received the training and successfully completed the class during this and the previous reporting period.

Misconduct investigative training is currently under development in conjunction with our Team and will include the requirements of Paragraphs 53.i. and j.

Section 7: Traffic Stop Documentation and Data Collection

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

For Paragraphs 54 and 55, in particular, the Monitoring Team requests traffic stop data from MCSO. The following describes how we made that request and how we handled the data once we received it. These data may also be referred to in other areas of Section 7 and the report as a whole.

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

The monthly sample of traffic stop cases continues to be pulled from the six Districts (Districts 1, 2, 3, 4, 6, and 7) and Lakes Patrol. By way of background, MCSO reported a total of 6,354 cases of traffic stop events for these areas between July 1, and September 30, 2016 (averaging 2,281 per month).

Once we received files each month containing traffic stop case numbers from MCSO, denoting from which area they came, we selected a sample of up to 35 cases representing the areas and then selected a subsample averaging 10 cases, from the 35 selected cases, to obtain CAD audiotapes and body-worn camera recordings. Our sampling process involved selecting a sample of cases stratified by the areas according to the proportion of specific area cases relative to the total area cases. Stratification of the data was necessary to ensure that each area was represented proportionally in our review. Randomization of the cases and the selection of the final cases for CAD review were achieved using a statistical software package (IBM SPSS Version 22), which contains a specific function that randomly selects cases and that also allows cases to be weighted by the areas. Our utilization of SPSS required that we first convert the MCSO Excel spreadsheet into a format that would be readable in SPSS. We next pulled the stratified sample each month for the areas and then randomly selected a CAD audio subsample from the selected cases. In February 2016, we began pulling cases for our body-worn camera review from the audio subsample. The unique identifiers for these two samples were relayed back to MCSO personnel, who produced documentation for the selected sample (including the CAD documentation for the subsample).

On October 10, 2014, the Court issued an Order Granting Stipulation to Amend Supplemental/Permanent Injunction/Judgment Order (Document 748). The stipulation affects Paragraphs 57, 61, 62 and Paragraph (1) (r) (xv); and has been incorporated in the body of this report. The stipulations referenced amends the Court's Order of October 2, 2013, and will be addressed in Section 7.

a. Collection of Traffic Stop Data

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

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

Phase 1: In compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), most recently amended December 17, 2015.
- EB-2 (Traffic Stop Data Collection), most recently amended October 29, 2015.
- EA-5 (Enforcement Communications), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EA-11 (Arrest Procedures), most recently amended June 5, 2016.
- CP-8 (Preventing Racial and other Bias-Based Policing), most recently amended November 17, 2015.
- GJ-3 (Search and Seizure), published September 16, 2006.

Phase 2: Not in compliance

To verify the information required for this Paragraph, MCSO created, and we reviewed, the Vehicle Stop Contact Form (VSCF), the Vehicle Stop Contact Form Supplemental Sheet, the Incidental Contact Receipt, and the Written Warning/Repair Order, all in electronic form, for those motorists who, during this reporting period, committed a traffic violation or operated a vehicle with defective equipment and received a warning. We also reviewed the Arizona Traffic Ticket and Complaint Forms issued for violations of Arizona Statutes, Internet I/Viewer Event Unit printout, Justice Web Interface printout, and any Incident Report associated with the event. We selected a sample of 105 traffic stops conducted by MCSO deputies from July 1, through September 30, 2016 for purposes of this review; and assessed the collected data from the above-listed documents for compliance with Subparagraphs 54.a.-54.m. All of the listed documentation was used for our review of the following subsections of this Paragraph.

The Paragraph requires that MCSO create a system for data collection. The data collected pursuant to this Paragraph will be captured in the Early Identification System, which we discuss further in subsequent sections of this report.

Paragraph 54.a. requires MCSO to document the name, badge/serial number, and unit of each deputy and Posse member involved. Our review indicated that in the 105 vehicle traffic stops, there were 26 cases where the deputy's unit had another deputy assigned to the vehicle or one or more other deputy units or Posse members were on the scene (162 total deputies or Posse members on the scene). In three cases involving secondary units who arrived on the scene, the deputies' names, serial and unit numbers were not listed on the VSCF. In one of these cases, a white male was stopped for an expired registration and issued a citation. A Posse member was on the scene, and his name was not documented on the VSCF but listed on the CAD printout as being present during the stop. In the second traffic case, a white male was stopped for speeding and issued a citation. The primary deputy failed to list the Posse member who was on the scene on the VSCF. In the third case, involving a teenage white female and a second vehicle that were racing, there were five secondary units who arrived on the scene, and one of the units was not listed on the VSCF. Due to the nature of the pursuit and the other units involved, the primary deputy may not have known about the presence of the fifth deputy.

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

The identity of personnel on scenes is a core issue in this case, and we shall consistently evaluate the agency's measure of compliance with this requirement. The Order requires that all deputies on the scene be identified with their names, serial and unit numbers on the appropriate forms. We found that the deputies' names, and serial and unit numbers, were listed, with few exceptions, on all required forms and identified on the Vehicle Stop Contact Form. We noted three instances where the primary deputy did not list the name, serial number, or unit number on the VSCF. MCSO's compliance rate remains at 98% for this reporting period.

Paragraph 54.b. requires MCSO to document the date, time, and location of the stop, recorded in a format that can be subject to geocoding. Our reviews of the CAD printout for all 105 traffic stops in our sample indicated that the date, time, and location is captured with the time the stop is initiated and the time the stop is cleared. In previous reporting periods, we noted instances where the GPS coordinates could not be located on the documentation received (CAD printout/I/Viewer). We contacted MCSO about this issue, and MCSO is now providing us with the GPS coordinates by way of a separate document that lists the coordinates for the traffic stop samples we provide. MCSO uses GPS to determine location for the CAD system. GPS collects coordinates from three or more satellites to enhance the accuracy of location approximation. The data from the satellites can be decoded to determine the longitude and latitude of traffic stop locations should that be necessary. We had recommended that BIO conduct an inspection of GPS coordinates during its monthly audits of the traffic stop data. During our quarterly site visits, we review the GPS coordinates with CID personnel to ensure the accuracy of the data. The CAD system was upgraded in 2014 to include geocoding of traffic stops. CID continues to provide us with a printout of all case numbers in the sample containing the associated coordinates. The CAD or I/Viewer system contains the coordinates in about 90% of the cases. MCSO provided GPS coordinates for 104 cases we reviewed, for 99% compliance.

Occasionally the CAD time of stop and end of stop time do not exactly match those listed on the Vehicle Stop Contact Form due to extenuating circumstances the deputy may encounter. During this reporting period, we found two instances where the start or end time on the Vehicle Stop Contact Form differed by five minutes or more from the CAD printout without any explanation from the deputy involved in the stop. BIO identified both these deficiencies during BIO's audit of the quarterly traffic stop inspection. The CAD system is more reliable than the VSCF in determining stop times, as it is less prone to human error. When the deputy verbally advises dispatch that s/he is conducting a traffic stop, the information is digitally time-stamped into the CAD system without human input; and when the deputy clears the stop, s/he again

verbally advises dispatch. During our April 2016 site visit, we discussed with ASU and MCSO the possibility of utilizing the CAD printout instead of the TraCS data to determine stop times. We determined that utilizing the CAD system to determine stop end times created additional challenges. However, a decision was made to utilize the CAD printout to determine traffic stop beginning and ending times for data analysis. MCSO issued Administrative Broadcast 16-62 on June 29, 2016 that indicated beginning with the July 2016 traffic stop data collection, the stop times captured on the CAD system would be used for reporting and analytical purposes. TraCS will automatically access the CAD system and return the following fields from the Incidental Contact Form, Citation or Warning through the auto-populate feature when an Event Number (MC#) is entered:

- Incident Number (if available);
- Event Date;
- Event Type (Radio Code);
- Primary Unit;
- Contact End Time.

This change should ensure the end time of the stop from the CAD system and VSCF should match. MCSO's compliance rate is 99% for this portion of the Subparagraph.

Paragraph 54.c. requires MCSO to document the license plate and state of the subject vehicle. In our last seven quarterly status reports, we noted improvement in deputies' ability to capture this information. During this reporting period, we found that deputies properly recorded the vehicle tag number and state of issuance in 102 cases. In two cases, the deputy advised dispatch of an incorrect tag number (one letter or number was incorrect), but corrected the mistake in CAD after realizing the error. In the third case, involving a white female driver stopped for speeding, the deputy documented a tag number on the VSCF but queried a different tag check through the CAD and Intergraph I/Viewer systems. We could not detect the reason for the separate query in the documentation we reviewed. The sample included four stops where the vehicles were titled in another state and six drivers were licensed in other states. As in our previous reports, we found that many of the stops made by deputies were for speeding, invalid license plates, or expired vehicle registrations. MCSO is in compliance with this Subparagraph, with a compliance rate of 99%.

Paragraph 54.d. requires MCSO to document the total number of occupants in the vehicle when a stop is conducted. In 34 of the 105 traffic stops, more than one occupant occupied the vehicle (59 total passengers). The Vehicle Stop Contact Form, completed by the deputy on every traffic stop, is used to capture the total number of occupants and contains a separate box on the form for that purpose. Policy EB-2 (Traffic Stop Data Collection Procedures) requires deputies to collect data on all traffic stops using the MCSO VSCF; this includes incidental contacts with motorists. (See Para 54.f.) Our review of the sample data indicates that deputies identified the correct number of vehicle occupants. MCSO's compliance rate is 100% for this Subparagraph.

Paragraph 54.e. requires MCSO to document the perceived race, ethnicity, and gender of the driver and any passengers, based on the deputy's subjective impression. (No inquiry into the

occupant's ethnicity or gender is required or permitted.) In 34 of the 105 stops, there was more than one occupant in the vehicle (59 passengers). There were two stops where passengers were not identified. One stop resulted in an Incidental Contact Form being completed. In this stop, the deputy observed a vehicle with an expired registration and ran a rolling tag check. As the deputy approached the vehicle he observed a valid temporary license plate in the rear window and issued an Incidental Contact Form. The vehicle contained 3 passengers but the deputy only identified two. In the second case the deputy conducted a stop for defective equipment. The driver, a Latina, advised the deputy she was never issued a driver's license. The deputy cited the driver for not having a license and issued a warning for the equipment violation. The three passengers were Latino, but the deputy only identified two by ethnicity and gender. The compliance rate for identifying the race/ethnicity and gender of the driver is 100%.

Our previous reviews of passenger contacts, drawn from the sample of 105 traffic stops, did not provide a sufficient number of cases where deputies made contact with passengers. Therefore, we requested that MCSO provide us, from the TraCS data, all cases where deputies made contact with passengers. We then pulled a sample of 10 cases per month (30 per quarter) of those stops where deputies made contact with a passenger (the cases of passenger contacts are detailed in Paragraph 25d).

When a deputy indicates two or more passengers in the vehicle on the Vehicle Stop Contact Form, a drop-down box automatically displays additional boxes for the deputy to document the passengers' information. MCSO has advised us that it has instructed deputies not to indicate the word "unknown" when describing the race/ethnicity of drivers or passengers. The compliance rate for identifying the race/ethnicity and gender of the passengers is 97%.

The persons stopped included (drivers only) 52 white male drivers, 21 white female drivers, 15 Latino drivers, 10 Latina drivers, four Black male drivers, two Black female drivers, one Indian/Alaskan male driver, and two Indian/Alaskan female drivers. In the 105 stops we reviewed, two separate stops involved two drivers (107 total drivers). We did not find any indications of apparent bias in the sample of traffic stops we reviewed. In addition, when BIO conducts audits of the traffic stop data, it issues memorandums to the individual Districts so that they can learn of any deficiencies and provide corrective action. Most of the deficiencies involving identification of the race/ethnicity and gender of passengers have been corrected. We have observed continued improvement in deputies' abilities to identify the ethnicity and gender of passengers. The District Captains are required to respond to BIO with comments on violations, or with corrective action if required. We review the internal audits and associated matrices conducted by MCSO, and occasionally we disagree with their findings. During our October 2016 site visit, we reviewed the July and April 2016 TraCS deficiencies discovered in MCSO's audits and in our review of the documentation. BIO provided us with the corresponding Action Forms returned by the Districts in response to those deficiencies.

There were 37 instances where deputies elected to issue warnings to drivers instead of issuing citations. Thirty-five percent of the 105 traffic stops we reviewed resulted in a written warning. The ethnic breakdown of those receiving warnings somewhat reflected the numbers indicated in the number of total stops. The breakdown of those motorists issued warnings is as follows: 14 white males (27% of the total white males stopped); 10 white females (48% of the total white females stopped); five Latino males (33% of the Latino males stopped); three Latina females

(30% of the Latina females stopped); three Black males (75% of the Black males stopped); and one Black female (50% of the Black females stopped). The three Indian/Alaskan drivers stopped all were issued citations. White male drivers had the lowest percentage of receiving warnings. We have observed in all our previous reports, and borne out by ASU's First Annual Report, that Indian/Alaskan drivers appear to receive a higher number of citations relative to warnings than other races/ethnicities (three Indian/Alaskan drivers in the sample). We will continue to evaluate this trend in the next reporting period.

We reviewed the Action Forms BIO forwards to the District Commanders when their audits find deputies were not following protocol when completing required documentation. The Order requires MCSO deputies to document the perceived race, ethnicity, and gender of any passengers whether contact is made with them or not. MCSO has been aware via BIO audits of the deputies' failure to indicate the race/ethnicity of passengers when no contact is made with them. A technical change was made to TraCS that includes a drop-down box on the VSCF to automatically add additional passenger fields on the form when the deputy indicates the total number of occupants in the vehicle is more than two. We have observed that the efforts put forth by MCSO staff have improved the capture of the ethnicity and gender of passengers. The Order does not require the names of passengers unless a passenger is contacted. Then the reason for the contact must be documented. In those instances where contact is made, the passenger's name should be listed on the Vehicle Stop Contact Form.

There were a total of 166 occupants (107 drivers and 59 passengers), with two passengers not being identified by race, ethnicity, or gender. MCSO's compliance rate is 99%. MCSO remains in compliance with this Subparagraph.

Paragraph 54.f. requires that MCSO record the name of any individual upon whom the deputy runs a license or warrant check (including the subject's surname).

For this reporting period, we found that in the 105 traffic stops we reviewed, all stops included a check on the license plate. There were 88 stops where the driver or passengers had a warrant check run. There was one instance where a warrant check was run on the passenger and the query revealed three open warrants. The passenger was arrested on the warrants and booked.

The percentages of warrant checks run by deputies by ethnicity of drivers stopped for traffic violations is as follows: white males, 88%; white females, 90%; Latino males, 60%; Latina females, 90%; Black males, 75%; Black females, 50%; Indian/Alaskan males, 100%; and Indian/Alaskan females, 100%. We note that only four Black males, two Black females, one Indian/Alaskan male, and two Indian/Alaskan females were stopped in the sample we reviewed. We observed a substantial decrease (previous reporting period was 100%) from the last reporting period of warrant checks on Latino drivers. We will continue to monitor any trends in the future. MCSO provided a draft of an Administrative Broadcast that will mandate deputies to run warrant checks on the driver of the vehicle in all traffic stops. MCSO subsequently issued Administrative Broadcast 16-25 on July 29, 2016. Running queries on all drivers had been the practice, but it was not enforced by policy. The dissemination of the Administrative Broadcast should ensure that disparities between which drivers receive warrant checks are resolved. MCSO's compliance rate is 99%, and it is in compliance with this Subparagraph.

Paragraph 54.g. requires the deputy to document whether contact was made with any passengers, the nature of the contact, and the reasons for the contact. Due to the low number of cases where contact is made with passengers in our sample of 105 traffic stop cases per quarter, we pulled an additional sample for those cases involving passenger contacts. For this reporting period, we reviewed 34 traffic stops where the deputy had interaction with one or more passengers. Each passenger contact is described in detail in Paragraph 25d. There were three instances where deputies failed to document the passenger contact on the VSCF. Deputies must be explicit in their descriptions of why passengers are contacted. MCSO continues to make changes to the Vehicle Stop Contact Form to make the forms easier for the deputies to complete and capture the information required by the Order.

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

In our experience, the vast majority of traffic stops do not require contact with a passenger unless the driver is arrested, the vehicle will be towed, or there are minor children in the vehicle that will need care. If contact with a passenger is made, deputies should indicate the name of the person contacted. Due to the infrequent contact of passengers during traffic stops, deputies must be diligent in documenting passenger contacts as one or two violations have a direct impact on compliance. During previous meetings with MCSO personnel, we explored the possibility of developing a mechanism to increase the number of samples we review for compliance with the requirements of this Paragraph. MCSO advised us that the TraCS system had the ability to segregate all stops where passengers were contacted. Beginning in the first quarter of 2016, we began pulling additional samples of these cases (passenger contacts) for a more complete review. MCSO's compliance rate is 91%. Since MCSO had two successive non-compliant quarters, MCSO is not in compliance with this Subparagraph.

Paragraph 54.h. requires deputies to record, prior to the stop, the reason for the vehicle stop, including a description of the traffic or equipment violation observed, and any indicators of criminal activity developed before or during the stop. For this review, we identified a random sample of 10 cases from the 35 cases we initially requested each month, and requested CAD audio and body-worn camera (BWC) footage for those cases. We listened to 30 CAD dispatch audio recordings, and reviewed 29 body-worn camera recordings (one primary deputy failed to activate the BWC) from the sample of 105 traffic stops used for this review; and found that the deputies advised Communications of the reason for the stop, location of the stop, and license plate and state of registration for all the 30 stops.

There were 75 instances in our sample where we did not listen to the CAD audiotapes, but reviewed the CAD printout where the reason for the stop, if advised by the deputy, is documented by the dispatcher. The VSCF and the CAD printout documents the time the stop begins and when it is concluded – either by arrest, citation, or warning. There was one traffic stop that resulted in an Incidental Contact Form being completed. Deputies need to be precise when advising dispatch of the reason for the traffic stop and likewise entering that information

on the appropriate forms. Both MCSO's internal audits and our reviews in the past have identified issues with deputies entering inaccurate information on the forms. For the most part, this issue has been corrected.

MCSO's compliance rating for this Subparagraph remains at 99%. MCSO remains in compliance with this Subparagraph.

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

We found two traffic stops where the stop or end time of the stop differed by more than five minutes between the Vehicle Stop Contact Form and the CAD printout. One case involved a Latino driver who was stopped for expired registration. Upon approaching the vehicle, the deputy observed a valid temporary permit taped to the inside of the rearview window. The deputy completed an Incidental Contact Form and released the driver. The duration of this stop was eight minutes. The second case also involved a Latino driver who was stopped for a stop sign violation. The driver presented a suspended license to the deputy and was cited for a criminal traffic offense. The duration of this stop was 72 minutes due to the vehicle being towed from the scene.

Some stops vary in time for any number of reasons that may, or may not, be justified. There were 13 extended stops that were justified due to the circumstances of the stops. (See 25.g. and 25.h. for details of the extended stops.) The extended stops were justified to address the original purpose of the stop. When we review the extended stops, we examine issues such as whether a crime was involved, whether an arrest made, whether property was seized, whether the vehicle was towed, or whether there were other extenuating circumstances that caused the delay.

Supervisors, during their review of their subordinates' traffic stops, should correct deficiencies or ensure that additional training is provided. Deputies accurately entered beginning and ending times of traffic stops in 98% of cases reviewed.

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

MCSO is in compliance with this Subparagraph.

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

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

Paragraph 54.k. requires MCSO to document whether any individual was asked to consent to a search (and the response), whether a probable-cause search was performed on any individual, or whether a pat-and frisk search was performed on any individual. We pulled an additional 30 sample cases from the quarter involving searches for this review. In our review of 30 person searches, we noted one search that was not incident to arrest.

We identified four instances where a deputy made an arrest for a criminal traffic offense, and cited and released the drivers with no search:

- White female driver racing at 100 mph;
- White male driver involved in above incident;
- White male speeding at 74 mph in a 45 zone;
- White male driving 95 mph in a 65 mph zone.

Twenty-nine of the 34 searches we reviewed were incident to a valid arrest. The following list details the five exceptions:

- A Latino driver was stopped for running a red light. The driver advised the deputy that he never applied for a driver's license and was cited and the vehicle towed. The deputy indicated a "PC" search, which indicates probable cause. A review of the body-worn camera recording indicated that no search of a person occurred and the search was an inventory of the vehicle prior to it being towed.
- A Latino was stopped for failing to obey a traffic control device. Upon investigation the deputy discovered the driver had not applied for a driver's license. The vehicle was

towed and the deputy offered a courtesy ride to the driver to his place of work. The deputy conducted a pat down of the driver prior to the escort.

- A white male driver was operating his vehicle recklessly and when the deputy attempted to stop him the driver fled. After a pursuit the vehicle stopped and the deputy approached the vehicle to discover the driver had a suspended driver's license. The deputy conducted a frisk of the driver for deputy safety.
- Two Latino juveniles were operating a stolen motor vehicle. They were driving at night without lights when stopped by the deputy. The deputy conducted a person's search of both and placed them in the rear seat of his patrol vehicle. The owner of the vehicle was contacted and advised the deputy that she did not wish to prosecute. Neither occupant had any identification. The owner of the vehicle came to the scene and indicated that the juveniles "made a stupid mistake."
- A Black male was stopped for a red light violation and issued a warning for the violation. The driver was asked for a consent search; however, he was not searched. The deputy wrote "CG" on the VSCF, which indicates consent given. Body-worn camera review indicated the search was for permission to search the vehicle, not the person. The deputy did not articulate any reason why he requested to search the driver's vehicle.

There continues to be some confusion with deputies accurately documenting which type of search they are conducting. We continue to find deputies indicating incident to arrest or probable cause searches when the search is a vehicle inventory if the vehicle is being towed. During supervisors' reviews of their subordinates' traffic stops, they should provide the appropriate training when they continually find these deficiencies. MCSO is in compliance (94%) with this Subparagraph.

Paragraph 54.l. requires MCSO to document whether any contraband or evidence was seized from any individual, and the nature of the contraband or evidence. During our review of the collected traffic stop data during this reporting period, we noted six cases where deputies made a criminal traffic arrest and seized the offending driver's license or license plate and placed it in evidence. Three of the cases involved white males, two cases involved Latino males, and one case involved a white female. Deputies indicated in all cases on the Arizona Traffic Ticket and Complaint when they seized a driver's license or license plate. In four of the six cases, deputies failed to indicate on the VSCF that these items were seized, for a 33% compliance rate. There were no other stops in the traffic stop sample where contraband or evidence was seized. MCSO is not in compliance with this Subparagraph.

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

To be in full compliance with Paragraph 54 of the Order, all Subparagraphs must be in compliance. MCSO is not in compliance with this Paragraph due to Subparagraphs 54.g. and l. (passenger contacts and documenting seizures).

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.*

Phase 1 In compliance

- EB-2 (Traffic Stop Data Collection), most recently amended December 17, 2015.
- EA-5 (Enforcement Communications), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: In compliance

To verify compliance for this Paragraph, we reviewed a sample of the Vehicle Stop Contact Form, the CAD printout, the I/Viewer, the citation, warning form, and any Incident Report that may have been generated as a result of the traffic stop.

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

We visited District 3 during our October 2016 site visit, and there were no indications from any personnel that there were recurring issues with the unique identifier, including duplicates. (MCSO's Event Number that is dispatched out of Communications for every traffic stop). There were no disparities in the unique identifier in the samples we reviewed.

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

Since our first visit for monitoring purposes in June 2014, TraCS has been implemented in all Districts and the unique identifier (CFS number) is automatically entered from the deputy's MDT; no user intervention was required.

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

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.*

Phase 1: In compliance

- EB-2 (Traffic Stop Data Collection), most recently amended December 17, 2015.

Phase 2: In compliance

To verify compliance for this Paragraph, we reviewed the monthly audits of the traffic stop data conducted by BIO on the samples we selected. While audits require in-depth analysis, quality control checks serve as more of an inspection or spot-check of the data. We also reviewed the BIO traffic stop audits for the months of July-September 2016, and found that the audits were thorough and captured the majority of deficiencies. Our audit identified two additional deficiencies, and we brought them to the attention of CID while onsite; and they are contained in this report.

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

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

On September 8, 2015, MCSO issued Administrative Broadcast 15-96, which addressed the security of paper traffic stop forms. The procedure requires that paper forms (prior to April 1, 2014) be kept in a locked cabinet box at the District. Any personnel who require access to those files must contact the division commander or his/her designee who will unlock the cabinet. Once the deputy accesses his file, a TraCS file log must be completed and signed by the deputy. During our October 2016 site visit, we visited District 3 and inspected the written (paper) files and the TraCS file log. All records were locked and secure. We conducted a random review of written traffic stop data (dating back to 2014) in District 3 to ensure that the written (paper) traffic stop data was maintained for five years. Staff were able to provide the appropriate documentation in every case we requested.

MCSO began auditing traffic stop data in January 2014; and beginning in April 2014, MCSO has conducted audits of the data on a monthly basis. After the January 2014 audit, MCSO created new forms to collect, by hand, the data required by policy until full electronic data entry began on April 1, 2014. We reviewed BIO's monthly audits of the traffic samples from July 1, through September 30, 2016, and found them to be satisfactory. The approved policy also requires regularly scheduled audits on a monthly, quarterly, and annual basis. MCSO is in compliance with this Paragraph.

***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.*

Phase 1: In compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), most recently amended December 17, 2015.
- EB-2 (Traffic Stop Data Collection), most recently amended October 29, 2015.
- GJ-35 (Body-Worn Cameras), published June 24, 2015.

Phase 2: Not in compliance

To verify compliance for this Paragraph, we reviewed all TraCS forms for each traffic stop that were included in the sample. In addition, we reviewed a subset of CAD audio recordings and body-worn camera footage of the stops.

The system for providing "receipts" is outlined in EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) and EB-2 (Traffic Stop Data Collection). GJ-35 addresses the part of the Order that requires supervisors to review the recordings to check whether deputies are accurately reporting stop length. In addition to GJ-35, BIO developed a Body-Worn Camera Matrix for its inspectors to review camera recordings.

Every person contacted on a traffic stop will be provided with an Arizona Traffic Ticket or Complaint (Citation), a Written Warning/Repair Order (Warning), or an MCSO Incidental Contact Receipt. During this reporting period, we reviewed 37 of 105 traffic stops where the deputy issued a warning to the motorist for a traffic violation; and in eight cases the deputy failed to have the violator sign the Warning/Repair Form. In two cases, the deputy documented that his scanner would not scan the violator's signature; and therefore, a signature could not be obtained. In one case, a deputy stopped a female for driving around traffic on the shoulder of the road. She explained that her mother had an accident and was expediting her travel to get to her mother's aid. The deputy, so as not to delay the driver, released her without obtaining a signature. We met with CID personnel during our April 2016 site visit, and they advised that the policy would be amended, requiring deputies to secure a signature on every warning issued. Deputies captured the signature of every person who was issued a citation.

To verify compliance that the violator received the required "receipt" from the deputy, a signature is required, or, if the violator refuses to sign, the deputy may note the refusal on the form. We are unable to verify that motorists have been issued a receipt without a signature on the form or the deputy advising of the refusal of the receipt from the driver. Placing "SERVED" in the signature box without any explanation does not comply with the requirement. We acknowledge that, on some occasions during previous reviews, deputies have made an effort to document why a receipt was not obtained. For this reporting period, deputies advised that they were unable to scan violator signatures on the citation or the warning form on two occasions. MCSO's compliance for this portion of the Subparagraph is 95%. We note that deputies have made progress completing the VSCF, Arizona Traffic Complaint, and the Warning/Repair Form.

There were 69 citations, 37 warnings, and one Incidental Contact Form issued during this reporting period.

The approved policies dictate that the CAD system will be used for verification of the recording of the initiation and conclusion of the traffic stop and that MCSO will review the BWC recordings to verify that the stop times reported by deputies are accurate. The deputy verbally announces the stops initiation and termination on the radio, and then CAD permanently records this information.

During our April 2016 site visit, MCSO informed us that all deputies who conduct traffic stops have been issued body-worn cameras and they were fully operational in all but two Districts (District 4 and Lakes Patrol). MCSO advised on May 16, 2016 that all deputies and sergeants who make traffic stops are now fully equipped with body-worn cameras. We verified this assertion during our July 2016 site visit.

There were three instances in our review of 29 body-worn camera recordings where we could not verify if the stop times on the CAD printout matched the times on the BWC recordings. In the first, we noted the deputy failed to activate the BWC. In a second case, the deputy interrupted the recording during the stop. In the third case, the violator's vehicle had come to a complete stop prior to the deputy activating the BWC. In these cases, we could not verify stop times to see if they match the times indicated by the VSCF or the CAD printout. The compliance rate for utilizing the BWC to determine if deputies are accurately reporting stop length is 90%.

Compliance with this Paragraph is dependent upon MCSO's rectifying the verification of motorist receipts of the traffic stop, and utilizing the body-worn camera recordings in all Districts to verify stop length.

***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.*

Phase 1: Not in compliance

- GF-1 (Criminal Justice Systems), published November 7, 2006.
- GF-3 (Criminal History Record Information and Public Records), currently under revision.

Phase 2: In compliance

To verify compliance for this Paragraph, we reviewed the applicable policies and met with MCSO Technology Bureau personnel to determine if any unauthorized access to the systems had occurred during the quarter. MCSO had no knowledge that any breeches to the systems occurred. All databases containing specific data identified to an individual comply with federal and state privacy standards, and MCSO limits access to only those employees who are authorized to access the system.

The policies go further to include that the dissemination of Criminal History Record Information (CHRI) is based on federal guidelines, Arizona Statutes, the Department of Public Safety (ASDPS), and the Arizona Criminal Justice Information System; and that any violation is subject to fine. No secondary dissemination is allowed.

Every new recruit class receives three hours of training on this topic during initial Academy training. We will continue to observe the security issues outlined in Paragraph 58.

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: Not applicable

Phase 2: In compliance

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

b. Electronic Data Entry

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

Phase 1: In compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), most recently amended December 17, 2015.
- EB-2 (Traffic Stop Data Collection), most recently amended October 29, 2015.

Phase 2: In compliance

To verify compliance with this Paragraph, we reviewed the documents generated electronically that capture the required traffic stop data. The electronic data entry of traffic stop data by deputies in the field went online on April 1, 2015. If TraCS experiences a malfunction in the field, there is a protocol that requires the deputy to electronically enter the traffic stop data prior to the end of the shift.

MCSO continues to conduct monthly traffic stop audits of the traffic stops and forwards them for our review. To date, we have found the audits to be complete and thorough. Initially, the traffic stop data was captured on handwritten forms created by MCSO, completed by the deputy in the field, and manually entered in the database by administrative personnel located at each District. Now all traffic stop data is entered electronically, whether in the field or at MCSO Districts. For those situations where connectivity is lost in the field, policy dictates that the written traffic stop data created by the deputy be entered electronically by the end of the shift in which the event occurred. During our October 2016 site visit, we met with MCSO and the Parties and reviewed the deficiencies BIO and our reviews discovered for this reporting period, along with the Action Forms generated by BIO and returned by the Districts. We will continue to review the written traffic stop data at the Districts to ensure that it is entered in the system by the end of the shift in which it was created.

We reviewed a printout of all vehicles assigned to Patrol dated September 30, 2016. There were a total of 245 vehicles assigned to the Districts. There were 179 marked vehicles equipped with the TraCS e-citation system. (All marked cars are TraCS-equipped.) There are 53 unmarked vehicles equipped with TraCS and 13 unmarked vehicles not equipped with TraCS. We inspected marked vehicles at District 3 to verify that MCSO vehicles used to conduct traffic stops on a routine basis are equipped with the ability to input traffic stop data electronically. Due to the size of the patrol fleet, the number of marked and unmarked patrol vehicles fluctuate from month to month.

MCSO completed the TraCS training during 2015, and we verified who attended the training as required by the Order. We observed the competency portion of the TraCS training, and the proficiency level of the deputies was more than satisfactory. MCSO deputies have demonstrated their ability to access and use TraCS, as evidenced by their total time on a traffic stop averages 15 minutes or less.

c. Audio-Video Recording of Traffic Stops

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

Phase 1: In compliance

- GJ-35 (Body-Worn Cameras), published on June 24, 2015.

Phase 2: In compliance

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

During our April 2016 site visit, MCSO advised us that the body-worn cameras were fully operational in five of the Districts. At that time, District 4 and the Lakes Patrol were experiencing connectivity issues that are affecting uploading of the recordings to the cloud (evidence.com). The captain assigned to the Lakes Patrol issued two body-worn cameras to each of the District's deputies as a partial solution until the problems can be remedied. During our July 2016 site visit, the captains in District 4 and Lakes Patrol advised that the connectivity issues have not been satisfactorily resolved. In the Lakes Patrol, uploading the body-worn camera recordings remains an issue. In District 4, deputies have difficulty uploading the video and must use alternative facilities to upload.

While in one of this District office in July 2016, we spoke with a sergeant who advised that during some reviews of his deputies' body-worn camera recordings, it would take one hour to review one 15-minute recording due to the constant buffering of the recording. During our October 2016 site visit, we met with the District 3 Captain to determine if District 3 had experienced any issues with supervisors downloading their subordinate's body-worn camera footage. The District 3 Captain advised that there was one computer in the District facility that was dedicated for review of BWC recordings; however, if two supervisors using two separate computers attempted to simultaneously review different recordings, one of the computers would continue to buffer. The captain further advised that he reviewed a nine-minute video that took 30 minutes to review due to the continuous buffering. This process is inefficient and a waste of the sergeants' and commanders' valuable time.

During our July 2016 site visit, MCSO personnel informed us that body-worn cameras had been issued to all deputies who enforce traffic violations. We continue to verify this assertion each quarter by inspecting the documentation we request from CID that lists each deputy's name, serial number, and the date they were issued the body-worn camera. We also verified during our District visits that all patrol deputies had been issued the body-worn cameras. Records indicate that MCSO began distribution of the body-worn cameras on September 14, 2015. MCSO reported in its eighth quarterly report that on May 16, 2016 all deputies who enforce traffic laws were equipped with body-worn cameras, and that the system was fully operational.

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 is in compliance with this Paragraph.

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.*

Phase 1: In compliance

- GJ-35 (Body-Worn Cameras), published on June 24, 2015.

Phase 2: Not in compliance

MCSO evaluated on-person body cameras from other jurisdictions and selected a vendor (TASER International). Body-worn cameras have been implemented in all Districts since May 2016 and are fully operational.

To verify compliance for this Paragraph, we reviewed the body-worn camera recordings included in our monthly samples to ensure that MCSO follows the requirements of this Paragraph.

For our selection of a sample to review the body-worn camera videos, we used the same sample we select for the CAD audio request. We reviewed 29 cases where body-worn camera footage was available. Twenty-six cases were in compliance with the deputy activating the video and audio recording equipment as soon as the decision to initiate the stop was made and continued recording through the end of the stop. There were three cases that did not meet the requirements of the Order. In one case, the deputy activated the body-worn recording equipment after the vehicle had come to a complete stop. In another case, the deputy failed to activate the BWC; and in a third stop, the deputy interrupted the recording during the stop. BIO found these deficiencies and forwarded Action Forms to the Districts for a response.

MCSO has already discovered the value of body-worn cameras – including in instances where community members have made accusations against deputies and the recordings proved to be invaluable in resolving complaints. MCSO's compliance rate for this Paragraph is 87%.

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.

Phase 1: Not in compliance

- EB-2 (Traffic Stop Data Collection), most recently amended December 17, 2015.
- GJ-35 (Body-Worn Cameras), published June 24, 2015.
- Body Worn-Camera Operational Manual, currently under revision.

Phase 2: Deferred

MCSO has developed and issued a protocol and policy that requires the original hardcopy form of any handwritten documentation of data collected during a traffic stop to be kept at the District level and filed separately for each deputy. When a deputy is transferred, his/her written traffic stop information will follow the deputy to his/her new assignment. During our visit to District 6, we inspected the hardcopy (paper) of several traffic stop cases from 2014 from a list we had prepared in 2015 to ensure that the hardcopies were kept on file for five years. The Technology Bureau maintains electronic traffic stop data, and we reviewed the bureau's protocol for maintaining the integrity of the data. Phase 2 compliance is deferred until such time as the Body-Worn Camera Operational Manual is finalized and published.

d. Review of Traffic Stop Data

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

Phase 1: Not in compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), published September 22, 2014.
- EB-2 (Traffic Stop Data Collection, published September 22, 2014.
- GJ-33 (Significant Operations), most recently amended November 18, 2015.
- GH-5 (Early Identification System Policy), currently under revision.
- GH-4 (Bureau of Internal Oversight Policy and Procedures), currently under revision.
- EIS Operations Manual, currently under revision.

In past quarterly status reports, we expressed concerns about MCSO's lack of documentation describing how EIU established its original thresholds and the new thresholds we prescribed in our May 2016 guidance document; as well as the methodology EIU uses to set alerts for deputies possibly engaging in racial profiling or other biased-based policing. During our October site visit, in a meeting regarding GH-5 (Early Identification System), MCSO, the Parties, and we discussed our Team's preference that documentation of thresholds and benchmarks be incorporated into an EIS Operations Manual rather than a policy document; there was no dissension. EIU is now developing this operations manual while it continues to work on implementing the new benchmarks and thresholds prescribed in our May 2016 guidance. EIU expects the operations manual to be available for review once it completes its work on implementing the new thresholds. EIU intends to use the operations manual as a stand-alone document that will include all aspects of its methodology used in monthly, quarterly, and annual analyses. To achieve Phase 1 compliance with this Paragraph, MCSO must develop a protocol delineated in an operations manual explaining benchmarks, thresholds, and analytic methodologies it uses to identify racial profiling or other biased-based policing; and ensure that all staff are trained to the protocol.

Phase 2: Not in compliance

To achieve Phase 2 compliance with this Paragraph, MCSO must demonstrate ongoing use of the methodology established in the protocol established for Phase 1 compliance in the monthly, quarterly, and annual analyses used to identify racial profiling or other biased-based problems. Paragraphs such as these are at the heart of the Court's Orders. The interests of the community will remain ill-served if the agency's non-compliance continues.

***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.*

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight Policy and Procedures), currently under revision.
- GH-5 (Early Identification System Policy), currently under revision.

GH-5 is being revised and now includes language stating that EIU office personnel reviewing the collected data shall not review or analyze collected traffic stops data or collected patrol data relating to their own activities. MCSO also included similar language in GH-4, which is also being revised, noting that BIO auditors shall not review or analyze traffic stop or collected patrol data related to their own individual activities. Once these policies are approved and MCSO has trained to its updated policy, MCSO will achieve Phase 1 compliance with this Paragraph.

Phase 2: Deferred

MCSO will achieve Phase 2 compliance with this Paragraph after successful implementation of the policy and the sustained organization of EIU.

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.*

Phase 1: In compliance

- EB-2 (Traffic Stop Data Collection), published September 22, 2014.
- GH-4 (Bureau of Internal Oversight Policy and Procedures), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- GH-5 (Early Identification System Policy), currently under revision, though the proposed revisions do not affect the language affecting this Paragraph.

Phase 2: Not in compliance

MCSO released the first annual comprehensive evaluation in a report dated May 24, 2016 titled, “Preliminary Yearly Report for the Maricopa County’s Sheriff’s Office, Years 2014 – 2015,” 11 months after the close of the first data fiscal year, covering July 2014-June 2015. We were concerned about the use of the term “preliminary” in the title of the report, but learned that ASU had used the word “preliminary” in case our review prompted substantial revision of the report. EIU staff stated that the report was, indeed, final and should be treated as the first official submission of the annual evaluation as per the requirement of this Paragraph. ASU’s methodology mostly involved using ratios comparing deputies in a unit of analysis (i.e., organizational, by District, by beat); and identifying those deputies who were outliers during the July 2014-June 2015 period. Under the ASU methodology, outliers were defined as deputies whose behavior during a traffic stop (e.g., issuing a citation) was at least twice as high as the average behavior for all deputies in a similar unit of analysis. Other analyses used by ASU involved limited inferential analyses, using the Chi-Square test for independence between an event (being stopped, arrested, searched, etc.) and race/ethnicity. The report appropriately documented data limitations that prevented a comprehensive analysis involving inferential statistical methods. For example, the issue of addressing extended traffic stops was prohibited by serious problems with the calculation of a length of a traffic stop. This and other data limitations (e.g., missing data) meant that ASU could not explore the use of more sophisticated statistical techniques in the first annual evaluation.

EIU’s Implementation Plan 2.0 provided to us and the Parties in July 2016 stated that the draft second annual evaluation for the for fiscal year 2016 (representing July 2015-June 2016) would be available for review on October 5, 2016, before our site visit was scheduled to begin on October 17, 2016. However, the draft report was not completed by the planned delivery date. On October 13, 2016, BIO notified us and the Parties that the report contained data problems.

In subsequent correspondence on October 14, 2016, BIO informed us and the Parties that MCSO had received a rough draft of the annual report, but that data problems with MCSO beat information had affected outcomes, thereby causing MCSO to return the draft to ASU. BIO provided a copy of the draft report during our site visit. The report was distributed and returned during the meeting originally scheduled to discuss the draft study. In discussions during that meeting, we learned that BIO viewed the data problems encountered by ASU as so serious as to require that the draft be held back from distribution before our site visit. We discussed the data problems during the meeting. We learned that the data problems were essentially due to problems with MCSO's data coding protocols required to define beats. We were apprised that these problems were resolved, and that new beat data had just been provided to ASU so it could redo its analysis involving beat-level modeling. That said, the situation as it presented itself during the site visit was awkward and unnecessarily time-consuming. While the Monitoring Team facilitated a dialogue amongst the Parties, we found the indignation of the Plaintiffs and the Plaintiff-Intervenors to be understandable and justified.

During the site visit meeting, ASU staff responsible for the annual report discussed its preliminary key findings. They reported that: 1) deputies potentially engaged in racially based-based policing were found to be significantly different from their peers in post-stop outcomes (contact conclusion) for minorities compared with whites; and 2) racially biased-based policing was found to be a systemic problem – meaning, organizationally, that minorities are more likely to be arrested and searched compared to white drivers. The completed draft, dated October 24, 2016, was provided to us and the Parties and is currently under review. The planned finalization target date for the report is December 31, 2016. We continue to believe that MCSO will achieve Phase 2 compliance with this Paragraph once we are certain that the data and methodological issues identified from the first annual analysis and those discussed in the second draft annual analysis are fully addressed.

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.*

Phase 1: In compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), published September 22, 2014.
- EB-2 (Traffic Stop Data Collection), published September 22, 2014.
- GH-5 (Early Identification System), currently under revision, though the version in effect covers the requirements of this Paragraph.

Phase 2: Not in compliance

The EIU provides monthly analyses and documents describing the benchmarks used to set alerts for possible cases of racial profiling or other misconduct involving traffic stops. As reported in EIU's May 2016 report, EIU's process for analyzing traffic stop data for purposes of setting alerts for deputies potentially engaging in biased-based policing had been suspended while EIU implements new thresholds and the methodology for using them as described in our May 2016 guidance. That guidance included instructions for implementing new thresholds and a statistically based methodology for the benchmarks in this Paragraph. Meanwhile, EIU continues to provide descriptive statistics about traffic stops in its monthly production reports.

Paragraph 67.a. identifies three benchmarks pertaining to racial and ethnic disparities. The first benchmark references disparities or increases in *stops for minor traffic violations*. The second benchmark addresses disparities or increases in *arrests following traffic stops*. The third benchmark addresses disparities or increases in *immigration status inquiries*. As part of our May 2016 guidance, we recommended that the threshold used for the first benchmark to detect racial or ethnic disparities for traffic stop violations use all traffic stop data (and that EIU end its earlier practice of selecting traffic stops for deputies making 10 or more stops); and instead employ "two-step ratio analysis methodology" (the two-step rule).

The first step of the two-step rule involves calculating the ratio where the numerator is traffic stops by race/ethnicity, except whites, for each deputy; and the denominator is traffic stops of whites for each deputy by level of analysis. We recommended that EIU set alerts for deputies at or above two standard deviations from the statistical mean calculated for the level of analysis.

The second step of the two-step rule involves calculating the ratio where the numerator is traffic stops by race/ethnicity, except whites, for each deputy; and the denominator is traffic stops for each deputy. We further recommended that alerts be set for deputies at or above two standard deviations of the statistical mean. We also recommended that EIU conduct its analysis for this threshold at the organizational level, by District, and by beat.

In August 2016, EIU proposed a definition of minor traffic stops to include traffic violations that are defined under the Arizona Revised Statutes (ARS) as a civil traffic violation or a petty offense. Non-minor traffic violations would be defined under ARS to include criminal traffic and criminal. (This definition is pertinent to Paragraph 67.e, discussed below.) During our October site visit, we approved the definitions of minor and non-minor traffic stops and instructed EIU to use the two-step rule described above for purposes of supporting EIU's monthly analysis of traffic stop data.

Regarding the second benchmark in Paragraph 67.a., pertaining to arrest following a traffic stop, our May 2016 guidance also recommended that EIU employ the two-step rule in the same manner previously described. Regarding the third benchmark in Paragraph 67.a., assessing immigration status, EIU now sets an alert whenever any immigration status inquiry occurs. EIU issued Implementation Plan 1.0, which includes a schedule of when it expects to operationalize these new thresholds. Per the Implementation Plan, all thresholds for Paragraph 67.a. will be incorporated into the EIS monthly report by the end of December 2016. During our October 2016 site visit, MCSO confirmed that it expects to meet this target date. This target date applies to *all* of the thresholds in Paragraph 67.

Paragraph 67.b. identifies a benchmark pertaining to evidence of an extended traffic stop involving Latino drivers or passengers. For this benchmark, EIU had used the threshold whereby deputies were selected for further review if they have a two-minute or longer civil traffic stop averaged by race/ethnicity per deputy and calculated for those deputies who make a minimum of five traffic stops per race/ethnicity. Our May 2016 guidance instructed EIU to discontinue the use of this threshold, as it excluded those deputies who make fewer than five stops per race/ethnicity. During our July site visit, EIU noted the additional problem of developing a workable definition for the term “extended traffic stop” referenced in this Paragraph to link to the language of Order Paragraph 25.g., whereby an extended traffic stop is intended to reflect the amount of time beyond the time necessary to address the original purpose for the stop.

An ASU analysis conducted in August 2016 examined reasons why a traffic stop might be extended beyond the time necessary to address the original purpose for a stop. The analysis identified four possibilities: the stop involved a tow; the stop involved training; the stop involved a DUI investigation; or the stop encountered technological problems (e.g., a computer problem). During a September 15, 2015 conference call (following up on our August 2016 technical assistance visit) held with ASU and EIU, we raised a fifth possible reason for a stop being extended: language problems. An analysis conducted by ASU during that call confirmed its significance in affecting the length of a traffic stop. Using the results of ASU’s analysis, EIU proposed to modify TraCS to include individual checkboxes for the five reasons for the extended stop (tow, DUI, language, training, and technology); and a separate text field in TraCS to allow a deputy to enter in other reasons.

During our October 2016 site visit, we reviewed the proposed changes to TraCS with EIU and the Parties and agreed to the proposed solution. Because the proposed solution involves changes to TraCS and eventual training of deputies about the changes, EIU committed to working with MCSO’s Technology Bureau to provide us with a target date for implementation of the new TraCS form. Once these changes are implemented and deputies have been trained to the new TraCS form, and EIU has adopted the two-step rule for its monthly analysis of traffic stops for extended stops, MCSO will achieve compliance with Paragraph 67.b.

Paragraph 67.c. identifies three benchmarks. The first benchmark pertains to the rate of *citations*: MCSO is required to identify citation rates for traffic stops that are outliers when compared to a deputy’s peers, using the two-step process previously described. The second benchmark pertains to *seizures of contraband*: MCSO is required to identify low rates of seizures of contraband following a search or investigation. The third benchmark is similar to

the second, but it pertains to *arrests following a search or investigation*. With regard to the second and third thresholds included in Paragraph 67.c, we learned for an ASU analysis of June 2016 data that there were very few instances of seizures of contraband or arrests for searches that were not incident to an arrest. The number of traffic stop events where searches or investigations precede an arrest is too low, even at the organizational level, to use in a monthly analysis involving a valid statistical mean and standard deviation. For this reason, EIU designated the thresholds for these two benchmarks as pending in Implementation Plan 1.0 until we had time to determine an alternative solution for these two thresholds.

During our October 2016 site visit, we presented our recommended solution with EIU and the Parties and then provided a separate written explanation of the solution on October 20, 2016 in a memorandum from us to BIO. That memorandum instructed EIU to select all traffic stop incidents in a month involving searches and to exclude cases where searches are incident to an arrest. Using the remaining traffic stops involving searches, we instructed EIU to select those searches and set alerts for all searches that did not result in the seizure of contraband or in an arrest. EIU is working with ASU to write SPSS syntax to automate the alert-setting process in EIU's monthly analysis of traffic stop data. EIU projects that the computer code will be completed by the end of December 2016, which means it will be able to resume its analysis of traffic stop data to identify potential cases of racial profiling or other biased-based policing in the following month. Once this process is completed, MCSO will achieve compliance with Paragraph 67.c.

Paragraph 67.d. establishes a benchmark pertaining to agency, unit, or deputy noncompliance with the data collection requirements under the First Order. This benchmark requires that any cases involving noncompliance with data collection requirements results in an alert in EIS. EIU prepared an Administrative Broadcast instructing supervisors how to validate data in TraCS in those cases involving duplicate traffic stop records to deliver timely data validation for our review. During our October 2016 site visit, EIU informed us that this data validation process has yet to be implemented. Once the data validation procedures are implemented, MCSO will achieve compliance with Paragraph 67.d.

Paragraph 67.e. allows for other benchmarks to be used beyond those prescribed by Order Paragraph 67.a.-d. MCSO is modifying two thresholds related to search rates for traffic stops and passenger contacts to reflect the two-step process described earlier. According to EIU's Implementation Plan 1.0, these should become operational once ASU completes its development of the SPSS syntax for these thresholds. During our October site visit, we confirmed EIU's intention to add the new threshold pertaining to non-minor traffic stops.

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.

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.*

Phase 1: In compliance

- GJ-33 (Significant Operations), most recently amended November 18, 2015.

Phase 2: In compliance

The last significant operation, Operation Borderline, occurred from October through December 2014. Operation Borderline was a drug interdiction effort described completely in Section 6 (Pre-Planned Operations) of our prior reports.

Phase 2 compliance was evaluated through document requests fulfilled by MCSO and personal interviews during our site visits. In May 2016, MCSO began having the Chiefs of the Investigations Bureau and Patrol respond to this request for their entire respective units. The memoranda for this period indicate that deputies and investigative personnel were not involved in any significant operations or immigration-related traffic enforcement activity fitting the criteria of this Paragraph during the months from July through September 2016. Additionally, during our October 2016 site visit, BIO staff confirmed that there had not been any significant operations conducted since our last site visit in July 2016. Finally, during visits to District offices in October 2016, command staff for District 4, and Lakes Patrol confirmed that no significant operations had been conducted within their boundaries.

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.*

Phase 1: Not in compliance

- GH-5 (Early Identification System), currently under revision.

Phase 2: Not in compliance

MCSO has made numerous improvements to the EIS that afford supervisors access to information described below regarding their subordinates' activity and behavior. The most recent additions are two allegation fields that allow supervisors to document bimonthly reviews of their subordinates (Paragraph 81.c.) and note when supervisors review the EIS records of deputies who transfer into their units (Paragraph 81.g.). The Administrative Broadcast outlining these options has recently been approved and we will report on their use in future reports.

In the EIS, MCSO has provided a drop-down menu for supervisors making notations about their subordinates that allow the supervisor to select from a list of MCSO policies regarding the notations they are making. These include: EA-11 (Arrest Procedures); CP-2 (Code of Conduct); CP-3 (Workplace Professionalism); CP-8 (Preventing Racial and Other Bias-Based Profiling); EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance); and EB-2 (Traffic Stop Data Collection); among other criteria.

The EIS policy describes an EI Pro screen allowing supervisors to review information regarding the persons under their command. One of the most recent modifications to this screen is the ability of supervisors to review a synopsis of closed internal and external complaints. This feature was demonstrated during our July site visit by both EIU staff and supervisors in the field. MCSO has continued to work with the software vendor, who participated in the meetings by teleconference, to provide a synopsis of open internal and external complaints regarding their subordinates. MCSO is working internally to set up the processes by which these reports will be vetted by PSB and EIU to afford visibility to immediate supervisors. We will evaluate these changes during future site visits.

MCSO notified us on November 18, 2016 that the new version of EI Pro had been installed. This newest version of EI Pro allows supervisors to search some of the records of their subordinates that are outlined in Paragraph 75: 1) 75.d. Criminal and Civil Proceedings; 2) 75.f. Arrest without Probable Cause; 3) 75.i. Decline of Prosecution for Maricopa Superior Courts; 4) 75.j. Disciplinary Actions; 5) 75.m. Training History, although this has not yet been manually entered into the EIS database; and 6) 75.n. Supervisory Notes. We will evaluate these modifications during our upcoming site visits. MCSO and CI Technologies continue to work toward full inclusion of data specified in Paragraph 75. MCSO and CI Technologies are keeping us apprised of their progress, and we will continue to evaluate the changes as they are being developed.

MCSO and CI Technologies are developing an interface between remote databases used by MCSO and the EIS database. This interface will provide an indicator in the EIS that a deputy has made an arrest or an investigatory stop, or engaged in any of the other patrol functions outlined in Paragraph 75. The interfaced data would provide a supervisor with the ability to conduct a prompt review on key indicators of each activity and explore the complete Incident Reports in the FILEBOUND system if they wish. (Reports located in the FILEBOUND system are not currently available in the EIS database.) During our July site visit, MCSO provided us and the Parties with a list of data elements MCSO was proposing to incorporate into the EIS for activities that are located in another database. The elements were selected to allow supervisors to quickly assess, within the EIS environment, whether a deputy's actions might indicate bias. If there is any cause for concern, the supervisor also will have the necessary link to look at the complete reports in the database of origin. During conference calls, and our October 2016 site visit, we continued to discuss with MCSO, and CI Technologies how these elements should appear to a supervisor, as well as to ensure that analysts could use these elements to conduct future aggregate audits/investigations. The target date for the completion of the main functions of the interface is December 31, 2016. Other functions will be enabled once the interface is successfully completed.

MCSO also began using the "Review" and "Discuss" fields in TraCS in June 2016. The Review field allows supervisors to note the date when they finished the initial review of individual traffic stops conducted by their subordinates. The Discuss field affords supervisors the ability to indicate when (date and time) they reviewed the traffic stop contacts of their subordinates with them. Any additional information about these meetings can be included in Blue Team Supervisory Notes. BIO and CID personnel have explained how supervisors would be trained to use these fields once the EIS Training is approved. Prior to that time, MCSO developed an Administrative Broadcast that described these fields for dissemination throughout the organization. The compilation of these efforts should result in a more timely review of traffic stop activity by supervisory personnel, as well as a more consistent method of checking the memorialization of the meeting between supervisors and subordinates regarding the traffic stops of their subordinates.

BIO began conducting audits of these fields in July 2016. Supervisors have 72 hours from citation issuance to conduct their review of the traffic stop forms to ensure completion and accuracy, and must conduct a discussion of traffic stops with their deputies at least once per month. The BIO audits for June traffic stops show that approximately 44% of supervisors reviewed the stops of their subordinates within the 72-hour timeframe, and 44% conducted discussions with their subordinates within 30 days. These results are not atypical, given the recent adoption of these fields. Many supervisors were continuing to use Supervisory Notes during this transition period. The audits for July and August traffic stops indicate substantial improvement. In July, the review of traffic stops within 72 hours rose to 84%; and in August and September, supervisors reviewed these stops at an average of 94% each month. The discussion of these stops within 30 days also showed improvement. In July, the discussion rate reached 100%, and then dropped to 85.6% in August. Within these audit reports, BIO also notes the compliance rates by District. These rates show that not all Districts have moved smoothly toward the adoption of these new fields. For example, in August, District 3 had a compliance rate for review of 19%; and later a compliance rate for discussion of the stops of

84%. Beginning in August, BIO began sending out Action Forms to District Command Staff whose supervisors had not met the Review and Discuss requirements. In the past, these Action Forms have resulted in District-level improvements for other areas of supervisory oversight. We will continue to evaluate these processes.

An additional requirement of this Paragraph is that supervisors conduct a monthly review of collected data for deputies under their command. BIO conducts analyses of Supervisory Notes contained in Blue Team. As a result of the addition of the Review and Discuss fields to TraCS, the Supervisory Note inspection changed as well. As of June 2016, the BIO audit of Supervisory Notes now focuses on performance notes, body-worn camera reviews and patrol activity log inspections conducted by supervisory personnel. In July and August, the reviews for all three areas of responsibility were above 95%, with the exception of Body Worn Camera Reviews in July. However, in September, the compliance rate reported by BIO was 82% for performance notes, 61% for body-worn camera reviews, and 79% for patrol activity log reviews. BIO notes that three Action Forms were sent to Districts 3, 6, and 7. In each instance, it was a single supervisor within the District who had failed to meet the review requirements. We will evaluate the response of the Districts to these Action Forms in future reports.

We have suggested in several meetings that BIO has to take a more active role when such deficiencies are found and should not rely solely on the recommendations it makes in its monthly reports or through the use of Action Forms. It is clear that using Administrative Broadcasts and Briefing Boards regarding supervisory responsibilities have not been sufficient. We will continue to work with MCSO to improve the consistency of these findings.

Another audit conducted by BIO pertains to the inspection of traffic forms used by MCSO and the related traffic information drawn from CAD and body-worn cameras. The inspection results show a fluctuation from 89% agreement between data sources in July, to a low of 75% agreement in August. Over the period of July through September, BIO sent out 22 Action Forms due to deficiencies on traffic forms such as failing to note additional deputies at the traffic stop to failure to conduct a records check. In addition, BIO forwarded eight Action Forms resulting from TraCS tickets or tow sheets being left "open" without the appropriate information or closure.

In addition, the EIS generated over 379 alerts in July, 303 in August, and 62 in September. All of these alerts are reviewed by EIU personnel. The majority of these are "false" alerts that may occur when the computer system cannot differentiate between dissimilar behaviors for complaints, or when a single act may trigger multiple alerts, or when an alert is triggered that has already been assigned. False alerts are not sent to supervisors in the field, but they are retained in the database for future verification. MCSO provides us with a copy of these alerts, and we generally concur that requiring supervisors to conduct investigations into all of these issues would be ineffective and overwhelming. Our examination of these records each month lead us to believe that EIU personnel, given their current established parameters, are appropriately differentiating between alerts that require further examination by supervisors and those that do not.

A second aspect of the alert process is triggered when EIU sends out alert investigations to District supervisors using Blue Team. The notification includes all document references necessary to conduct the assigned investigation. Supervisors are regularly prompted about the outstanding alerts regarding their deputies when they log in to Blue Team. Supervisors must also explain how they conducted their investigation, including documentation of conversations with their deputies, as well as how and why these alerts are closed. These reports then make their way back through the chain of command where each person must review and approve the actions taken by the line supervisor. Following this, the alert is returned to EIU. For several months, we have been requesting and reviewing a random sample of these investigations. In the majority of cases, we have been satisfied with the way supervisors have addressed a wide range of behavior, from “unexplained absences” to “traffic stops whose characteristics trigger alert thresholds.” However, as discussed in Paragraph 70, we continue to find instances where supervisors’ notes closing these investigations are not thorough enough for an outside observer to be assured that sufficient time was spent investigating, or articulating the closure of, an alert. For example, in June an alert for two or more “use of force” allegations within 12 months was closed by a supervisor with a note that stated that “both uses of force were sporadic and do not indicate any negative behavior.” This was insufficient to draw a conclusion as to whether the supervisor had conducted an adequate investigation or whether the uses of force were justified. As a result we requested additional information which described the circumstances surrounding each incident, the type of force used by the deputy, and the care given to the persons who had the force applied to them after the incident. With this added information, we are satisfied that the use of force employed in each instance was appropriate. We are continuing to work with EIU personnel to refine both alert thresholds, which trigger the alert, as well as the description of the way alerts can be cleared by both EIU and supervisory personnel.

We anticipate that as supervisors become more familiar with these tools, during the scheduled EIS training, the compliance rate for supervisor activities will improve over time.

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.*

Phase 1: Not in compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), published September 22, 2014.

- EB-2 (Traffic Stop Data Collection), most recently amended December 15, 2015.
- GH-5 (Early Identification System), currently under revision.

Phase 2: Not in compliance

MCSO is making strides toward a more complete implementation of EIS processes. We have received new alert “clearance” definitions and approved Administrative Broadcasts detailing the responsibilities of supervisors regarding alert investigations as outlined in GH-5 (Early Identification System). The new clearance definitions appear to have reduced the number of “false” alerts. In particular, EIU and Human Resources have worked to refine how FMLA absences are treated in EIS. As a result the number of unscheduled absence alerts sent to supervisors has been reduced to being an extremely small number of cases. However, a small number of alert investigations each month continue to be closed by supervisors without sufficient explanation of the reasons for closure or inadequate description of the meetings they had with their subordinates. We have discussed these issues with MCSO and individual field supervisors during our July site visit. Several of these discussions have improved subsequent alert investigation reports provided by these supervisors. Additionally, we have requested more information regarding several of the improperly closed alerts and found that when prompted, supervisors were able to describe the investigations they conducted and the reason for the closure of the alerts. We have worked with EIU to ensure that the upcoming EIS training will emphasize these new processes and roles.

During our February and April site visits, EIU staff provided information on the methodology used to analyze traffic stop data on a weekly and monthly basis. These documents, and communication with ASU personnel, have clarified how EIU tries to identify “outliers,” “racial profiling,” and “improper conduct.” As a result of these meetings, we recommended in May 2016 that MCSO discontinue the way it conducted the monthly traffic stop analysis. We provided MCSO and ASU with recommendations of how to proceed in the future, and they have submitted several proposals that were approved and are being implemented.

The delay in the First Annual Traffic Stop Report occurred largely as a result of the numerous data problems that became apparent between the draft reports issued between the January and April site visits. As a result of the findings from the initial drafts of the ASU report, we requested that EIU conduct an audit of the outliers found in the initial ASU analysis and examine how many of those deputies had triggered alerts in the EIS. This audit report indicated that very few “outliers” from the ASU analysis triggered alerts in EIS, even when deputies were found to be outliers in several different analyses.

ASU provided a final version of the First Traffic Stop Annual Report, 2014-2015, on May 25, 2016. There are significant issues from this report that apply to this Paragraph. First, because the ASU analysis focused attention on the actions of only the most active deputies – those with 10 or more stops per month – the analysis looking for “outliers” ignored the potential for biased behavior of their less active counterparts. Second, the analysis presented was largely limited to simple relationships between two variables at any one time; for example, receiving a citation and the race/ethnicity of the driver. While several of these analyses yielded significant findings, there was no attempt to investigate more complex statistical models. We had suggested a means to address both of these issues during and after our February and April site visits. Third, and

most important for this Paragraph, is that prior to consultation with us or the Parties, MCSO used the “analysis” from the final report to initiate a supervisor review process for those deputies found to be outliers in the report. Had we been consulted, we would have recommended training for supervisors in the basic use of statistical information, training to conduct the investigation discussions with their subordinates, and assistance in reading the technical aspects of the ASU report. MCSO instead provided the supervisors an instruction page to assist them in reading the statistical analysis, along with three Excel spreadsheets showing the outlier status of their subordinates and a copy of the ASU report. Supervisors were given 30 days to complete the discussions with their subordinates and return their closure comments through EIS. The majority of these reports had been disseminated by the first week of July 2016.

We believe the documents that MCSO distributed were woefully inadequate to provide supervisors with sufficient information to conduct meaningful reviews or discussions with their subordinates. Since these documents were disseminated prior to our July site visit, we received several comments from field supervisors and command staff regarding the annual report during this visit. First, supervisors were uncertain how to read and describe the individual reports to their subordinates; and second, deputies believed that their integrity was being questioned due to the ASU analysis.

We and the Parties requested copies of the supervisor reviews emanating from the processes put in place by MCSO regarding the Annual Report. In addition, we submitted to MCSO 12 questions regarding the findings based upon a review of the supervisor investigations. One of the most significant responses to our inquiries was that even though nearly 70 deputies were found to be outliers in at least one area of analyses – 1) Stops by Race; 2) Citations by Race; 3) Incidental Contacts by Race; 4) Warnings by Race; 5) Searches by Race; or 6) Seizures by Race – no supervisors reported finding any behavior that they believed indicated biased policing. Yet over half of the outlying deputies were found to be outliers in multiple categories noted above. Moreover, while the executive staff of MCSO was provided copies of these reports, there was no official response to the ASU report or the outcome of the supervisory investigations into the outlier analyses.

We conducted our own review of the supervisor reports provided by MCSO. We found that in over 90% of the supervisor reviews conducted, the supervisor investigations were inadequate. The major problem found with the reviews is that most supervisors did not mention the Excel spreadsheets provided by EIU, which showed where the individual deputies were found to be outliers. In fact, nearly one third of the supervisors mentioned that they felt overwhelmed and undertrained to conduct these types of investigations. Second, the majority of supervisors did not mention if and how they discussed issues of biased policing with their subordinates. Third, there were a small number of supervisors who wrote nothing except that they “found no behavior to address” or were openly hostile to either the Annual Report or MCSO administration for having to conduct the investigations to begin with. Following several discussions during our October site visit, as well as subsequent conference calls, MCSO requested technical assistance to develop a better process to redo the review process for the First Traffic Stop Analysis as well as prepare for the Second Traffic Stop Analysis which has now been published. A description of the technical assistance will be included in subsequent

quarterly status reports; however, to this point, the technical assistance project is in progress and is benefiting from the participation of the Parties, as well.

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

The random samples of alert investigations we have requested on a monthly basis provide information about how well the Blue Team process is working, as well as how effective supervisors are in conducting their alert investigations. EIU has made the alert investigation process in Blue Team a transparent one. In addition, because the closure comments must be approved by District Command Staff and EIU, the accountability of the system has been improved. However, each month there are two or three investigations, out of the 15 randomly selected, that are closed without adequate details about the investigation or discussions conducted by supervisors. For example, in June, there was a “use of force” alert because a deputy had two instances within a year. The supervisor closed the investigation with the comment that “the two uses of force were not related therefore there wasn’t a problem.” Moreover, there was no indication that the supervisor had actually had a conversation with his subordinate. We asked MCSO to request additional information to explain this alert closure. In early August, we received a much more detailed report from the supervisor including a description of the conversation he had with the deputy who triggered the alert. From these documents, we concluded that the uses of force were appropriate to the situation at hand. In contrast, there are other examples, also involving the “use of force,” where supervisors provided a synopsis of the circumstances involved and why the use of force fell within policy. While supervisors received some overview of the issue of closing alert investigations during their recent Supervisory Training, the field supervisors contacted during our April, July, and October site visits did not believe that this was adequate. We have recommended that the upcoming EIS training should use actual examples from the random samples drawn each month to support the instruction to be delivered. EIU personnel stated that they were working with District command staff to create such curricula.

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

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: Not applicable

Phase 2: In compliance

MCSO has provided us with access to all existing data. During our February and April 2016 site visits, we were briefed on the annual review of data being conducted by MCSO's contract partner, ASU. On May 25, 2016 we received the final version of the First Annual Traffic Stop Report, covering the data period of July 1, 2014-June 30, 2015. On October 24, 2016 we received a draft of the Second Annual Traffic Stop Report, covering the data period of July 1, 2015-June 30, 2016.

With the publication of the First "Yearly Report for the Maricopa County Sheriff's Office, Years 2014-2015" by ASU on May 25, 2016, the limitations of the existing databases and methodologies used during the analysis have become apparent. Throughout the summer, we assisted EIU/ASU with the creation of new data checking and cleaning processes. Some of these included having supervisors check traffic stop forms before they are included in the EIS database. Others involved creating more mandatory fields in TraCS, as well as using CAD timestamps for both the beginning and end of traffic stops. In addition, we suggested ways to improve the analytic methods of the Second Annual report. Some of the problems identified from the First Annual report include, but are not limited to, the selection of deputies who have had "10 or more stops per month" during the reporting period, the lack of inferential analytic models and the discussions surrounding the chi-square models presented. MCSO has worked with ASU to propose new data-cleaning processes, the development of statistically grounded methods of sample selection and threshold levels, and the use of more sophisticated statistical models for the yearly analysis of data for 2015-2016.

As noted in Paragraph 70, the Blue Team process set up by EIU for tracking the alert status of cases of concern has improved our ability to review and comment on the supervisory processes that exist in MCSO. Since the onset of the Blue Team alert investigation process during the fall of 2015, MCSO has clarified that if an alert investigation is sent to a supervisor that involves an Incident Report, the alert will also include a list of IR numbers, where applicable, and supervisors can pull up the full text of any IR that has been scanned into the FILEBOUND system. We have verified this process repeatedly over the past several months, through onsite inspections and document analysis of past alert investigations. We have noted continuing problems with supervisors not fully employing all tools available to them for review of their subordinates – or imprecisely closing alert investigations without a rigorous and thorough explanation regarding why these investigations were closed. The EIS training, which has been postponed due to the ongoing revision of GH-5, is expected to incorporate examples of alert cases and the proper method of investigation closure. We will continue to work with MCSO to prepare these curricula and evaluate the effect of this training on alert closures. We have also asked MCSO to include some EIS training in the upcoming Supervisor Training scheduled to begin in March 2017. MCSO is working to fulfill this request.

MCSO now has several months of experience using two new TraCS fields that allow supervisors to acknowledge Review of traffic stops of their subordinates and the date of the Discussion that occurs between supervisors and subordinates about those stops. The audits by BIO for these two fields, referred to in Paragraph 69, show significant improvement in supervisor completion since June 2016. MCSO is currently working to develop audit processes to evaluate these fields to ensure that supervisors are reviewing and discussing the activity of their subordinates within the times required by the Order.

In addition, the inspections conducted by BIO – the Patrol Supervisory Note Inspections, Incident Report Inspections, County Attorney Disposition Inspections, among others – have been informative and raise issues that we are corroborating during our site visits. Furthermore, when we have asked for additional information MCSO has always been forthcoming and responsive.

The issues with the annual data report notwithstanding, as outlined here and in Paragraph 70, we have received access to all data that we have requested. We will continue to expect access to these reviews as they are completed.

Section 8: Early Identification System (EIS)

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

a. Development and Implementation of the EIS

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

Phase 1: Not in compliance

- GH-5 (Early Identification System), currently under revision.

Phase 2: Not in compliance

The Early Identification Unit (EIU) continues to provide data, conduct monthly analyses, and develop an EIS that incorporates pieces of information from across the organization. We have noted technological issues in the past that have impeded the ability of MCSO to fully operationalize the EIS. These include, but are not limited to: remote databases that do not communicate with one another; a policy that did not address all aspects of the Order; uncertainty about what data elements are necessary to have an EIS that is useful to supervisors and analysts alike; and reliance on external agencies for information relevant to case prosecution processes. As a result, we have coordinated meetings during both our July and October site visits, as well as conference calls between site visits, to develop a plan to address all the deficiencies of the EIS database. This coordinated effort has led to the creation of a target date document outlining the missing pieces of information in EIS that need to be developed. MCSO is coordinating information internally to expedite this process and working closely with CI Technologies to create the interface that will allow the many databases used by the County to share necessary information. This will be discussed more thoroughly in Paragraph 75.

BIO personnel also conduct audits, such as Supervisory Note Inspections, to monitor how effectively supervisors employ the tools available to them to supervise their subordinates. This audit did change with the introduction of the Review and Discuss fields in TraCS on June 1, 2016. BIO modified the Supervisory Note Inspections audit to focus on Body Camera reviews, Bimonthly supervisor performance notes, and Patrol Log reviews. BIO also created two new audits for the Review and Discuss fields. The Review audit will examine whether supervisors have reviewed the traffic stops of their subordinates within 72 hours of the stop. The Discuss audit, where supervisor and a deputy meet to review each traffic stop, will assess whether these meetings occur once per month as required by policy.

Supervisory Note audits have shown that, in general, supervisors are utilizing the tools available to them. For July and August, the overall compliance rate was above 95%; while in September, the rate dropped to 74% due to the fact that a single supervisor in each of three different Districts had failed to complete their required reviews. These lapses led to BIO forwarding Action Forms to the Districts. We will follow up on the responses from these forms. The introduction of the Review and Discuss fields in June 2016 was announced through an Administrative Broadcast. BIO noted that the compliance rate for the first month's Review audit was low (43%), as supervisors were managing the transition. However, in August and September, the observed compliance rates for review of traffic stops exceeded 90%. Similarly, the compliance rate for the Discuss audits was 100% in July and 85% in August. It is expected that when supervisors complete the EIS training that any ambiguities about the requirements of their role in EIS will be mitigated.

BIO also conducts quarterly audits regarding CP-8 (Preventing Racial and Other Biased-Based Profiling) by inspecting the Supervisory Notes in Blue Team. Based upon a sample drawn at our direction for evaluation of several Paragraphs, BIO looks for instances in which supervisors describe the briefings they conduct for their subordinates. During the second quarter of 2016, BIO found that all 40 deputies in the sample experienced discussions regarding MCSO's "zero tolerance policy" for discriminatory policing. We were able to substantiate this during our District visits in April, July and October 2016. Every supervisor we interviewed was able to show how s/he repeatedly delivered a message to subordinates regarding CP-8. However, the third quarter report of 2016, for CP-8, showed the rate dropped to 85%. This was due to the fact that a small portion of the sampled deputies (seven in total from District 3) received no reinforcement prohibiting biased policing from their supervisors. In the remainder of the organization, there was no change from the second and third quarter audits. As a result, District 3 command staff were issued an Action Form that we will review during subsequent document requests and site visits.

EIU has created a much more efficient alert investigation process for supervisors in Blue Team. Once it is determined by EIU personnel that additional investigation of an alert is necessary, that alert – and any related document references – are transmitted via Blue Team to the immediate supervisor with instructions to conduct a review and report back through the chain of command. While this process was initiated in the fall of 2015, and announced to MCSO personnel through an approved Administrative Broadcast, we continue to find that a small minority of supervisors, one or two each month, do not adequately conduct alert investigations or supply the information in their summaries for a reader to understand how they came to the conclusions they did. Again, we believe that this will improve with training to EIS. More recently, MCSO has released a new version of EI Pro, which allows supervisors much more flexibility in being able to search the history of their deputies. This too was announced to MCSO personnel through an Administrative Broadcast and will be a part of the EIS training. We are concerned that the time between dissemination of a new tool and training for that tool has been far too long, creating the possibility for misunderstanding or misuse of those new instruments.

The First Traffic Stop Annual Report conducted by ASU was completed in May 2016. This report examined data on the incidence and rates of traffic stops, citations, incidental contacts, warnings, arrests as well as searches, and seizures by race/ethnicity. One aspect of this analysis is that it allows MCSO to identify deputies who disproportionately stop racial and ethnic minorities regarding each of the law enforcement functions enumerated. We have documented our concerns with the report as analyzed and written. We were also surprised by MCSO's initiation of a supervisory review process based on this report without prior approval or consultation with us or the Parties. If deputies were found to be outliers in the Traffic Stop Annual Report, their supervisors received an instruction page to assist them in reading the statistical analysis showing the outlier status of their subordinates, as well as a copy of the original ASU report. Had we been consulted, we would have recommended training for supervisors in the basic use of statistical information, training to conduct the investigation discussions with their subordinates, and assistance in reading the technical aspects of the ASU report. Supervisors were given 30 days to complete the discussions with their subordinates and return their closure comments through EIS. These reports were distributed by the first week of July 2016.

We believe the documents distributed were insufficient for most supervisors to adequately understand their role in the review process. Moreover, we were concerned that if supervisors were not adequately doing alert investigations on a monthly basis, they would not be able to address the issues identified in the Traffic Stop Annual Report. Our review of the supervisory investigations showed that the majority of supervisors did not refer to the statistical documents detailing the areas in which the deputies under their supervision were found to be outliers. In addition, over one third of line supervisors stated in their summaries that they felt unprepared to read the statistical reports or know how to respond to the Report's findings. As a result, no supervisor found any substantial problems with the behavior of the deputies they reviewed. There was no recommendation for additional training, and only limited suggestions for additional oversight of their subordinates. Finally, only a small proportion of supervisors noted in their summaries that they talked to their subordinates about biased based policing even though this was the focus of the outlier reports provided to them by EIU.

Both we and the Parties were extremely critical of the outcome of the process set up by MCSO. As a result, MCSO requested technical assistance to redo the supervisory processes related to the First Traffic Stop Annual Report. The technical assistance started prior to our October site visit through conference calls, and continued during our site visit with in-person meetings with EIU/BIO personnel that will oversee the new processes being created. Subsequently, we held two two-day site visits to further refine these processes. The Parties participated in the most recent visit. We will document the results of our technical assistance process in future quarterly status reports.

The concerns with addressing outliers are even more pivotal now that the Second Traffic Stop Annual Report draft has also been released. Moreover, MCSO has indicated that the use of these annual reports would be one of many topics covered in the upcoming EIS training. Our concern with many of the processes related to EIS is that they have existed for far too long without the proper training to support or introduce them. We believe this is why we see the fluctuating levels of compliance for alert investigations, supervisor use of TraCS tools, and Traffic Stop Data Inspections.

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”).*

Phase 1: Not in compliance

- GH-5 (Early Identification System), currently under revision.

Phase 2: Deferred

The EIU has come together well to this point. A lieutenant coordinates the unit, with three sergeants working on investigations, one analyst, and one administrative staff member under the auspices of BIO. During our October site visit, we were informed that both EIU and the Technology Bureau had been approved to hire five new staff; three in the Technology Bureau and two in EIU. The timeline for these hires has not yet been determined internally. We suggested that due to the importance of EIS, that a target date of December 31, 2016 seemed most appropriate. Technology Bureau representatives believed that their process would not be completed until well after the beginning of 2017 due to the very competitive market that exists for people with the necessary qualifications of the bureau. EIU stated they would attempt to expedite the processes of hiring but were not in complete control of searches conducted by the Human Resources Department. Both unit representatives were advised to keep us informed of their progress and request extensions if necessary.

EIU staff continues to conduct data analysis using data they have compiled from sources across the organization – including CAD, RMS, Blue Team, TraCS, EIPro, and others. These analyses look for deputies who “hit” thresholds created by EIU personnel. As discussed previously, both MCSO’s contract partner and we have conducted analyses on the annual dataset created by ASU. The first annual ASU analyses used the benchmarks and thresholds provided by MCSO. Our analyses use a statistically grounded mechanism to identify outliers. Following the publication of the First Traffic Stop Annual Report, both MCSO and ASU have begun to develop new processes to clean the organizational data; and plan to improve the methodology to analyze the data for monthly, quarterly, and future annual reports. ASU produced the Second Traffic Stop Annual Report at the end of October 2016. We will comment on the specifics of that analysis in our next quarterly status report.

As a result of our comments about the inadequacy of the unscientific thresholds in place MCSO discontinued using them in their monthly reports in May 2016. MCSO is working on new benchmarks and protocols that are also statistically grounded to replace these thresholds and protocols. We have commented on these and ASU is assisting MCSO in developing these processes.

EIU personnel also regularly monitor alerts that are triggered by the thresholds they have set. MCSO has provided us with monthly reports of how these alerts are being handled. In addition, EIU has improved the alert transmission process with District supervisors by incorporating the alert investigations into the Blue Team system. This offers a tremendous advantage over the previous email system because it affords an easy way for supervisors to acknowledge receipt of alerts that they need to investigate, in the timeframe they need to be investigated, and make notations in Blue Team regarding any actions they may have taken. In addition, EIU has refined definitions for alert clearance types that should improve the quality of information included in their monthly reports of alerts. EIU personnel also went through several iterations of definitions relevant to the EIS policy and practice. They sought our feedback and made modifications based upon this feedback. The vast majority of the recommendations we have made over the past several months have been included in the most recent redrafting of the EIS policy that is now being finalized. We have repeatedly raised questions regarding the detail of supervisor's concluding remarks in closing alert investigations. Most supervisors adequately investigate these alerts and provide sufficient detail in the summary to be assured that problems were either addressed or the behaviors involved did not rise to the level necessary for a response. However, each month during our review of a random sample of closed alerts we find one or two that are not sufficient. Since these closed alerts go through the chain of command as well as EIU, we would expect that these issues would not reoccur each month. When we have requested additional information, EIU has gone back to the supervisor writing the original summary and had them include specific information to support their conclusions. The additional information has always been sufficient. We have worked with EIU in the development of training curricula to assist in the closure of alert investigations for supervisors. This training has not yet been delivered.

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

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.

Phase 1: Not in compliance

- GH-5 (Early Identification System), currently under revision.

Phase 2: Not in compliance

When the EIU was developed in 2013-14, there was no standing policy defining the unit's responsibilities. Therefore, EIU personnel at the time created measures to conduct monthly analyses looking for "outliers," "potential questionable behavior," and "racial profiling." For an extended period of time, we asked for documentation to support the measures and types of analyses being conducted. Ultimately we concluded, and have repeated since the beginning of 2015, that the processes employed by MCSO remain largely "qualitative" since they rely heavily on judgments of EIU personnel and there is little information as to how these thresholds were developed nearly two years ago. The First Traffic Stop Annual Report was published by ASU in May 2016. Many of the unsubstantiated rules employed by MCSO were also used in the analysis presented by ASU in this report. For that reason, among others, we were critical of the methods and measures used in the first annual report.

One of our major concerns with the monthly reports generated by EIU has been that relatively few deputies actually reach the thresholds EIU has employed, further calling the value of these into question. Moreover, MCSO was directed to evaluate whether the outliers in the preliminary analysis of ASU, presented in February 2016, had triggered alerts in the EIS. The result of this investigation was that very few of the deputies found to be outliers in the ASU analysis had triggered any relevant alert in the EIS during the same time period. This defies the very purpose of an alert system.

For that reason we had provided MCSO and ASU with a recommended method of analyzing data that is more statistically grounded and methodologically sound. Following the publication of the First Annual Report, MCSO and ASU have been working to propose new protocols and benchmarks for all the analysis related to EIS. It is important to note that having an alert set, or appearing as an outlier in a statistical analysis, only triggers a closer look at the deputy's collective stops and is not necessarily proof of bias or profiling. We want to ensure that the thresholds are not excluding a deputy from review when that review would be appropriate. During the months of July through September 2016, we continued to work with MCSO to develop a more statistically grounded set of measures and methods for ASU and EIU to employ. Some of these recommendations have been included in the draft of the Second Traffic Stop Annual Report, 2015-2016. We will be commenting on this report and the finalized version when it becomes available. In addition, as of September 2016, the new thresholds and methods for the monthly reports generated by EIU have not been completed. EIU/ASU are working to bring these changes to fruition by the target date of December 31, 2016.

EIU personnel are also working with other units within the organization, as well as software vendors, to ensure that all data reflected in Paragraph 75 will be included in the relational database. A timeline for these activities will be discussed in Paragraph 75.

It is important to note that during our April and July site visits, we, the Plaintiffs, and the Plaintiff-Intervenors provided MCSO with a list of information (data elements) that should appear in the EIS database for all relevant information that is not currently housed within EIS. All Parties were allowed to comment on the interface proposal of MCSO as well as document their response to the data elements that MCSO proposed to include in the EIS database for the Paragraph 75 requirements. MCSO is working toward the inclusion of all information in EIS that is required by the Order.

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.*

Phase 1: Not in compliance

- GH-5 (Early Identification System), currently under revision.

Phase 2: Not in compliance

This Paragraph outlines the minimum requirements of the database to ensure that bias and profiling do not go unnoticed. However, not all required information is currently stored in a useable format within EIS. Nor does the EIS, as currently configured, meet the definition commonly accepted as a relational database that allows users to easily search for specific items without having to read each individual entry. Since this database is a crucial aspect of a functional Early Identification System, we have been working closely with MCSO to achieve compliance. During our October site visit, we, the Parties and MCSO agreed to a set of target dates for the inclusion of the following data elements into EIS. Some of these require the creation of an interface, with the assistance of CI Technologies; others require cooperation with external agencies to provide the necessary information to MCSO for entry into the system; and others require technical modifications or developments within MCSO. As noted below, MCSO has already met some of the agreed-upon target dates.

Paragraph 75.a. requires that the database include “all misconduct Complaints or allegations (and their dispositions),” with some exclusions. EI Pro, a web-based software application that allows employees and supervisors to view information in the IAPro case management system, does include the number of misconduct complaints and allegations against deputies; however, a description of these complaints is not always available to a supervisor. In those instances where the supervisor does not have immediate access to complaint information, the supervisor must contact PSB for additional details.

MCSO has been pilot-testing technological fixes to this problem since October 2015. These issues have been at the forefront of each site visit and teleconference on EIS for the past several months. Just before our July 2016 site visit, MCSO notified us that the latest solution had allowed immediate supervisors the ability to see closed complaint summaries. MCSO demonstrated this purview during our site visit. However, during a question-and-answer period, we discovered that the fix only applied to complaints that had been closed. Open investigations were not viewable, and MCSO was not certain how it might be able to accommodate this requirement.

During our October site visit, MCSO, with the assistance of CI Technologies, successfully pilot-tested the ability to provide immediate supervisors with access to a limited summary of ongoing investigations. Several technical and policy issues still need to be resolved before this process is put into production for the entire agency. First, PSB must review all open investigations to ascertain who should have access to those summaries. In particular, PSB will be checking to ensure that immediate supervisors were not somehow implicated in these complaint summaries they would be given access to. If they are, then the next highest ranking supervisor would have access, but not the immediate supervisor who may have been involved in the incident. The target date for completion of these tasks is December 1, 2016, and we will document MCSO’s compliance in our next quarterly status report.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.b. requires that the database include “all internal investigations of alleged or suspected misconduct.” Similar to the above discussion of complaints, internal investigations exist in the IAPro system, a management system used by EIU, PSB, and CID to track and analyze information inclusive of internal complaints and outcomes. However, for privacy concerns, there must be limited access to this information. As discussed in Subparagraph 75.a., supervisors can now view synopses of completed investigations. MCSO, in coordination with CI Technologies, has successfully piloted a process that would give supervisors a succinct summary of ongoing “open” investigations. Several details noted in 75.a. are being finalized. The target date for completion of these tasks is December 1, 2016, and compliance will be documented in our next quarterly status report.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.c. requires that the database include “data compiled under the traffic stop data collection and the patrol data collection mechanisms.” In Paragraph 54, we describe how MCSO created several electronic forms to capture all relevant data related to traffic stops: Vehicle Stop Contact Forms and Supplemental Sheets, the Incidental Contact Receipt, and the Written Warning/Repair Order. During the first year of these electronic forms, both we and MCSO found data problems. Over time, most of these issues were addressed by requiring that the fields of these forms be made mandatory before a form can be closed. Most recently, MCSO programmed CAD to populate the traffic stop beginning and end times to alleviate the problem of extremely long traffic stops that were not being properly closed. In addition, MCSO – in conjunction with ASU, us, and the Parties – has created a checklist of reasons that will appear as a “drop-down menu” for deputies to explain why a stop might be extended. Further, new thresholds and methodologies are under development for the monthly and quarterly analysis of traffic data. The target date for completion of these modifications is December 31, 2016, and we will document MCSO’s compliance in our next quarterly status report.

While MCSO has not incorporated the required information (data elements) regarding arrests or investigatory stops into the database, they continue to work on solutions that would make that possible. EIU personnel presented a diagram showing how the remote databases would interface with EIS. We and the Parties commented on the data elements and discussed the interface proposal presented. CI Technologies has begun work on the interface and expects that a pilot of these processes may be available by as early as December 15, 2016 with full production slated for the February 1, 2017 target date. We will document MCSO’s compliance with the December target date in our next quarterly status report.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.d. requires that the database include “all criminal proceedings initiated, as well as all civil or administrative claims filed with, and all civil lawsuits served upon, the County and/or its Deputies or agents, resulting from MCSO Patrol Operations or the actions of MCSO Patrol Operation Personnel.” According to EIU, this information is evaluated and processed by the Legal Liaison Unit of MCSO and entered into the system. Summaries of this information are available in the EIS database for review by supervisors. EIU noted, however, that there is no automatic link with other law enforcement agencies in the area; therefore, if an employee is

arrested, the code of conduct policy requires that the deputy self-report those instances. Failure to self-report would result in discipline depending upon the circumstances involved. During recent site visits, EIU personnel and District supervisors demonstrated the ability to review this information for us. However, this particular data field had not been searchable by supervisors in the prior versions of EI Pro. On November 8, 2016, we were advised that a new version of EI Pro had been pilot tested and released to the entire organization. The new version of EI Pro affords the search function to immediate supervisors. The target date for completion of this was January 1, 2017, but MCSO has deployed this function in advance of expectations. We have not yet verified the search functions, but will do so prior to our next quarterly status report.

MCSO is not in compliance with this Subparagraph until it has verified the search function.

Paragraph 75.e. requires that the database include “all arrests.” We have been advised that arrests are currently not included in the EIS database, but they do exist in the Jail Management System, which is not directly linked to EIS. The Technology Bureau and EIU are working with CI Technologies to create the interface that would pull specific data elements for each “arrest” into EIS. During our site visit meetings in April 2016, we provided MCSO with a list of information that minimally must be contained directly in EIS for each “arrest.” MCSO included these data elements in the interface discussion. We and the Parties commented on the interface and data elements. CI Technologies and MCSO are working to complete the interface by mid-December and will be targeting completion of the requirements for this Subparagraph by December 31, 2016. Compliance will be documented in our next quarterly status report

MCSO is not in compliance with this Subparagraph.

Paragraph 75.f. requires that the database include “all arrests in which the arresting Deputy fails to articulate probable cause in the arrest report, or where an MCSO Supervisor, court or prosecutor later determines the arrest was not supported by probable cause to believe a crime had been committed, as required by law.” EIU already captures this information through Incident Report Memorialization. Supervisors must file these reports by the end of the shift in which they are recognized. These notes currently exist in Blue Team as Supervisory Notes to the actions of their subordinates. However, these Supervisory Notes are “free form” entries that do not allow supervisors to search for relevant key words or issues. On November 8, 2016, MCSO informed us that the newest version of EI Pro had been pilot-tested and put into production for the entire organization. This version of EI Pro allows supervisors to search fields of information using key words and phrases. The target date for the completion of this task was November 15, 2016. MCSO has completed this function in advance of expectations. We have yet to verify the search function, but will do so prior to our next quarterly status report. Arrests for which the prosecutor or a court determines a lack of probable cause are discussed in Subparagraph 75.i., below.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.g. requires that the database include “all arrests in which the individual was released from custody without formal charges being sought.” According to EIU, the ability to capture this information depends upon what actually occurred within the context of the interaction. If the suspect was taken into physical custody but released prior to booking, there would be a JMS record as indicated in Subparagraph 75.e. above. Therefore, MCSO could use

the interface described earlier to pull the relevant data elements into EIS. However, if the incident does not rise to the point of physical custody and detention, then it would likely yield an Incident Report, covered under Subparagraph 75.f. above or an Investigatory Stop under Subparagraph 75.h. to follow. EIU is working to coordinate these processes with the assistance of the Technology Bureau and CI Technologies. In either case, the solution would be the ability to create the interface that draws the relevant data elements from the FILEBOUND or other systems into EIS. CI Technologies began developing the interface capabilities on November 15, 2016 and hopes to pilot-test this ability by December 15, 2016. The target date for completion of the tasks for this Subparagraph is December 31, 2016, and we will document MCSO's compliance in our next quarterly status report.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.h. requires that the database include "all Investigatory Stops, detentions, and/or searches, including those found by the Monitor, an MCSO supervisor, court or prosecutor to be unsupported by reasonable suspicion of/or probable cause to believe a crime had been committed, as required by law." If the incident does not involve a traffic stop, it should be documented in an Incident Report, which is scanned into FILEBOUND. At present, the FILEBOUND system does not communicate with EIS. The Technology Bureau, EIU and CI Technologies have proposed an interface between several remote databases and EIS. This interface would allow agreed upon data elements to be pulled from the remote databases and incorporated into EIS. CI Technologies has been working with MCSO for several months preparing for the development of this interface. CI Technologies began developing the interface processes on November 15, 2016, with a target date for pilot testing of December 15, 2016.

If the detention or search was the result of a traffic stop, the information will already be in the system as a result of the electronic forms described in Subparagraph 75.c. above. The target date for completion of the requirements of this Subparagraph is December 15, 2016, and compliance will be documented in our next quarterly status report.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.i. requires that the database include "all instances in which MCSO is informed by a prosecuting authority or a court that a decision to decline prosecution or to dismiss charges, and if available, the reason for such decision." Some of these already exist in the database. All cases involving the Maricopa County Superior Court system already reside in the system and are entered as a "County Attorney Action." The employee receives a direct message once these outcomes are entered into the system. In addition, a notice is sent to the deputy's supervisor, and both lieutenants and captains will be able to view these County Attorney Actions on their own supervisory dashboard screens. BIO already conducts monthly audits of County Attorney Turndowns to ensure that, at a minimum, probable cause existed for the initial action of the deputy. Beginning in April 2016, we have included these County Attorney Actions in our monthly document request. Each month, BIO provides a list of cases returned by the Maricopa County Attorney's Office. From this list, we randomly select five for review. Nearly every case comes down to whether there is sufficient evidence to prove guilt beyond a reasonable doubt. In some cases, this is due to limited evidence. In others, it is the inability to gain cooperation of witnesses, and in some the defendant is assisting the prosecution in other cases

or seeking treatment while their case is deferred. To this point we have not reviewed a case in which prosecution was turned down due to the deputy's improper action. On November 8, 2016, we were advised by MCSO that a new version of the EI Pro system had been pilot-tested and the production was released to the entire organization with an approved Administrative Broadcast. The target date for the ability to search Maricopa Superior Court documents returned to MCSO was November 15, 2016. MCSO exceeded expectations with this early production.

For any cases that fall outside of the Superior Court, which can include misdemeanors, minor felonies or cases that are referred to City or Justice Courts, the dispositions are not directly communicated to MCSO. The Technology Bureau is coordinating the interaction with these Courts and is planning to implement a solution for those Courts that have agreed to share their documents. The target date for implementing this solution is December 1, 2016, and we will document MCSO's compliance in our next quarterly status report.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.j. requires that the database include "all disciplinary action taken against employees." MCSO currently tracks disciplinary actions in the IAPro system. However, MCSO is debating how to include "coaching" as an alternative that is trackable in this database. At present, coaching is incorporated into Blue Team Supervisory notes. This becomes problematic if one wants to find similar instances of coaching over time that may be worded differently. EIU is working with the legal review unit to ensure that the policies addressing coaching are worded appropriately. For example, currently, one instance of coaching is not viewed as a disciplinary event; however, three instances of coaching for the same sort of conduct can move into a formal disciplinary process. EIU is exploring a variety of options and will develop a proposal so that this issue can be resolved. MCSO notified us on November 8, 2016 that with the production of a new version of EI Pro, this field is now searchable by supervisors. This is a significant advancement for supervisory oversight. MCSO exceeded expectations in launching this prior to the November 15, 2016 target date. We will evaluate the efficacy of the search function in our next report.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.k. requires that the database include "all non-disciplinary corrective action required of employees." MCSO believes that at present, Supervisory Notes fulfill this requirement along with the bimonthly reviews of a deputy's performance. These notes typically describe the discussions that supervisors and subordinates have about the work of a deputy. Most do not rise to the level of discipline, but there are times where Supervisory Notes are used to further examine the activity of deputies (see the instance of repeated coaching above). On November 8, 2016, MCSO notified us that with the production of the most recent version of EI Pro, Supervisory Notes are now searchable through key words and phrases. Therefore, a significant portion of the technical work was completed ahead of the December 31, 2016 target date. However, as noted in Subparagraph 75.j., MCSO is still formulating several policies that may address "coaching" as either a discipline or non-disciplinary action. Until such time as this is finalized, MCSO will not be in compliance with this Subparagraph.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.l. requires that the database include “all awards and commendations received by employees.” The EIU has completed their work with the Compliance Division and revised the awards policy. GC-13 (Awards) was published on August 27, 2016. With this publication, EIU was able to create categories for awards or commendations within EIS. With the introduction of the newest version of EI Pro, these fields are also searchable by supervisors. MCSO has manually entered all awards and commendations back to January 1, 2016, as reported during our October 2016 site visit.

MCSO is not in compliance with this Subparagraph pending verification of the search function.

Paragraph 75.m. requires that the database include the “[t]raining history for each employee.” MCSO uses a Skills Manager System (SMS) that is operated by the Training Bureau. According to the Technology Bureau, the SMS will not communicate with EIS. EIU took the initiative to retrieve the history of deputies from SMS and enter them into EIS manually. EIU started this process beginning with the training that began on October 1, 2016. EIU plans to bring the EIS up-to-date and then begin to work backwards to January 1, 2016 for all deputies. The introduction of the newest version of EI Pro has also made this field searchable. Therefore, supervisors will no longer have to read each entry for information they may need as part of their oversight responsibilities. We have not yet verified these modifications to the database, but we anticipate doing so before our next quarterly status report.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.n. requires that the database include “bi-monthly Supervisory observations of each employee.” Currently, the supervisors memorialize their meetings with employees in Supervisory Notes in Blue Team. EIU demonstrated, during our July 2016 site visit, that simple word searches were possible, but Boolean searches or searches involving phrases were not. CI Technologies provided MCSO with the newest version of EI Pro in October 2016 and, following extensive pilot-testing, this version of the program was released throughout the organization on November 8, 2016 along with an Administrative Broadcast outlining the new functions. We have not yet had the opportunity to verify these search functions, but will do so prior to our next quarterly status report.

BIO conducts monthly audits of Patrol Supervisory Notes and the Review and Discuss fields in TraCS. In Paragraphs 69-70, we note several fluctuations in supervisors’ use of these tools. BIO is sending out Action Forms to alert Command Staffs in the respective Districts about these trends. We will evaluate the response to these Action Forms. We believe that with the finalization of the revision to GH-5 (Early Identification System) and the development of training to EIS that these fluctuations will be mitigated. The introduction of the new version of EI Pro, which affords supervisors the ability to search this field, occurred before the target date of November 15, 2016.

MCSO is not in compliance with this Subparagraph, pending verification of the search function.

E. F. Codd, the person who coined the term “relational database,” defined it as a collection of data items organized as a set of formally-described tables from which data can be accessed or reassembled in many different ways without having to reorganize the original database tables. The above discussion of the data elements shows that MCSO is closer to compliance today than

it has been in the past, but that there is much more work to be completed. MCSO is in the process of finalizing a new version of GH-5 (Early Identification System) regarding EIS; these elements; and the specification of how deputies, supervisors, and command staff should use these data to fulfill their roles. The introduction of the newest version of EI Pro, on November 8, 2016, improved the ability of supervisors to search particular fields relevant to Paragraph 75. This is a significant advance. However, other elements, noted above, do not exist in a manner that fits the definition of a relational database. The interface solution that MCSO and CI Technologies is working on will alleviate several of the problems outlined above. Specifically, it would provide a bridge between remote databases and EIS by extracting specific data elements for inclusion in the EIS database. We must also verify all of the search functionality outlined above and anticipate being able to do so before our next report is issued.

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).*

Phase 1: Not in compliance

- EB-2 (Traffic Stop Data Collection), most recently amended December 15, 2015.
- GH-5 (Early Identification System), currently under revision.

Phase 2: Not in compliance

For traffic stops, MCSO meets these requirements in several ways. For instance, EIU had found during the monthly alert analysis of TraCS data that deputies were erroneously marking race as “unknown.” As a result, in October 2015, EIU required that a deputy enter his/her best estimate of perceived race for each traffic stop interaction. The integrity analyses conducted by our personnel have shown that this information is rarely missing from the TraCS data supplied by MCSO. Moreover, when discrepancies do arise, MCSO has developed solutions. Second, there was a problem uncovered in the First Traffic Stop Annual Report regarding extended traffic stops, some in excess of 900 minutes. MCSO initially proposed to have CAD populate the end time for traffic stops to alleviate the problem of traffic stops that were not properly concluded. After further discussion and investigation it was concluded that CAD should populate both the start and stop times of traffic stops to minimize mistakes of individual deputy error. Moreover, MCSO, in coordination with us, ASU and the Parties have developed a “drop-down menu” for deputies to select from if they are on a traffic stop for an extended period of time. These are typically drunk driving arrests or instances where a vehicle has to be towed. Over the past three years, MCSO has been swift to find solutions to problems that have arisen with the traffic stop data. The analyses conducted by EIU, and audits of BIO, have proven beneficial in uncovering some anomalies that can be addressed through technical modification. We will continue to work with MCSO to ensure compliance.

However, as we noted in several Subparagraphs above – 75.e.g. (all arrests in differing contexts), and 75.h. (investigatory stops) – MCSO is still working to incorporate the necessary information in EIS to fully meet the requirements of this Paragraph. Identifying information for deputies is automatically incorporated into EIS. However, until all of the required types of

records are incorporated into the system, the corresponding identifying information for the civilians contacted by deputies will be missing. During our July site visit, MCSO provided a diagram for the interface of several remote databases with EIS. The interface would provide a bridge that allows specific data elements required in this Paragraph to be represented in the EIS database. We and the Parties discussed the interface and data elements at length during our July site visit. Prior to and during our October site visit, we, MCSO, and the Parties cooperatively developed an agreement for target dates regarding all elements of Paragraph 75. This memo was shared with all Parties on October 28, 2016. To this point, MCSO has already met several of the target dates contained in that memo. The interface between databases is still under development. Therefore, without the required civilian information pertaining to each “patrol” interaction with MCSO deputies, the organization is not in compliance with this Paragraph.

***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: Not applicable

Phase 2: In compliance

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

During our July and October 2016 site visit, the Chief of Patrol noted that with the movement of a majority of the organization to the 4-10 shift, MCSO has just enough vehicles to accommodate the overlapping shifts. He acknowledged, however, that MCSO would need additional vehicles to address the event that multiple vehicles could be out of commission at the same time. In addition, due to the introduction of body-worn cameras, Lakes Patrol command staff informed us that uploading of cameras had become problematic due to connectivity issues. In response, they developed alternatives for their deputies: First, they provided each deputy with a second body-worn camera so that one could be uploading while the other is in service; second, they offered to provide deputies with uploading terminals at their residence; and third, for those deputies who did not want to upload camera footage from their residence, they created “sharing agreements” with Districts to allow deputies from Lakes to drop off their cameras following their shift for uploading. Given these options, they have not had difficulties in finding ways to ensure that deputies have uploading stations at their disposal.

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

***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.*

Phase 1: Not in compliance

- GH-5 (Early Identification System), currently under revision.

Phase 2: Not in compliance

Prior to the publication of GH-5, the Deputy Chief of the Technology Bureau provided a letter in response to Paragraph 78. On the second page of this memorandum, there is a description of the security of the database and server. This information has been reiterated in the revised EIS policy. MCSO has also included specific statements in the policy that limit access to individual deputy information to appropriate supervisory/administrative personnel. In addition, the policy states that personal information will be maintained in the database for at least five years following an employee's separation from the agency. The policy also explicitly stipulates that all other information will be retained in EIS indefinitely for purposes of aggregate statistical analyses. These statements meet the requirements of the Order.

Moreover, the discussion in relation to Paragraph 75.a. and b., regarding the ability to view ongoing complaints and internal investigations provides a practical example of how concerned MCSO is with the privacy of information regarding their employees. MCSO has pilot-tested the technological issues involved in allowing this purview; and now PSB and EIU are coordinating to ensure that all of the open investigations that exist are properly investigated to ensure that, for example, no immediate supervisors who may be involved in a complaint or internal investigation have access to the summaries of the ongoing investigations. The most immediate supervisor without any involvement in the alleged incident will have the ability to view these summary descriptions. This is an indicator of how important security of the system is to MCSO.

MCSO has also been working with a contract partner, ASU, to ensure that the traffic stop data is in a format that allows for aggregate statistical analysis to be conducted. We have noted, particularly in Paragraphs 64-67, the problems that have arisen in conducting the first and second annual review of traffic stop data. In addition, we have noted the limitations of information available in several Subparagraphs of Paragraph 75 above. MCSO is working to create an interface between remote databases and EIS to pull agreed upon data elements from these remote systems and place them in the EIS data. We and the Parties have had the opportunity to review and comment on the interface proposal and the data elements MCSO is planning to include. During our October site visit, we, MCSO and the Parties went through every aspect of Paragraph 75 and agreed to target dates for inclusion in EIS. MCSO has already met several of those target dates. CI Technologies and MCSO are now working to develop the interface between databases. Once the interface is completed we will reassess the security and retention of data pertinent to this Paragraph.

***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.*

Phase 1: Not in compliance

- GH-5 (Early Identification System), currently under revision.

Phase 2: Not in compliance

MCSO does not have a fully “integrated” database. MCSO has made several modifications to TraCS over the past several months to achieve a more effective system of data collection that can also be used for data analysis. Many of the problems that continue to hamper the TraCS system came to light during the analysis leading up to the First Traffic Stop Annual Report. As a result, MCSO, in conjunction with us and the Parties, has changed the manual entry of traffic stop start and end times to an automated process using CAD information. Second, MCSO developed a “drop-down” checklist for deputies to describe why their traffic stops might be extended (tow operations, DUI arrests, etc.). This should alleviate many of the inconsistencies found in the data during the analyses prior to the publication of the First Traffic Stop Annual Report. It will also benefit supervisors who have oversight responsibilities for the deputies and the traffic citations they produce. Finally, it should make future aggregate analyses easier if the majority of extended stops are captured under the categories used in the drop-down menu. As a result, the TraCS data is highly integrated and subject to verification through processes in place by our own Team, BIO and ASU analysts.

As noted in our discussion of Paragraph 75, MCSO has not yet met the same standards for “patrol data” not directly linked to TraCS. MCSO proposed, in July 2016, an interface between remote databases and EIS for those patrol activities not captured in the TraCS system. In the interim, MCSO personnel in EIU and BIO have appropriately pulled together data to conduct analyses, audits and inspections looking for behavior that may appear to be outside the norm. In previous Paragraphs, we have revealed several data and analytic concerns that impact the operation of the EIS. Cumulatively, they preclude the EIS from being “fully implemented.” These include, but are not limited to: 1) the ability of supervisors to have immediate access to all complaints and internal investigations involving their subordinates. MCSO demonstrated during our July 2016 site visit that supervisors can now view a synopsis of closed complaints but they are continuing to work on providing supervisors with access to abbreviated descriptions of ongoing investigations; 2) the ability of supervisors to access a complete training history of their subordinates within EIS; 3) a means of allowing supervisors to peruse pertinent information within EIS regarding Incident Reports for arrests and investigatory stops that have been conducted by their subordinates; 4) the data necessary for analysts to evaluate whether bias occurred during arrests and investigatory stops noted in number 3 above; and 5) a searchable database that allows supervisors to query on any variety of measures or incidents. MCSO has provided a partial fix to item 5 with the introduction of the newest version of EI Pro on November 8, 2016. This new software allows supervisors to search particular fields in EIS using key words, phrases and dates. This is a dramatic improvement for MCSO. However, it only applies to some of the data required in Paragraph 75. MCSO will keep us apprised of the progress made toward more comprehensive inclusion.

EIU personnel have incorporated the alert investigation process by District supervisors into the Blue Team system. This has created a more transparent and accountable process for tracking behaviors that might be problematic. The findings from these investigations require approval from several levels of command before they are closed. However, the lack of substantive training on EIS up to this point has resulted in a minority of supervisors closing alert investigations without adequately describing the process they employed or conducting face-to-face meetings with their subordinates. We have raised these issues with MCSO in the past, and we and the Parties have suggested alternative review processes to mitigate some of these review issues. MCSO is considering these suggestions. In addition, at the request of MCSO, we have begun providing technical assistance to improve the way EIU and supervisors respond to findings of potential biased policing in the Annual Traffic Stop Reports produced by ASU. Recently, the Parties joined us in this effort.

BIO inspections have shown how they draw information from a variety of sources to gauge whether supervisors are fulfilling their required roles (Patrol Supervisory Note, IR Inspections, Traffic Stop Data Inspections and Review and Discuss Inspections). When BIO identifies deficiencies in the reports, as noted in Paragraphs 69 and 70, BIO provides recommendations for improvement with the Districts’ command staff. We have recommended that BIO take a more active role once it uncovers deficiencies in training or operations. We will continue to monitor these developments as they arise and evaluate the Districts’ responses to the Action Forms sent from BIO.

EIU personnel are also developing new monthly analyses of TraCS in conjunction with ASU as a result of our past comments on the monthly and annual analyses conducted. In short, both analyses were limited to only the most active deputies, those with 10 or more stops per month, and involved the use of time measures that were corrupted by data errors that made a large proportion of the analysis unusable. In addition, the thresholds for the monthly analyses were largely developed arbitrarily by EIU personnel and were not based upon scientific research or statistical techniques. Proposed solutions have been approved and EIU and ASU are working to implement these for further evaluation.

b. Training on the EIS

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

Phase 1: Not in compliance

- GH-5 (Early Identification System), currently under revision.

Phase 2: Not in compliance

In response to our request for documentation, MCSO provided a training schedule for TraCS and supervisors during the spring of 2016. More importantly, MCSO has now put into practice a mechanism to memorialize who has received this training and when. The Skills Manager System (SMS), operated by the Training Bureau, does not communicate with the EIS. EIU personnel are manually inputting information from the SMS into EIS. EIU personnel began inputting training data that occurred on, or after, October 1, 2016. Following the completion of that process, EIU will then work backward to incorporate training material dating back to January 1, 2016 for each deputy.

Training curriculum development for EIS has been placed on hold several times due to the major revisions occurring to GH-5 (Early Identification System). During our October site visit, MCSO was advised to come up with a plan to deliver a portion of EIS training related to areas of the policy that are not being revised. In response, MCSO noted in an October 31, 2016 memorandum that the Training Bureau and EIS are working in conjunction to deliver Employee Performance Appraisal course information along with some EIS instruction. These proposals are pending approval, but once accepted should lead to partial instruction in EIS for 700+ employees by June 30, 2017.

c. Protocol for Agency and Supervisory Use of the EIS

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

- a. *comparative data analysis, including peer group analysis, to identify patterns of activity by individual Deputies and groups of Deputies;*
- b. *identification of warning signs or other indicia of possible misconduct, including, but not necessarily limited, to:*
 - i. *failure to follow any of the documentation requirements mandated pursuant to this Order;*
 - ii. *racial and ethnic disparities in the Deputy's traffic stop patterns, including disparities or increases in stops for minor traffic violations, arrests following a traffic stop, and immigration status inquiries, that cannot be explained by statistical modeling of race neutral factors or characteristics of Deputies' specific duties, or racial or ethnic disparities in traffic stop patterns when compared with data of a Deputy's peers;*
 - iii. *evidence of extended traffic stops or increased inquiries/investigations where investigations involve a Latino driver or passengers;*
 - iv. *a citation rate for traffic stops that is an outlier when compared to data of a Deputy's peers, or a low rate of seizure of contraband or arrests following searches and investigations;*
 - v. *complaints by members of the public or other officers; and*
 - vi. *other indications of racial or ethnic bias in the exercise of official duties;*
- c. *MCSO commander and Supervisor review, on a regular basis, but not less than bimonthly, of EIS reports regarding each officer under the commander or Supervisor's direct command and, at least quarterly, broader, pattern-based reports;*
- d. *a requirement that MCSO commanders and Supervisors initiate, implement, and assess the effectiveness of interventions for individual Deputies, Supervisors, and units, based on assessment of the information contained in the EIS;*
- e. *identification of a range of intervention options to facilitate an effective response to suspected or identified problems. In any cases where a Supervisor believes a Deputy may be engaging in racial profiling, unlawful detentions or arrests, or improper enforcement of Immigration-Related Laws or the early warning protocol is triggered, the MCSO shall notify the Monitor and Plaintiffs and take reasonable steps to investigate and closely monitor the situation, and take corrective action to remedy the issue. Interventions may include but are not limited to counseling, Training, Supervisor ride-alongs, ordering changes in practice or procedure, changing duty assignments,*

Discipline, or other supervised, monitored, and documented action plans and strategies designed to modify activity. All interventions will be documented in writing and entered into the automated system;

- f. a statement that the decision to order an intervention for an employee or group using EIS data shall include peer group analysis, including consideration of the nature of the employee's assignment, and not solely on the number or percentages of incidents in any category of information recorded in the EIS;*
- g. a process for prompt review by MCSO commanders and Supervisors of the EIS records of all Deputies upon transfer to their supervision or command;*
- h. an evaluation of whether MCSO commanders and Supervisors are appropriately using the EIS to enhance effective and ethical policing and reduce risk; and*
- i. mechanisms to ensure monitored and secure access to the EIS to ensure the integrity, proper use, and appropriate confidentiality of the data.*

Phase 1: Not in compliance

- GH-5 (Early Identification System), currently under revision.

Phase 2: Not in compliance

In the absence of comprehensive training EIU, BIO, and individual supervisors have shown the ability to conduct comparative analysis of deputies, squads and Districts employing the traffic data incorporated into EIS. EIU has routinely conducted monthly analyses looking for racial bias and profiling. While informative, these analyses have resulted in very few alerts being sent for further investigation to be conducted by supervisors. We have been critical of these analyses and reports for well over a year. Once we received comprehensive data in December 2015, we provided MCSO and its subcontractor with a methodology that is more statistically grounded and will allow a more complete analysis of deputy activity. The First Traffic Stop Annual Report was published in May 2016. Unfortunately, ASU adopted many of the standards of MCSO in conducting the First Traffic Stop Annual Report. For instance, comparison of deputies was limited to those who had "10 or more stops per month" during the report period. We provided ASU and MCSO with our evaluation of the first annual report. Based upon these comments, and several discussions during our July 2016 site visit, MCSO and ASU are revising the methods and protocols they use for the monthly data analysis. While we have seen some of the proposed methodological changes, we have not yet seen a complete report using all of the new thresholds and benchmarks. The target date for these changes to be operational is December 31, 2016.

MCSO has also introduced two fields in TraCS that directly impact the ability of supervisors to oversee the activity of their subordinates. One field is for "review" of traffic stop information within 72 hours of the stop. The second field is for supervisors to note when they "discussed" the traffic stops deputies make with them. The review field should also improve the data quality included in VSCFs, since one role of the supervisor is to ensure that deputies have completed all boxes of that form accurately. In future reports, we will use these fields to further evaluate whether supervisors are meeting the requirements of the Order.

BIO has also conducted several types of monthly analyses on both traffic stop data and supervisory use of EIS tools. Over the past year, the use of these tools has ranged from approximately 55% of supervisors regularly employing these tools, to several months where 100% of supervisors used the EIS tools available to them. BIO has shared this information agency-wide and made specific recommendations to command staff in Districts where the fluctuations were most pronounced. With the introduction of the new TraCS fields discussed above, BIO has modified the Patrol Supervisory Note inspection and created new audits for the Review and Discuss fields.

For the past several months, we have also reviewed a random sample of alert investigations conducted by supervisory staff as directed by EIU. In the majority of cases, we have found that supervisors appropriately conducted and closed the alert investigations. Some of these investigations led to additional personal training or coaching, while others were closed after the supervisor found no pattern of bias or concern. In several investigations we reviewed, we could not tell whether the supervisor had adequately conducted an investigation before the alert was closed. In these cases we have requested, and received, a more thorough description of the investigation conducted; and we were satisfied with the closure of those alerts.

Paragraph 81.a. requires that MCSO's EIS protocols include "comparative data analysis, including peer group analysis, to identify patterns of activity by individual Deputies and groups of Deputies." The EIU conducts monthly analysis looking for racial bias and profiling in accordance with Paragraphs 65, 66, 67 and 74. Over the past year, we have been critical of the thresholds that EIU was using in these monthly reports. As a result, MCSO discontinued its traditional analysis in June 2016. MCSO is working with ASU to develop new methods and protocols for these monthly reports. We participated in a technical assistance visit in early August 2016 to guide the creation and development of these new methodologies. Therefore, the reports covering July through September 2016 provide statistics for citations, warnings, and other traffic-related functions broken down by District and race/ethnicity. However, these reports will no longer investigate the concepts of racial bias and racial profiling – until such time as MCSO and ASU can develop methods and protocols that are statistically grounded and approved by us and the Parties. It is important to note that during the time that MCSO was using the criteria it developed for identifying possible bias and profiling, very few deputies ever triggered an alert due to the decision rules MCSO had imposed on this analysis. Most importantly, MCSO and ASU have agreed to drop the rule that deputies must conduct "at least 10 or more stops" to be included in the analysis. We and the Parties expressed concerns that this suggests that those with fewer than 10 stops could not be involved in inappropriate law enforcement behavior. We will evaluate these new methods as they become available. MCSO and ASU have agreed to complete their testing of these protocols and provide new analyses by December 31, 2016.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.b. requires that MCSO's EIS protocols include "identification of warning signs or other indicia of possible misconduct." The latest version of GH-5 (Early Identification System), which is currently under revision, will provide significant direction for employees and supervisors alike to understand what type of behaviors will be viewed as problematic. EIU collects a host of indices electronically that most individual supervisors would never be able to

track themselves. While we have discussed several limitations to the information available in Paragraph 75, the EIU has created an alert investigation process that facilitates the dissemination of information to supervisors and command staff when alert thresholds are met. Supervisors are directed to actively oversee their subordinates' performance through mechanisms such as the EIS Dashboard, where they can not only see if an employee has reached a threshold, but can track how close the employee may be to the myriad of thresholds and check in with the employee before a trigger event occurs. MCSO also began using two new fields in TraCS on June 1, 2016. The review field allows supervisors to note when they made sure that the traffic stop forms of their subordinates includes all the appropriate information in the correct boxes. This review, by policy, must occur within 72 hours. Past analyses by BIO suggest that supervisors are not always meeting this requirement. While the first month's audit had a low rate of compliance, 44%, this was not unexpected given the introduction of a new responsibility and tool. Audits for August and September show dramatic improvement – 93.9% and 93.7% respectively.

A second audit by BIO evaluates the timeliness of supervisors' discussion of traffic stops with deputies. The Discuss audits are lagged a month since supervisors have 30 days to discuss traffic stops with their subordinates. The August review of July discussions between supervisors and subordinates showed a 100% completion rate among the deputies randomly selected for review. The September review of August discussions showed that in five out of seven Districts, there was a 100% completion rate; but in District 2, the completion rate was 80%; and in District 3, the completion rate was 19%. BIO has submitted two Action Forms to address the failure of supervisors to adequately hold a discussion on these traffic stops. We will review the responses to the Action Forms.

As noted in Paragraphs 69, 70 and 81.a., we have been critical of EIU's monthly analyses looking for racial bias and profiling because: 1) of arbitrary rules that required that the deputies will be involved in the analysis only if they make 10 or more stops in a time period; and 2) the arbitrary rate differences that are required for specific events – for example, a passenger contact rate of 30% above the comparison group when three or more passengers are contacted, among others. As a result of these critiques, MCSO suspended these analyses in May 2016. We have provided MCSO, the Plaintiffs and the Plaintiff-Intervenors with a methodology we created from our own analyses. We have also conducted a technical assistance visit in August to offer clarification of issues and methods for the monthly and annual evaluations. MCSO has a target date of December 31, 2016 to finalize these modifications and produce new monthly reports. We will evaluate this in future reports.

MCSO is also working with CI Technologies on the provision of more complete information regarding arrests, investigatory stops, and the like for quick and efficient review by supervisors and command staff. As noted in Paragraph 75, some of this information is now stored in databases that do not communicate with EIS. MCSO proposed, during our July 2016 site visit, an interface between these remote databases and EIS. Included in this proposal are key data elements that would be drawn from these databases into EIS to capture deputy, civilian, and context information from these incidents and make it available within EIS. This will allow supervisors to quickly peruse this information for any signs that may suggest improper patterns in arrests, investigatory stops, and the like. Once in place, the EIU will have to develop a

strategy to analyze these fields in much the same way as they have compared citation rates and passenger contacts. While there are several target dates related to these issues, the majority should be completed by December 31, 2016.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.c. requires that MCSO's EIS protocols include "MCSO Commander and Supervisor review, on a regular basis, but not less than bimonthly, of EIS reports regarding each officer under the Commander or Supervisor's direct command and, at least quarterly, broader, pattern-based reports." MCSO has captured all the key requirements of the Order in GH-5 (Early Identification System). However, as noted in Paragraph 75, not all of the required information is easily accessible to supervisory and command staff. EIU conducts monthly analyses on information that is currently housed in EIS and disseminates those reports throughout the agency. During our July 2016 site visit, we found that both line supervisors and command staff had reviewed the EIU reports and could easily access them at the District. In addition, all levels of supervisors – sergeants, lieutenants, and captains – have discussed how they use aspects of the EIS to conduct evaluations of their subordinates on a regular basis during our site visits.

However, while the majority of supervisors appear to be using the EIS as intended, the BIO reports on Patrol Supervisory Notes indicate that not all supervisors are using the system as required by policy. For example, during this reporting period, BIO reported forwarding seven Action Forms to Districts 3, 6 and 7 for supervisors failing to review required body-worn camera footage of their subordinates, completing inadequate performance notes, or failing to conduct patrol activity log reviews within seven days of their completion. We will follow up with BIO and evaluate the response from the Districts regarding these Action Forms.

BIO also conducts a monthly Traffic Stop Data Inspection based upon the sample we draw for our own review. During the months from July through September, these inspections found that there were deficiencies in the random samples drawn – 11% in July, 25% in August, and 23% in September. The noted problems varied from "open" TraCS or tow forms to a failure of deputies to list all of the responding officers on their citations. In total, over the three-month period, BIO sent out 22 BIO Action Forms due to deficiencies related to the Traffic Stop Inspection and eight BIO Action Forms due to "open" TraCS documents. We will request a review of the responses to these Action Forms.

Finally, EIU created a new allegation field in EIS that allows supervisors to indicate when they conducted the bimonthly supervisor review for a subordinate. This may improve the tracking of this information. We will continue to evaluate this in the future.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.d. requires that MCSO's EIS protocols include "a requirement that MCSO Commanders and Supervisors initiate, implement, and assess the effectiveness of interventions for individual Deputies, Supervisors, and units, based on assessment of the information contained in the EIS." MCSO published GH-5 (Early Identification System) in November 2015 (currently under extensive revision). This policy refers to supervisor responsibilities and the development of "intervention plans" to address the root cause for a threshold alert. Intervention

options range from informal observation to the initiation of Internal Investigations as outlined in GC-17 (Employee Disciplinary Procedure) and GH-2 (Internal Investigations). (Both policies are currently under extensive revision as a result of the issuance of the Second Order.) GC-17 provides an effective description of early intervention for all MCSO employees as a mechanism to address inappropriate conduct and substandard job performance before it becomes an issue that may warrant discipline. In our earlier discussion of the EIS database, we addressed 75.j., Disciplinary Actions and 75.k., Non-Disciplinary Actions. We have noted that discipline is well tracked in the EIS database. However, anything short of that – such as coaching sessions, observations, ride-alongs, and the like – are entered into the EIS database as a Supervisory Note in Blue Team. Only recently, on November 8, 2016, did these fields become searchable. This provides supervisors with a significant tool. However, MCSO must still decide how it will address issues such as coaching in its policies. We have recommended options. MCSO is currently finalizing a revision to GH-5 (Early Identification System). The revision is targeted for completion by December 1, 2016. Moreover, as noted in Paragraph 80, MCSO is planning to deliver some portions of EIS training along with Employee Performance Appraisal training beginning in March 2017. While the above policies recommend that supervisors regularly follow up on their informal interventions with additional observations that can be noted through the same Blue Team process, these entries are “free form” notes that can now be searched by supervisors. MCSO does not currently have an “after action evaluation” process where interventions are tracked and evaluated for their effectiveness. This may be addressed at the line level by individual supervisors, but there is no formal process in place. During our July 2016 site visit, lieutenants and captains discussed how they follow up on subordinate interventions through the Supervisory Notes made by sergeants, but they acknowledged that this is a painstaking process that requires significant attention. BIO personnel have noted these deficiencies, and participated in discussions to improve both the policies and technology to track intervention practices.

MCSO is not in compliance with the Subparagraph.

Paragraph 81.e. requires MCSO’s EIS protocols include “identification of a range of intervention options to facilitate an effective response to suspected or identified problems. In any case where a Supervisor believes a Deputy may be engaging in racial profiling, unlawful detentions or arrests, or improper enforcement of Immigration-Related Laws or the early warning protocol is triggered, MCSO shall notify the Monitor and Plaintiffs and take reasonable steps to investigate and closely monitor the situation, and take corrective action to remedy the issue. Interventions may include but are not limited to counseling, Training, Supervisor ride-alongs, ordering changes in practice or procedure, changing duty assignments, Discipline, or other supervised, monitored, and documented action plans and strategies designed to modify activity. All interventions will be documented in writing and entered into the automated system.”

The current versions of GC-17 (Employee Disciplinary Procedure) and GH-5 (Early Identification System) provide a wide range of options for supervisor interventions, as well as practical guidelines about how to employ those options. As mentioned above, both policies refer to options such as “coaching,” which should result in a Supervisory Note entry in Blue Team. However, EIU is continuing to work with the Legal Review Unit because three “coaching” instances for the same type of event can result in formal discipline. The problem remains whether EIS, as it is currently configured, allows for the tracking of these coaching events.

EIU had been producing monthly reports looking for instances of possible racial bias and profiling through May 2016. As a result of repeated critiques of the protocols and methods they were using in these reports, MCSO, with the assistance of ASU, is investigating new statistically grounded methods and protocols we suggested to investigate racial bias and profiling by their deputies. We also participated in a technical assistance visit in August to clarify outstanding issues with regard to both the monthly and annual analyses being conducted by ASU. The new monthly processes are targeted for completion by December 31, 2016. We will evaluate these as they are made available.

Finally, during our February and April 2016 site visits, we raised the issue of threshold levels pertaining specifically to activity of deputies who may be perceived as racially/ethnically biased (ICE Contacts, Immigration Status Inquiries). The thresholds included in the Supervisors Manual for EIS indicate that an alert is triggered only if there are two such instances in a rolling 12-month period. We advised MCSO that this had to be changed so that each incident triggers an alert and both the Monitor and Plaintiffs are notified of the alert being triggered. As a result, MCSO recently released a report for April through June, showing that no deputies marked these fields on the VSCFs. Moreover, during our District visits, command staff stated that they did not believe that deputies in their Districts had any recent citations with such a notation on them. BIO also conducted an Inspection of Supervisory Notes regarding CP-8 (Preventing Racial and other Biased-Based Policing) for the second quarter of 2016. According to the report, 100% of supervisors made notations about discussing racial bias during their shift meetings or the one-on-one meetings with their subordinates. We also reviewed for this Paragraph the monthly reports related to any “arrests made for lack of identity documents or identity theft.” There were two such reports in each month from July to September. These were the result of traffic stops in which the driver did not have valid identification, or burglary or theft investigations in which pieces of identification were stolen and later illegally used. With regard to the traffic stops, the deputies ran the appropriate records check and found the person had no valid driver’s license. The reports were included in the document requests and each had the signature of the supervisor approving the actions of the deputy.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.f. requires that MCSO’s EIS protocols include “a statement that the decision to order an intervention for an employee or group using EIS data shall include peer group analysis, including consideration of the nature of the employee’s assignment, and not solely on the number or percentages of incidents in any category of information recorded in the EIS.”

MCSO took this into account in GH-5 (Early Identification System), currently under revision. Additionally, MCSO has developed threshold levels that differ by assignment and will be including these in the EIS Operations Manual for supervisors. MCSO is awaiting the finalization of GH-5 and plans to develop the Operations Manual after that. We recommended ways in which MCSO could set thresholds using a more statistically grounded methodology. We also participated in a technical assistance visit in August to help clarify our suggestions about methodologies and thresholds. The new monthly traffic analyses are expected to be completed on December 31, 2016.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.g. requires that MCSO's EIS protocols include "a process for prompt review by MCSO Commanders and Supervisors of the EIS records of all Deputies upon transfer to their supervision or command." MCSO has noted the need for a prompt review in both the Supervisor and Command Staff Responsibility sections of GH-5 (Early Identification System). Our review during District visits over the past six months have shown a lack of uniformity in how supervisors review the historical information of deputies transferring into their units. BIO and EIU personnel have recognized such disparities themselves and believe that there will be more uniformity once EIS Training is completed. BIO/EIU has also added a new allegation field to EIS for supervisors to indicate when they conducted the review of transferees. This should improve the consistency of review in the future. We will continue to evaluate these in the future.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.h. requires that MCSO's EIS protocols include "an evaluation of whether MCSO Commanders and Supervisors are appropriately using the EIS to enhance effective and ethical policing and reduce risk." BIO conducts monthly audits of Patrol Supervisory Notes and Quarterly Inspections of Incident Reports to assess whether supervisors are adequately using EIS supervisory tools. In July and August, all supervisors reviewed made the required two performance notes for their subordinates each month and reviewed their subordinates' activity logs within seven days. However, there were three instances of supervisors failing to review the required body-worn camera footage in District 3 in July. In September, the compliance rate for all three indicators – performance notes, body-worn camera review, and patrol log review – were below 85%. BIO sent out seven BIO Action Forms as a result of these deficiencies. We will review the responses to these Action Forms as they become available.

MCSO also introduced two new fields in TraCS to evaluate whether supervisors are adequately overseeing the actions of their subordinates. Supervisors are required to complete the review field within 72 hours. One goal of this review is that supervisors should catch any mistakes deputies may make on the VSCF and return it to them before it becomes part of the EIS database. The first audit of this new field showed that about 44% of supervisors conducted their review within the 72-hour period. However, in August and September the percentage of compliance had gone up to 93%. We will continue to monitor these audits. The second field is to note the day/time that the supervisor and deputy discussed the traffic stops of the deputy. Since there is a lag in these audits due to the fact that the supervisor has 30 days to conduct a discussion, these audits are conducted separately. The discussion audit in August for the July

stops showed a 100% compliance rate. However, the September audit for August traffic stops showed a compliance rate of 85%. This lower rate was due to individual supervisors in both Districts 2 and 3 not conducting the necessary discussion with their subordinates. BIO sent out two Action Forms addressing these deficiencies. We will review the responses as they become available.

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

MCSO is not in compliance with this Subparagraph.

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

Finally, in our discussion of ongoing internal and external complaints being visible to immediate supervisors (Paragraph 75.a.b.), MCSO expressed concerns that supervisors would have access to all material associated with an open case, as currently there is no way to limit or redact information if one is granted the ability to see the case in the system. Additionally, in some instances, the supervisor may, at some point in the investigation, be identified as a principal or a witness in the complaint. CI Technologies has successfully created a way to restrict the information viewable by the supervisor. PSB and EIU must now review all the open cases to identify which supervisors might be involved in the complaint or internal investigation in some fashion, and then grant appropriate viewing rights based on this review.

MCSO is not in compliance with this Subparagraph.

MCSO is planning to coordinate some of the training required for EIS along with training for Employee Performance Appraisal in March of 2017. We will evaluate this as more information is made available. MCSO is meeting some requirements of Paragraph 81: security; evaluation of supervisory use of EIS; search functions within EIS; and the ability of EIU and BIO to conduct monthly analyses on existing data. However, MCSO also needs to attend to the areas where it falls short: the development of statistically grounded tools to investigate racial bias and profiling; assessment of the effectiveness of interventions; and evaluation of comparative analytic methods that do not rely upon arbitrary thresholds. We will continue to work with MCSO in developing supervisory processes that meet the requirements of the Order.

Section 9: Supervision and Evaluation of Officer Performance

COURT ORDER X. SUPERVISION AND EVALUATIONS OF OFFICER PERFORMANCE

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

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

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedure), published September 5, 2014.

Phase 2: Not in compliance

During our October site visit, we met with the Deputy Chief of Patrol and other MCSO command staff regarding the status of ongoing projects related to compliance with this Order. MCSO informed us that it continued to work on Patrol Activity Log (PAL) enhancements. As of October 18, 2016, supervisory reviews of PALs have been captured in CAD. Since the supervisory reviews and memorialization of PALs began in the fourth quarter, we will address these in our next report. We reviewed randomly selected samples of PALs for this reporting period, but these did not have supervisory reviews documented. 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.

During our meeting, we discussed other issues that need attention, as well. Currently, deputies' PALs do not document supervisory contacts in the field; only supervisors' PALs document field contact with deputies. We requested that supervisory contacts be captured in deputies' PALs. In the normal course of daily activities, deputies receive direction from supervisors from other units – not only their direct supervisors. Currently, deputies' contacts with supervisors from an adjoining sector or District, supervisors from specialized units, or District command personnel are not captured in deputies' PALs. Yet these contacts, if documented, would help corroborate that MCSO is providing effective supervision in the field. MCSO personnel advised us that this is a technical issue that they need to resolve.

MCSO is also still working on a code to document on the PAL when a supervisor engages or participates in the investigation of an administrative complaint. During our meeting, MCSO personnel were unable to provide a timetable for the resolution of the discussed PAL enhancements until it conducts further development.

MCSO is still working on the transition of Field Interview (FI) cards to TraCS. Field Interviews are currently documented in Incident Reports (IRs), which are reviewed and approved by supervisors. MCSO has provided documentation of supervisory reviews of vehicle crash reports, and with few exceptions, supervisors reviewed crash reports within the required timeframes. MCSO advised us that they have resolved the issue with the 24-hour clock, as it relates to PALs. MCSO is now using Praxis, a new interface, to resolve the communication issues between CAD and the PALs.

During our October 2016 site visit, we interviewed supervisors and commanders from two Districts to determine if there was compliance with MCSO policies and the requirements of the Order. In District 3, the Commanding Officer and a lieutenant advised us that there is an approximately four-hour communication delay between the Computer Aided Dispatch (CAD) system and the Patrol Activity Logs. The Deputy Chief of Patrol advised us that this delay is inherent to the system and will always be present, but that it should not interfere with the supervisory review process. It takes approximately four hours for the data from CAD to populate PALs after the end of each shift. Deputies are required to submit PALs by the end of the shift; this is done automatically by the system interface. Supervisors are required to review PALs within 72 hours. We will note if there are any issues with timely reviews during the next reporting period, when we receive PALs with supervisory reviews documented. MCSO District personnel advised us that the communication discrepancies between CAD and PALs have mostly been resolved, but that there are still minor glitches. We advised MCSO, and Technology Bureau personnel informed us that they would look into this issue.

MCSO provided District 3 with a desktop computer to ease the delays MCSO supervisors have experienced with reviews of traffic stop videos. District 3 personnel advised us that the new computer has helped, but that there remain communications issues with the other computers in the District. Supervisors attempt to work around the delay issue by using their laptop computers to review traffic videos. District 3 personnel also expressed a concern over the timely reviews of Vehicle Stop Contact Forms (VSCFs). Supervisors are required to review VSCFs within 72 hours of their submission. If a deputy turns in a VSCF at the end of the shift, on the last day of the supervisor's duty week, it may not be reviewed on time. Impressively, District 3 supervisors have worked together and coordinated with each other to cover late entries. This is a great example of teamwork.

The District 3 Commanding Officer is newly appointed, as the previous commander retired. Both the District Commanding Officer and the lieutenant we interviewed were thoroughly knowledgeable about the District's crime issues and trends. They advised us that the District has restructured the detectives' assignments and responsibilities. Whereas detectives were previously assigned by beats, they are now assigned by type of crime. District 3 commanders believe that this is a more productive and efficient system. Detectives are assigned to Persons Crimes, Property Crimes, and Fraud. The District Commander and Patrol Commander were aware of the requirements of the Second Order; all commanders have received copies. We

discussed some of the requirements, as they pertain to Patrol, including those related to administrative investigations and new supervisor-deputy ratios.

We visited District 4 and interviewed a lieutenant and the District 4 Commanding Officer. The ratio of supervisors to deputies in District 4 falls well within the requirements of the Order; each supervisor has six or fewer deputies to supervise. The District 4 Commanding Officer again stated her support of the initiatives implemented as a result of the Order. She stated that body-worn cameras have had a positive impact; they have helped decrease public complaints about deputies. District 4 commanders expressed a concern with Patrol supervisors being asked to investigate too many administrative complaints. They said that too many complaints, or complex complaints, would tie up supervisors for too long and take time away from their primary responsibility of overseeing the work of their subordinates. District 4, as with District 3, has received a desktop computer for supervisory reviews of traffic stop videos; this has helped expedite reviews. The remaining computers in the District office still have communication issues due to bandwidth limitations. District 4 commanders were knowledgeable about crime concerns in their District and familiar with the requirements of the Second Order.

We reviewed a representative sample of 59 Incident Reports for **July 2016**, for the randomly selected date of July 10, 2016. We found that 57 of the 59 reports had no issues. One report was submitted three weeks late, and the other was reviewed and signed by a supervisor 13 days after submission. All arrest reports were reviewed and signed by supervisors within 72 hours. We conducted a quality review on a 10% random sample of the reports we reviewed and found no significant deficiencies.

We reviewed a representative sample of 82 Incident Reports for **August 2016**, for the randomly selected date of August 11, 2016. Seventy-seven of the 82 Incident Reports had no issues. Five reports were submitted on time but were not reviewed by supervisors within the required timeline. A spreadsheet documenting supervisory reviews of vehicle crash reports was submitted; all crash reports were reviewed within the required timeline. All arrest reports were reviewed and signed by supervisors within the required 72 hours. We conducted a quality review on a 10% random sample of the reports we reviewed. We did not find any significant deficiencies.

We reviewed a representative sample of 78 Incident Reports for **September 2016**, for the randomly selected date of September 12, 2016. All reports were submitted on time and reviewed and signed by supervisors within the required time constraints. All arrest reports were reviewed and signed by supervisors within 72 hours. MCSO provided us with a printout of vehicle crash reports that documented supervisory approval. All 14 vehicle crash reports were reviewed within the required time constraints. We conducted a quality review on a 10% random sample of the reports we reviewed. We did not find any significant deficiencies.

Paragraph 83 requires that supervisors ensure that deputies actively work to engage the community to increase public trust and safety. In addition to reviewing documentation provided by MCSO regarding their community policing efforts, we reviewed Patrol Activity Logs to verify that these activities are taking place. We noted several entries related to community policing. Some events were as brief as two minutes and some were longer than an hour.

However, other than the code designation and “Community Policing,” the PALs did not contain any details of the activity. We have requested that deputies add sufficient details in PALs for us to differentiate between community contacts and community policing.

MCSO supervisors are appropriately reviewing Incident Reports. With few exceptions, Incident Reports are submitted, reviewed, and approved within the required timeframes. The reports are detailed and comprehensive, and supervisors are generally addressing the deficiencies they are finding in the reports. MCSO must resolve the issues we have noted regarding the Patrol Activity Logs to establish Phase 2 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.*

Phase 1: In compliance

- GB-2 (Command Responsibility), published January 12, 2016.

Phase 2: In compliance

To verify Phase 2 compliance with this Paragraph, we reviewed monthly rosters and shift rosters for the third quarter of 2016. We also reviewed the July, August, and September 2016 Patrol Bureau shift roster inspection summaries, which discuss the results of BIO’s examination of every MCSO shift roster during those months to verify that shifts did not exceed the 1:10 supervisor-to-deputies ratio. The BIO inspection summary dated August 18, 2016, noted that there was 100% compliance in July. The BIO inspection summary dated September 22, 2016, noted that there were five deficiencies in August, resulting in a 99.73% compliance rate. Districts 1, 2, and 4 were missing shift rosters; Districts 3 and 7 had no sergeants assigned to the shift. The BIO inspection summary for September, dated October 25, 2016, noted two deficiencies, for a 97.73% compliance rate. District 7 listed one shift where one squad had no supervisor assigned. District 3 listed one supervisor covering two squads during one shift. This exceeded the established span of control per MCSO policy, and BIO issued BIO Action Forms for response.

During this reporting period, consistent with our methodology, for July we reviewed a sample of shift rosters from Districts 1 and 2; for August, we reviewed a sample of shift rosters from Districts 3 and 4; and for September, we reviewed a sample of shift rosters from Districts 6 and 7, and Lakes Patrol. Monthly and daily rosters showed that deputies are assigned to one single consistent supervisor and that supervisors are assigned no more than 10 deputies. In most instances, rosters showed that the supervisor-deputy ratio was 1:8. All Districts are completing monthly rosters.

During our October 2016 site visit, we visited and interviewed commanders from Districts 3 and 4. In our discussions, we learned that supervisors have no more than 10 deputies reporting to them, and that supervisors work the same days and hours as the deputies who report to them.

There have been few instances of noted deficiencies; the compliance rates for this reporting period are at an acceptable level.

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.*

Phase 1: In compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), published September 22, 2014.

Phase 2: Not in compliance

We requested that MCSO provide copies of reports documenting that supervisors are meeting with and discussing individually the stops made by each deputy, at least once per month. We requested documentation for one randomly selected supervisor from each District, for each month of the reporting period, and the squad of deputies who reports to that supervisor. MCSO had previously asked to submit the documentation of supervisor-deputy discussions in the form of a spreadsheet. The documentation was moved from Blue Team to TraCS, and supervisors are now documenting the discussion of traffic stops by applying the “Discussed with Deputy” option.

For July, MCSO submitted the traffic stops for each deputy requested, by District. The total number of traffic stops for each District squad selected were: District 1, 51; District 2, 40; District 3, 11; District 4, two; Lakes Patrol, 35; District 6, 20; and District 7, 27. There were a total of 186 traffic-related events, and sergeants discussed all stops with the deputies who conducted them, for a compliance rate of 100%. Each stop was documented and the discussions were listed by date and time.

For August, MCSO submitted the traffic stops for each deputy requested, by District. The total number of traffic stops for each District squad selected were: District 1, 11; District 2, 30; District 3, 26; District 4, 14; Lakes Patrol, 39; District 6, 42; and District 7, 25. There were a total of 187 traffic-related events, and sergeants discussed 160 of the stops with the deputies that conducted them, for a compliance rate of 86%.

The documentation of supervisory-deputy discussions of traffic stops is submitted 30 days in arrears. Paragraph 85 requires that supervisors discuss traffic stops at least once per month with their deputies. To efficiently manage this requirement along with other administrative and operational duties, supervisors generally conduct several traffic-stop related discussions with each deputy during the month. Supervisor-deputy discussions of traffic stops that occurred toward the latter part of the month may not get reviewed until the following month. Our selections for these discussions changes every month, so in order to obtain complete records for each deputy, we have requested that MCSO hold the submission until all the information requested for the month is complete. The documentation for September will be reviewed once we receive it, and we will note our findings in the next reporting period. For our next quarterly review, we will audit three months of documentation, understanding that part of the information overlaps quarters. Although we found 100% compliance for July with regard to supervisor-

deputy discussions; for August, the compliance rate dropped to 86%, for an average of 93% compliance of the data examined. In addition, using the samples that MCSO provided for Paragraphs 54 and 90, MCSO's compliance rate for supervisory reviews of VSCFs within the required 72 hours was 87%. We believe that these issues will be addressed for the next reporting period, as MCSO has made a concerted effort to attain compliance with this Paragraph.

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.*

Phase 1: In compliance

- GB-2 (Command Responsibility), published January 12, 2016.

Phase 2: Not in compliance

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

For this reporting period, MCSO deputies' and sergeants' activities were captured in Patrol Activity Logs (PALs). We selected a random sample of one day per month, and one squad per District, for review. For July, we reviewed PALs for 26 deputies and 10 sergeants. We noted a total of 20 field supervisor-deputy contacts; all but one supervisor had at least one field contact with a subordinate. For August, we reviewed PALs for 34 deputies and seven sergeants. We noted a total of six field supervisor-deputy contacts; four of the seven supervisors had at least one field contact with a subordinate. For September, we reviewed PALs for 27 deputies and seven sergeants, and noted nine field supervisor-deputy contacts. Five of the seven supervisors had at least one field contact with a subordinate. Patrol deputies and supervisors work 4/10 shifts; that equates to 20 working days per month, per employee. If one supervisor made at least one field contact with one deputy, each workday, that would be 20 field contacts per month. We understand the heavy administrative workload that Patrol supervisors carry. Nevertheless, we believe that proactive field supervision is important, and is required by this Paragraph.

It is possible that not all supervisor-deputy field contacts are being captured in the PALs. Supervisor-deputy contacts are only presently documented in supervisors' PALs; they are not captured in deputies' PALs. If a supervisor from an adjoining sector, a specialized unit, or a command level officer takes an active role in advising or directing a deputy in a field event, that contact is not captured in the deputy's PAL. We have asked MCSO to resolve this technical issue so that *all* supervisor-deputy contacts are captured in deputies' PALs.

As it pertains to this Paragraph, the BIO inspection summary dated September 22, 2016 noted that there were five deficiencies in August, resulting in a 99.73% compliance rate. Districts 1, 2, and 4 were missing shift rosters; Districts 3 and 7 had no sergeants assigned to the shift. The BIO inspection summary September, dated October 25, 2016, noted two deficiencies. District 7 listed one shift where one squad had no supervisor assigned. District 3 listed one supervisor covering two squads during one shift. MCSO's supervisor-deputy ratios for this reporting period are in compliance, as noted in Paragraph 84. For there to be adequate on-scene field supervision as required by this Paragraph, supervisors need to be active in the field, providing guidance and overseeing the work of their subordinates, and those field contacts need to be captured in Patrol Activity Logs.

During our site visits, we have met with District supervisors and commanders and believe that they are sincere and have the desire to comply with the requirements of this Order. We recognize that this is a work in progress; and MCSO has shown slow, but consistent progress. During our October site visit, we learned that Districts 3 and 4 had been assigned additional supervisors. This will help alleviate some of the workload carried by sergeants and will give supervisors more time to be active in the field.

***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.*

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedure), published September 5, 2014.

Phase 2: Not in compliance

Consistent with our methodology, we requested the names of all deputies and supervisors who were evaluated during this reporting period. From the lists of employees submitted, we requested a representative sample. We received and reviewed performance evaluations submitted for seven deputies and 13 supervisors who received evaluations in **July 2016**. Five of the seven deputies' EPAs were of acceptable quality. Two of the seven deputies' Employee Performance Appraisals (EPAs) were well-written and contained examples of behaviors documented during the rating period that supported the ratings. One Employee Performance Appraisal was subpar and lacked supporting documentation. One deputy's EPA was written in a narrative style and did not list specific rating dimensions. Three of the 13 supervisors' EPAs contained all of the required elements of Paragraph 87 and documented specific behaviors that supported the ratings. Twelve of the 13 supervisors' EPAs rated the supervisors on the quality and effectiveness of their supervision. Three of the 13 supervisory appraisals included comments related to the supervisors' ability to identify and respond to misconduct and rated the supervisors on the quality of their reviews.

We received and reviewed Employee Performance Appraisals submitted for four deputies and seven supervisors who received performance evaluations in **August 2016**. Two of the four deputy Employee Performance Appraisals were of acceptable quality; the rest lacked supporting documentation for their ratings. Three of the seven supervisors' appraisals were very well-written and supported by Blue Team note entries, but only one of the seven supervisors' EPAs included all of the required dimensions. Three of the seven supervisors' Employee Performance Appraisals reviewed rated the employees on the quality of their supervisory reviews; three of the seven appraisals rated supervisors on the quality and effectiveness of their supervision; only one EPA rated the supervisor's ability to identify and respond to misconduct.

We received and reviewed performance evaluations submitted for six deputies and seven supervisors who received appraisals in **September 2016**. Four of the six deputies' EPAs reviewed were of acceptable quality and contained documentation to support the ratings. The remaining two lacked documentation. Three of the seven supervisors' EPAs rated the supervisors on the quality and effectiveness of their supervision. Two of the seven EPAs rated the supervisors on the quality of their reviews. None of the seven EPAs rated supervisors on their ability to identify and respond to misconduct.

With the input of the Parties and the Monitoring Team, MCSO revised GC-4 (Employee Performance Appraisals) and created a new format for appraisal forms that addresses the deficiencies we have been finding in past reviews. As a result of the Second Order, GC-4 (Employee Performance Appraisals) has undergone further revision, but was not published during this reporting period. Commanders have not consistently evaluated the quality and effectiveness of supervision, and have not evaluated supervisors' ability to identify and respond to misconduct in EPAs. We believe that this deficiency will be addressed in the new EPA format.

***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.*

Phase 1: In compliance

- Memorandum from Executive Chief Trombi, dated January 6, 2015.
- Memorandum from Sheriff Arpaio, dated February 12, 2015.
- Special Investigations Division Operations Manual, published May 15, 2015.

Phase 2: In compliance

MCSO removed the enforcement of human smuggling laws from the mission statement of the Anti-Trafficking Unit, and no other specialized units have this mission as part of their duties. MCSO does not have any specialized units that enforce immigration-related laws. We continue to monitor arrests and detentions as part of our review process to ensure that MCSO is in compliance with its own directives on this issue.

For July, August, and September, we received lists containing all incidents involving MCSO arrests and criminal citations. For each respective month, we requested a random sampling of arrests and criminal citations. In total, we reviewed 68 incidents involving arrest and 97 incidents involving criminal citations. We also reviewed a random sample of 226 Incident Reports for this reporting period. We found no evidence of enforcement of immigration-related laws. During our October site visit, we inquired with the Deputy Chief of Investigations if MCSO intended to resume identity theft enforcement operations; he advised us that MCSO would not resume these operations.

***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.*

Phase 1: In compliance

- EA-11 (Arrest Procedures), published June 15, 2016.
- GC-17 (Employee Disciplinary Procedure), published September 5, 2014.
- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), published September 22, 2014.

Phase 2: In compliance

We requested to inspect all reports related to immigration status investigations, any immigration-related crime, or incidents or arrests involving lack of identity documents. The Incident Reports submitted covered the period from July 1 to September 30, 2016. Any incident wherein a deputy requests supervisory permission to contact Immigration and Customs Enforcement (ICE) or Customs and Border Patrol (CBP), to ascertain the legal status of an individual involved in a stop, detention, or any incident being investigated by MCSO, would fall under the reporting requirements of this request. No cases involving immigration status investigations or immigration-related crime were reported.

The MCSO submission for this reporting period consisted of eight incidents that occurred during this time period. One incident involved the arrest of an individual driving without a license. There were three individuals, in three separate incidents, who were arrested for driving with suspended licenses. One incident involved an individual who attempted to elude a deputy to avoid a citation; the individual was cited and released. One individual was arrested for driving with a suspended license plate; he also had an arrest warrant. One incident was related to the arrest of an individual who was involved in a burglary and the theft of credit cards. One incident related to identity theft involved a former spouse who withdrew funds from a bank account.

We also received a booking list and a criminal citation list for each month of the reporting period. From each list, we selected a 10% random sample of incidents. We reviewed 68 incidents resulting in arrest and 97 incidents involving criminal citations. One incident related to identity theft involved the fraudulent use of an Arizona Public Service account to steal electric power. None of the incidents involving arrest or criminal citations we reviewed as part of the Paragraph 93 audit involved any immigration issues, identity fraud, or lack of identity documents.

***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.*

Phase 1: In compliance

- EA-11 (Arrest Procedures), published June 15, 2016.

Phase 2: Not in compliance

We reviewed 35 incidents involving traffic stops for **July 2016**. Eighteen citations were issued for speeding. There were two instances of criminal violations where the driver was cited and released. One driver was cited for driving with a suspended license. Eight incidents involved individuals who were cited for having suspended registrations or suspended license plates. There were two traffic-related events missing Vehicle Stop Contact Forms. All of the 33 Vehicle Stop Contact Forms we reviewed noted the serial number, date, and time of supervisory review. Twenty-seven of the 33 VSCFs were reviewed within the required 72 hours, for a compliance rate of 82%.

We reviewed 35 incidents involving traffic stops for **August 2016**. Out of 35 traffic stops, two resulted in arrests: one for speeding, and one for driving with a suspended license. Twenty-two of the thirty-five traffic stops were related to speeding. Thirty-four of the 35 stops had Vehicle Stop Contact Forms; this was noted in BIO's audit report for August. All of the Vehicle Stop Contact Forms noted the serial number, and date and time of supervisory reviews. Thirty-two of the 34 Vehicle Stop Contact Forms were reviewed by supervisors within the required 72 hour period, for a 94% compliance rate.

We reviewed 35 incidents involving traffic stops for **September 2016**. Twenty of the 35 traffic stops were related to speeding violations. Out of 35 traffic stops, two resulted in arrests: one for speeding, and one individual was arrested on a warrant. All 35 stops had Vehicle Stop Contact Forms, and all resulted in traffic citations or warnings. Thirty-one of the 35 Vehicle Stop Contact Forms had been reviewed by a supervisor within the required 72 hours. Two VSCFs were reviewed late, and two were missing supervisory review documentation, for an 86% compliance rate.

MCSO has improved its submissions with respect to Phase 2 compliance with this Paragraph. Supervisory reviews of VSCFs are now captured in TraCS. However, for this reporting period, MCSO was not able to attain a sufficient and consistent compliance rate to meet the requirements of this Paragraph.

***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.*

Phase 1: In compliance

- EA-11 (Arrest Procedures), published June 15, 2016.
- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), published September 22, 2014.

Phase 2: Not in compliance

We reviewed traffic stop data reported by MCSO for its **July** inspection. The Monitoring Team randomly selected 35 traffic-related events, which BIO then audited for compliance. Of the 35 traffic-related events, MCSO reported that 30, or 89%, had no deficiencies. The Monitoring Team reviewed the same traffic-related events, independent of BIO's audits, as part of our compliance audit of Paragraphs 25 and 54. We reviewed an additional random sample of VSCFs for July to determine if supervisors were reviewing VSCFs within the required 72 hours. MCSO submitted a spreadsheet with selected samples from each District, for a total of 229 VSCFs. Of the 229 VSCFs, 166 were reviewed within 72 hours, for a compliance rate of 72%.

In reviewing the 35 traffic-related incidents for this audit, MCSO listed 17 points in their Matrix Procedures. There were two open, non-validated forms in the TraCS system. BIO determined that there was an 89% compliance rate for July, an increase of 15% from the June compliance rate of 74%.

BIO recommended that supervisors review EB-2 (Traffic Stop Data Collection) and EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) and brief their subordinates on what is considered a “passenger contact” and the requirement for documentation on VSCFs. During our October site visit, the Monitoring Team provided guidance as to the definition of “passenger contact.”

We reviewed corrective actions for July 2016. MCSO submitted 19 Supervisory Notes, but we determined that only 10 of the 19 were corrective actions related to traffic stops. Most corrective actions were due to improperly completed VSCFs, which included missing or incorrect information on VSCFs, citations, or written warnings. There was one corrective action for the late activation of a body-worn camera, and one corrective action was related to a Patrol Activity Log.

We reviewed traffic stop data reported by MCSO for its **August** inspection. The Monitoring Team randomly selected 36 traffic-related events, which BIO then audited for compliance. Of the 35 traffic-related events, MCSO reported that 27, or 75%, had no deficiencies. This was a decrease from their July compliance rate of 89%. BIO found three open, non-validated forms for the period of August 1-31, 2016. Each form is required to be validated. We reviewed an additional random sample of VSCFs for August to determine if supervisors were reviewing VSCFs within the required 72 hours. MCSO submitted a spreadsheet with selected samples from each District, for a total of 207 VSCFs. Of the 207 VSCFs, 194 were reviewed within 72 hours, for a compliance rate of 94%.

BIO recommended that supervisors review EB-2 (Traffic Stop Data Collection) and EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) and brief their subordinates on what is considered a “passenger contact” and the requirement for documentation on Vehicle Stop Contact Forms.

For August, MCSO issued 117 corrective actions. We reviewed a representative sample of 17, and found that nine of the 17 were related to deficiencies in Patrol Activity Logs. Four of the corrective actions were related to late camera activations, two corrective actions were related to deficiencies pertaining to documentation, and two corrective actions were for stops where deputies failed to properly identify themselves.

We reviewed traffic stop data reported by MCSO for its **September 2016** inspection. The Monitoring Team randomly selected 35 traffic-related events, which BIO then audited for compliance. Of the 35 traffic-related events, MCSO reported that 27 or 77.14% had no deficiencies, a small percentage increase in compliance from August.

MCSO also discovered during its inspection that there were nine open, non-validated forms for September in the TraCS system. Each form is required to be validated. BIO recommended that supervisors review EB-2 (Traffic Stop Data Collection) and EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) and brief their subordinates on what is considered a “passenger contact” and the requirement for documentation on Vehicle Stop Contact Forms.

For September, MCSO submitted the documentation of supervisor-deputy discussions regarding traffic stops in a spreadsheet that contained information downloaded directly from TraCS. We received a list with the names of all of the supervisors and deputies requested. The spreadsheet listed 187 VSCFs for September. The spreadsheet listed each deputy, the event number, and the date and time the VSCF was generated, the reviewing supervisor, the date and time reviewed, and the status of the discussion related to the traffic stop. Each line item contained the information related to the stop, and 160 of the 187 VSCFs indicated that the supervisor had discussed that particular stop with the deputy, for a compliance rate of 86%. The requirement of supervisor-deputy discussions of traffic stops is covered in Paragraph 85, and these discussions are directly related to this Paragraph. Supervisors are required to conduct timely reviews of traffic stops and address any deficiencies found in monthly discussions.

In reviewing the 35 traffic-related events for this audit, MCSO listed 17 points in its Matrix Procedures. As part of our audit process for Paragraphs 25 and 54, we reviewed the same data. The findings of our traffic stop data audit are found under Paragraph 25. The average monthly compliance rate for this reporting period was 80%.

***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.*

Phase 1: Not in compliance

- GC-4 (Employee Performance Appraisals), currently under revision.

Phase 2: Not in compliance

During our October site visit, we met with MCSO to receive an update on the progress of the new Employee Performance Appraisal protocol and training. MCSO advised us that the plan was to pair the EPA course of instruction with EIS training. Train-the-trainer sessions will take place on March 6, 2017, for both EIS and EPA. The formal instruction process will begin on March 20, 2017. The anticipated date of completion is June 30, 2017. The projected rollout date for the new EPA format is July 1, 2017.

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.*

Phase 1: In compliance

- EA-11 (Arrest Procedures), published June 15, 2016.

Phase 2: In compliance

We reviewed a representative sample of 76 Incident Reports for **July 2016**, for the randomly selected date of July 10, 2016. Sixty-five of sixty-six reports were turned in by the end of the shift. One report was not signed by a supervisor within the required seven days. Six of seven vehicle crash reports were reviewed and memorialized by supervisors within the required timeline. All Incident Reports involving arrests were memorialized by supervisors within the required 72 hours. We conducted a quality review on a 10% random sample of the reports we reviewed and noted no significant deficiencies related to quality.

We reviewed a representative sample of 82 Incident Reports for **August 2016**, for the randomly selected date of August 11, 2016. Seventy-nine of 82 Incident Reports were turned in by the end of the shift and signed by a supervisor within the required seven days. Nine of 10 Incident Reports involving arrest were reviewed and memorialized within the required 72 hours. All 17 vehicle crash reports were reviewed within the required time constraints. We conducted a quality review on a 10% random sample of the reports we reviewed. We did not note any significant deficiencies related to quality.

We reviewed a representative sample of 78 Incident Reports for **September 2016**, for the randomly selected date of September 12, 2016. All Incident Reports were turned in by the end of the shift. All Incident Reports were signed by supervisors within the required seven days. All arrest reports were reviewed and signed by supervisors within the required 72 hours. All 14 vehicle crash reports were reviewed and signed by supervisors within the required time constraints. We conducted a quality review on a 10% random sample of the reports we reviewed and noted no significant deficiencies.

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.*

Phase 1: In compliance

- EA-11 (Arrest Procedures), published June 15, 2016.

Phase 2: In compliance

We requested all Incident Memorialization Forms for the current reporting period. MCSO's submission consisted of nine Incident Memorialization Forms (IMFs), provided as proof of compliance with Paragraph 94, for the reporting period from July 1, to September 30, 2016. There were no Incident Memorialization Forms submitted for July.

For August, MCSO submitted three Incident Memorialization Forms. One incident involved a DUI arrest where the deputy intended to cite and release the individual, but mistakenly checked the "in custody" and "driver refused to sign" boxes on the citation. MCSO corrected the mistakes by contacting the Court, invalidating the citation, and issuing a revised citation. One IMF was issued for an Incident Report that was not turned in by the end of the shift. Another IMF involved a deputy who questioned a subject, arrested for DUI, without first reading the subject the *Miranda* warning. All deficiencies were addressed through coaching.

For September, MCSO submitted six Incident Memorialization Forms. One incident involved a citation where the deputy failed turn in the citation before the end of the shift, and the citation included the wrong state statute. Two incidents involved domestic violence arrests that did not have sufficient probable cause articulated on the report. One incident involved a criminal citation that had insufficient probable cause. One IMF was generated for an Incident Report that lacked information, and had both grammar and spelling errors. One Incident Memorialization Form was issued for an incident where the deputy failed to inventory a towed vehicle. All of the submitted Incident Memorialization Forms documented timely command review and corrective actions.

We reviewed 41 arrest cases in which the County Attorney declined prosecution. In three incidents where we noted deficiencies, the deficiencies were related to the articulation of probable cause. The deficiencies had been noted in Incident Memorialization Forms and addressed by the MCSO chain of command.

For July, we reviewed 21 randomly selected incidents involving arrest and 33 criminal citations. We found no significant deficiencies in the reports we reviewed. One Incident Report was not memorialized by a supervisor within the required time constraints, and one incident was missing documentation of supervisory review.

For August, we reviewed 24 randomly selected incidents involving arrest and 31 incidents involving criminal citations. We noted two incidents where deputies had articulated sufficient probable cause for arrest in the Incident Reports, but did not adequately communicate the same facts in the Form 4 charging documents. Two arrests were turned in before the end of the shift but not signed and dated by supervisors within the required time constraints. We continue to see different types of body diagrams used to depict injuries on individuals. We recommend that MCSO adopt a standard generic body diagram or ensure that gender-specific diagrams are used correctly and consistently.

For September, we reviewed 23 randomly selected incidents involving arrest and 33 incidents involving criminal citations. We only noted three issues. One Incident Report involved an arrest that was reviewed and signed by a supervisor, but not within the required 72 hours. One incident involved a criminal citation that was not submitted by the end of the shift, and one incident involved a criminal citation that was not reviewed and memorialized by a supervisor within the required time constraints.

MCSO improved in the supervisory review process of incidents, including those involving arrest. In the majority of instances where deputies made errors, or reports were deficient, the chain of command identified them and took steps to correct them. The command review of arrest reports had a significant impact in achieving compliance.

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

Phase 1: Not in compliance

- GC-4 (Employee Performance Appraisals), currently under revision.

Phase 2: Not in compliance

We reviewed Employee Performance Appraisals for 27 sergeants who received Employee Performance Appraisals during this reporting period. Eighteen of the 27 appraisals contained comments related to the quality and effectiveness of supervision. Four of the 27 appraisals contained comments regarding the supervisor's demonstrated ability to identify and effectively respond to misconduct. Eight of the 27 appraisals rated the supervisors on the quality of their reviews. One of the supervisors whose Employee Performance Appraisals were reviewed had no direct reports. The quality of supervisory reviews, a mandated area of assessment of this Order, was added to the revised performance appraisal process. The new EPA form will have a mandatory rating dimension that specifically addresses this requirement. In our reviews of Employee Performance Appraisals for this reporting period, we noted that command personnel have not consistently addressed the quality of supervisory reviews in Employee Performance Appraisals.

As a result of the Second Order, MCSO postponed publication of GC-4 to incorporate necessary modifications. During our October site visit, we met with MCSO and received an update on the progress of the new Employee Performance Appraisal protocol and training; this is discussed under Paragraph 98.

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.*

Phase 1: In compliance

- EA-11 (Arrest Procedures), published June 15, 2016.

Phase 2: In compliance

We requested all Incident Memorialization Forms for the current reporting period. MCSO's submission consisted of nine Incident Memorialization Forms (IMFs), provided as proof of compliance with Paragraph 94, for the reporting period from July 1, to September 30, 2016.

For July there were no Incident Memorialization Forms submitted. For August, MCSO submitted three Incident Memorialization Forms. One incident involved a DUI arrest where the deputy intended to cite and release the individual but mistakenly checked the "in custody" and "driver refused to sign" boxes on the citation. MCSO corrected the mistakes by contacting the Court, invalidating the citation, and issuing a revised citation. One IMF was issued for an Incident Report that was not turned in by the end of the shift. One IMF involved a deputy who questioned a subject arrested for DUI without first reading the *Miranda* warning.

For September, MCSO submitted six Incident Memorialization Forms. One incident involved a citation where the deputy failed to turn in the citation before the end of the shift, and the citation listed the wrong statute. Two incidents involved domestic violence arrests that lacked sufficient probable cause. One incident involved a criminal citation with insufficient probable cause. One IMF was generated in an incident where a deputy submitted a report that had insufficient information, bad grammar, and spelling errors. One Incident Memorialization Form was issued for an incident where the deputy failed to inventory a towed vehicle.

We reviewed 41 arrest cases in which the County Attorney declined prosecution. In three incidents where we noted deficiencies, they were related to the articulation of probable cause. These deficiencies had been noted in Incident Memorialization Forms and addressed by the MCSO chain of command.

We continue to note the improvement in supervisory reviews of incidents involving arrest. We believe that this is a result of District Commanders being more actively involved and supervisors being more attentive in their reviews. All of the submitted Incident Memorialization Forms for August and September documented timely command review and corrective actions.

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).*

Phase 1: Not in compliance

- GH-5 (Early Identification System), currently under revision.

Phase 2: Not in compliance

During our July 2016 site visit, we met with MCSO and discussed the proof of compliance requirements for this Paragraph. MCSO personnel advised us that they would document the required periodic reviews on Blue Team notes until a more efficient methodology is developed.

During our site visit in October, MCSO advised us that the documentation regarding compliance with this Paragraph is collected in Blue Team, in free-form text, and is not searchable. In the compliance documents for September, MCSO submitted a memorandum that stated, "MCSO does not uniformly and consistently collect the requested data. The issue will be addressed in EIS Policy GH-5, which is currently in the review/approval process. MCSO plans on capturing this information as soon as possible."

d. Regular Employee Performance Review and Evaluations

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

Phase 1: Not in compliance

- GC-4 (Employee Performance Appraisals), currently under revision.

Phase 2: Not in compliance

During our October 2016 site visit, we received an update on the progress of the new Employee Performance Appraisal process. The EPA form has been approved, and GC-4 has been revised to comply with the requirements of the Second Order. Subsequent to our site visit, MCSO provided us with a timeline for completion of the EPA process. MCSO advised us that the plan was to pair the EPA course of instruction with EIS training. Train-the-trainer sessions will take place on March 6, 2017, for both EIS and EPA. The formal instruction process will begin on March 20, 2017. MCSO command staff anticipate that they will provide instruction to over 700 employees; their anticipated date of completion is June 30, 2017. The projected rollout date for the new EPA format is July 1, 2017.

During this reporting period, GC-4 was not published, and the Employee Performance Appraisals that were completed under the existing format, particularly those pertaining to supervisors, did not document the evaluation of rating dimensions that are required by this Order.

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.*

Phase 1: Not in compliance

- GC-4 (Employee Performance Appraisals), currently under revision.

Phase 2: Not in compliance

During our October 2016 site visit, we received an update on the progress of the new Employee Performance Appraisal process. The EPA form has been approved, and GC-4 has been revised to comply with the requirements of the Second Order. Subsequent to our site visit, MCSO provided us with a timeline for completion of the EPA process. MCSO advised us that their plan was to pair the EPA course of instruction with EIS training. Train-the-trainer sessions will take place on March 6, 2017, for both EIS and EPA. The formal instruction process will begin on March 20, 2017. MCSO command staff anticipate that they will be providing instruction to over 700 employees; their anticipated date of completion is June 30, 2017. The projected rollout date for the new EPA format is July 1, 2017.

During this reporting period, the Employee Performance Appraisals that were completed under the existing format, particularly those pertaining to supervisors, did not meet the requirements of this Order.

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

Phase 1: Not in compliance

- GC-4 (Employee Performance Appraisals), currently under revision.

Phase 2: Not in compliance

We reviewed Employee Performance appraisals for 27 sergeants who received them during this reporting period. Eighteen of the 27 appraisals contained comments related to the quality and effectiveness of supervision. Four of the 27 appraisals contained comments regarding the supervisor's demonstrated ability to identify and effectively respond to misconduct. Eight of the 27 appraisals rated the supervisors on the quality of their reviews. One of the supervisors who's Employee Performance Appraisals we reviewed had no direct reports. The quality of supervisory reviews, a mandated area of assessment in this Order, was added to the revised performance appraisal process. The new EPA form will have a mandatory rating dimension that specifically addresses this requirement.

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

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

Phase 1: In compliance

- Memorandum from Executive Chief Trombi, dated January 6, 2015.
- Memorandum from Sheriff Arpaio dated, February 12, 2015.
- Special Investigations Division Operations Manual, published May 15, 2015.

MCSO removed the enforcement of human smuggling laws from the mission statement of the Anti-Trafficking Unit, and no other specialized units have this mission as part of their duties. Based on these policy modifications, MCSO is in Phase 1 compliance with this Paragraph.

Phase 2: In compliance

MCSO does not have any specialized units that enforce immigration-related laws. Therefore, by default, MCSO is in Phase 2 compliance with this Paragraph. We continue to monitor arrests and detentions as part of our review process to ensure that MCSO is in compliance with its own directives on this issue.

For each month of the third quarter, we received a list of all incidents involving MCSO jail bookings, and a list of criminal citations. For each month, we requested a random sampling of arrests and criminal citations. In total, we reviewed 68 incidents involving arrest and 97 incidents involving criminal citations. We found no evidence of enforcement of immigration-related laws. We will continue to monitor arrest reports and criminal citations for compliance.

During our October site visit, we inquired with the Deputy Chief of Investigations if MCSO intended to resume identity-theft enforcement operations. MCSO advised us that it would not resume these operations.

Section 10: Misconduct and Complaints

COURT ORDER XI. MISCONDUCT AND COMPLAINTS

a. Internally-Discovered Violations

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

Phase 1: Not in compliance

- CP-2 (Code of Conduct), currently under revision.
- CP-3 (Workplace Professionalism), currently under revision.
- CP-5 (Truthfulness), currently under revision.
- CP-11 (Anti-Retaliation), currently under revision.
- GH-2 (Internal Investigations), currently under revision.
- GC-16 (Employee Grievance Procedures), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Prior to the Second Order issued on July 20, 2016, MCSO was in compliance with Phase 1 of this Paragraph. Changes are now required to numerous policies to comply with the Court's Second Order. MCSO has made proposed revisions to these policies, and each is still in some phase of the draft review process.

Phase 2: Not in compliance

During our reviews to assess Phase 2 compliance with this Paragraph, we have reviewed hundreds of misconduct investigations involving MCSO personnel. Many of them have been internally generated investigations, indicating that MCSO supervisory personnel are identifying potential misconduct. However, many of the actual investigations of this misconduct still fall short of compliance.

During this reporting period, we reviewed 66 administrative/criminal misconduct investigations submitted by MCSO in compliance with Paragraph 32. All of these investigations involved either sworn personnel or volunteer personnel assigned to a District or the Enforcement Support Bureau. Twenty-two of these investigations were generated internally. Thirteen had at least one allegation sustained. Discipline for sustained violations ranged from counseling to a 16-hour suspension.

In addition to the internally generated investigations we reviewed under Paragraph 32, we reviewed an additional 11 internally generated misconduct investigations. Three of these investigations involved sworn (non-Patrol) personnel, six involved Detention personnel, and two involved civilian personnel. We found the same type of concerns in these investigations as we have found in the investigations involving Patrol personnel.

Of the three cases we reviewed that involved sworn non-Patrol personnel, all were completed prior to July 20, 2016 and were investigated by personnel assigned to PSB. All were properly investigated under the requirements of the First Order. We agree with the findings in two of the cases. In the third case, we have some concerns with the decision to unfound the allegations rather than not sustaining them.

In the two internally generated cases we reviewed that involved civilian personnel, we found one to be thoroughly investigated and agreed with the findings. In the second case, we found numerous concerns with the investigation and the outcome.

In the six internally generated Detention cases we reviewed, we found numerous concerns with the investigations, findings, and disciplinary outcomes.

While it is apparent that misconduct is being internally identified, and addressed, there remains concern with the quality of some of these investigations, as well as the findings and, in some cases, disciplinary decisions. We will continue to meet with those personnel responsible for the completion of misconduct investigations during our site visits to make them aware of our concerns regarding internal investigations. We will provide them with specific case examples from this reporting period that illustrate these concerns.

b. Audit Checks

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

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), currently under revision, though the policy currently in effect meets the requirements of this Paragraph.
- Ethics Enforcement Section Operations Manual, currently under revision.

Phase 2: Not in compliance

As noted in our last report, during our February 2016 site visit, MCSO raised the prospect of shifting integrity testing responsibilities from PSB to BIO. The Order does not require that any particular organizational component fulfill all of the requirements in Paragraph 103, nor does it require that the same component conduct the various checks. During our April 2016 site visit, Monitoring Team members met with representatives from BIO to learn more about the types of audits that BIO conducts and discuss the requirements of Paragraph 103. We informed BIO that Paragraph 103 requires that MCSO conduct regular, targeted, and random audits; but that those audits do not need to be housed in one MCSO unit or covered by one particular policy. We explained that there are two different kinds of integrity tests – targeted tests, which are more appropriate for PSB; and tests that determine if personnel are in compliance with agency policy and procedures, which BIO already conducts.

For this reporting period, BIO submitted several completed inspections in support of this Paragraph. The inspections examined, for example, Supervisory Notes, County Attorney turndown dispositions, and employee email usage; we reviewed these reports and believe that they comport with the Paragraph 103 requirement for “regular” and “random” integrity audit checks.

As noted above, the Ethics Enforcement Section Operations Manual is currently under revision. Once published, this policy, along with GH-4 (Bureau of Internal Oversight), will guide MCSO’s responsibilities for integrity audits.

c. Complaint Tracking and Investigations

Paragraph 104. *Subject to applicable laws, MCSO shall require Deputies to cooperate with administrative investigations, including appearing for an interview when requested by an investigator and providing all requested documents and evidence. Supervisors shall be notified when a Deputy under their supervision is summoned as part of an administrative investigation and shall facilitate the Deputy’s appearance, absent extraordinary and documented circumstances.*

Phase 1: In compliance

- GH-2 (Internal Investigations), currently under revision, though the policy currently in effect meets the requirements of this Paragraph.

The policy, GH-2 (Internal Investigations), finalized in September 2014, includes specific language that requires deputies to cooperate with administrative investigations, including appearing for an interview when requested by an investigator and providing all requested documents and evidence. A checklist that requires this information be included in all administrative investigations conducted on or after June 1, 2016 is currently in effect and all supervisory personnel who conduct administrative investigations have been trained on this checklist.

Phase 2: In compliance

In the fall of 2015, MCSO developed a draft checklist and investigative format for administrative investigations. All of the requirements in this Paragraph are included in these protocols. The checklist and formats were approved for use in early 2016 and all personnel through the rank of Captain were required to attend a training session regarding the use of these forms. A member of our Team attended two of these training sessions.

Effective June 1, 2016, all administrative investigations are required to utilize these forms. This requirement has consistently been met, and the checklists have been included in administrative investigations forwarded for our review. During this reporting period, we have not identified any concerns with MCSO personnel complying with the requirements of this Paragraph during misconduct investigations.

***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.*

Phase 1: In compliance

- GH-2 (Internal Investigations), currently under revision, though the policy currently in effect meets the requirements of this Paragraph.

Phase 2: Not in compliance

Our reviews of investigations conducted by MCSO have verified that the information required for compliance with this Paragraph is being consistently provided in the checklist and investigative reports.

However, our concern with how MCSO uses this employee work history to make disciplinary decisions has been a recurring theme in our review of sustained misconduct investigations. During each of our site visits, we provide feedback to PSB and Compliance Division personnel regarding our concerns. As it relates to the inclusion of all the requirements of this Paragraph, while the information has been made available to supervisors, there has not been consistency in reporting if, and how, this information is taken into account, prior to making disciplinary decisions on sustained complaints. We have reviewed a number of investigations where we have had concerns that disciplinary outcomes did not fully take into account the prior work history of the employee.

During our October 2016 site visit, we discussed with PSB and Compliance Division personnel our continuing concerns with how this required information is used to make disciplinary decisions. We again provided examples of cases where we did not believe, based on our review, that the employee work history was fully considered when determining the disciplinary outcome. This should not be a recurring issue.

As a result of the Second Order and effective July 20, 2016, the PSB Commander now makes all preliminary disciplinary decisions. The PSB and Compliance Bureau Commanders have created a worksheet that will provide more information on how disciplinary decisions are being made, and how the employee work history is being considered. This form will be included in future administrative investigations and should provide better documentation for our reviews.

We will meet with PSB and Compliance Division personnel during our next site visit to discuss cases investigated during this reporting period where concerns regarding the consideration of employee work history exist.

***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: Not applicable

Phase 2: In compliance

MCSO has two obligations under this Paragraph: to maintain and make records available. The Paragraph also covers the requirement that MCSO make un-redacted records of such investigations available to the Plaintiffs' attorneys as well.

MCSO has been responsive to our requests, and neither the Plaintiffs nor Plaintiff-Intervenors have raised any concerns related to the requirements of this Paragraph for the past several reporting periods, nor were any concerns raised for the current reporting period. MCSO, via its counsel, distributes responses to our document and site visit requests via a document sharing website. The Plaintiffs and Plaintiff-Intervenors have access to this information at the same time as we do, including documents applicable to this Paragraph.

Section 11: Community Engagement

COURT ORDER XII. COMMUNITY ENGAGEMENT

a. Community Outreach Program

(Note: Unchanged language is presented in italicized font. Additions are indicated by underlined font. Deletions are indicated by crossed-out font. Where an entire Paragraph has been removed, that is indicated with brackets, but the numbering remains unchanged. For example: “108. [REMOVED]”.)

Paragraph 107. To rebuild public confidence and trust ~~in the MCSO and~~ in the reform process, the MCSO Monitor shall ~~work to improve community relationships and engage constructively with the community during the period that this Order is in place. To this end, the MCSO shall create the following district community outreach program.~~

On April 4, 2014, an amended Order (Document 670) made community outreach a Monitor’s function. This is no longer an MCSO responsibility. MCSO opted to remove itself from having responsibility over the community engagement program as initially set out in the Order. We and the Plaintiffs’ representatives communicate regularly about innovative ways to engage community members and leaders; supporting and encouraging Community Advisory Board (CAB) members; advertising upcoming community events; facilitating community members’ access to the MCSO complaint process; and informing the public about the authority of MCSO regarding immigration enforcement. Each of these issues will be addressed in more detail in the following Paragraphs.

While MCSO is no longer obligated, pursuant to the Order, to engage in community outreach activities, we trust that the command staff understand the benefit in reaching out to the various communities in the agency’s service jurisdiction.

Paragraph 108. [REMOVED] Within 180 days of the Effective Date, MCSO shall develop and implement a Community Outreach and Public Information program in each MCSO District.

Paragraph 109. ~~As part of its Community Outreach and Public Information program, the MCSO~~ The Monitor shall hold a public meeting ~~in each of MCSO’s patrol Districts within 90 180 days of the Effective Date~~ issuance of this amendment to the Order, and ~~at least between one and three meetings~~ in each of MCSO’s patrol Districts annually thereafter. The meetings shall be under the direction of the Monitor and/or his designee. These meetings shall be used to inform community members of the policy changes or other significant actions that the MCSO has taken to implement the provisions of this Order. Summaries of audits and reports completed by the MCSO pursuant to this Order shall be provided. The MCSO Monitor shall clarify for the public at these meetings that ~~it~~ the MCSO does not lacks the authority to enforce immigration laws except to the extent that it is enforcing Arizona and federal criminal laws.

On April 4, 2014 an amended Order (Document 670) gave us the requirement to hold public meetings. During this reporting period, we held one community meeting, on July 20, 2016, in MCSO Patrol District 2, at Arizona Desert Elementary School, located at 8803 West Van Buren Street in Tolleson. The meeting was held from 6:30 p.m. until 9:00 p.m. Approximately 25 community members attended this meeting, which was conducted in English and Spanish.

A representative of the ACLU of Arizona presented an overview and history of the *Melendres* case, an explanation the ACLU's role in the reform process, and the role of the Community Advisory Board (CAB). She noted that the community meetings provide an important forum for community members to ask questions and provide input regarding what is occurring in the community and about the monitoring process. She also stated that the *Melendres* case is a challenge to the MCSO practice of detaining Latinos in violation of the Fourth and Fourteenth Amendments, and that the Court found in 2013 that there was systemic practice of illegal conduct. She added that the October 2013 Court Order directed remedies, the appointment of the Monitor and Monitoring Team, and a review and/or update or creation of policies and procedures and their implementation by MCSO. She emphasized that, as Plaintiffs' attorneys, the ACLU of Arizona is closely involved in, and provides input on, the reform process.

A representative of the Department of Justice (DOJ) followed, explaining that DOJ is a Plaintiff-Intervenor in the *Melendres* case, a full partner in the ongoing legal processes. She discussed DOJ's role in the reform process and said that, as a Plaintiff-Intervenor, DOJ works closely with the Plaintiffs' attorneys.

The DOJ representative was followed by a CAB member who recognized several attendees for their efforts in keeping community members informed regarding the *Melendres* case. He stated that a new era of policing involves law enforcement agencies working to build trust with the communities they serve.

Next, the MCSO Deputy Chief of Patrol introduced himself as representing MCSO. He said that the Patrol Bureau was comprised of approximately 400 men and women who patrol the community neighborhoods on a daily basis. He introduced members of the CID and PSB and other MCSO employees in attendance. He said MCSO now has two missions: to provide law enforcement services and protect life and property in Maricopa County; and to ensure MCSO is fully compliant with the Court's Orders. He stated that MCSO's goal is fair, equitable, quality policing. He concluded by saying that MCSO personnel were at the community meeting to hear the attendees' comments, concerns, and/or complaints about MCSO; and informed the community members in attendance that the MCSO representatives would be available during and after the meeting to listen to and address the input from the attendees.

Monitoring Team representatives explained to the meeting attendees that our Team consists of 12 experts, most of whom have police backgrounds; and that our Team is multicultural and, in part, bilingual. We explained that the requirements of the First Court Order encompass sound police practices that are common in other law enforcement agencies around the country. We stated that the Order has 89 Paragraphs with which MCSO must comply; and that we evaluate MCSO's compliance by reviewing reports, examining data, and visiting deputies in the field to ensure MCSO complies with the First Court Order. We informed the attendees that our latest report found that MCSO was in compliance with 40% of the operational requirements but not in

compliance with 60%. We expressed our concern because MCSO's level of compliance should be significantly greater after 29 months of the reform effort. We pointed out that that now every deputy is equipped with a body-worn camera, which is a major step in the right direction and should provide some assurance for the public. We stated that MCSO has been slow in implementing its supervisor training, which is troubling because of the importance of professional supervision of the deputies on the street. We advised the attendees that, in addition to the 89 Paragraphs we mentioned, the Court on July 20, 2016 issued a Second Order that contains 126 Paragraphs. We informed the attendees that we would now assess MCSO's compliance with these additional requirements using the same methodology we currently are using with the 89 Paragraphs of the First Order.

We made it clear that MCSO did not have the authority to enforce immigration laws, except to the extent that it is enforcing Arizona and federal laws. We also pointed out that the Order prohibits the use of saturation patrols and that, in the 29 months that we have been working with MCSO, MCSO has not employed saturation patrols.

Before opening the meeting for comments and questions, we concluded our presentation by emphasizing the importance of hearing from the community members. Questions and comments from the attendees included inquiries as to why the implementation of the requirements of the Order was taking so long, whether there were remedies for individuals adversely affected by the sweeps or stops conducted by MCSO, and whether the MCSO jails could be taken over by DOJ. Several community members made negative comments regarding MCSO leadership, and one suggested that C-SPAN cover what is happening in Maricopa County to show the community members' side of the story. We responded to all inquiries, as did Plaintiffs' and Plaintiff-Intervenors' representatives, or members of MCSO, as appropriate.

Paragraph 110. *The meetings present an opportunity for ~~MCSO representatives~~ the Monitor to listen to community members' experiences and concerns about MCSO practices implementing this Order, including the impact on public trust. ~~MCSO representatives shall make reasonable efforts to address such concerns during the meetings and afterward.~~ The Monitor may investigate and respond to those concerns. To the extent that the Monitor receives concerns at such meetings that are neither within the scope of this order nor useful in determining the Defendants' compliance with this order, it may assist the complainant in filing an appropriate complaint with the MCSO.*

Approximately 25 community members attended the meeting in Tolleson. The meeting allowed ample opportunity for attendees to ask questions or offer comments. Participants used the roving microphone we provided. Monitoring Team personnel moved throughout the meeting, providing microphones for those who wished to ask questions or offer comments. Community members asked questions and offered comments, many of which were critical of MCSO. Attendees voiced frustration with the slow progress MCSO is making in complying with the Court Order, asked whether there were remedies for individuals adversely affected by the sweeps or stops conducted by MCSO and asked whether the MCSO jails could be taken over by DOJ. A key objective of the meeting was to let those in attendance know that the Monitor has the authority, granted by the Court, to receive complaints about any activity involving MCSO

personnel and ensure that an investigation is adequately conducted. We made complaint forms available for this purpose. After the meeting, all Monitoring Team personnel remained behind to individually answer questions, and did so until the last attendee left the building.

Paragraph 111. English- and Spanish-speaking MCSO Monitor Personnel shall attend these meetings and be available to answer questions from the public about its publicly available reports concerning MCSO's implementation of this Order and other publicly-available information. At least one MCSO Supervisor with extensive knowledge of the agency's implementation of the Order, as well as the Community Liaison Officer (described below) shall participate in the meetings. The Monitor may request Plaintiffs' and/or Defendants' representatives shall be invited to attend such meetings and assist in answering inquiries by the community. The Defendants are under no obligation to attend such meetings, but to the extent they do not attend such meetings after being requested by the Monitor to do so, the Monitor may report their absence to the public and shall report their absence to the Court.

Selected members of the Monitoring Team, some of whom are bilingual, attended the meeting in Tolleson. We hired a professional Spanish interpreter to ensure that Spanish-speaking attendees could understand all remarks, questions, and responses. In addition, representatives of ACLU of Arizona, CAB, DOJ, and MCSO offered remarks at the meeting. MCSO was well represented, and we recognized MCSO for its attendance. Several of the MCSO personnel in attendance at the meeting play instrumental roles in the implementation of the Court's Order.

Paragraph 112. The meetings shall be held in locations convenient and accessible to the public. At least ~~one week~~ ten days before such meetings, the MCSO Monitor shall widely publicize the meetings using English and Spanish-language television, print media and the internet. The Defendants shall either provide a place for such meetings that is acceptable to the Monitor, or pay the Monitor the necessary expenses incurred in arranging for such meeting places. The Defendants shall also pay the reasonable expenses of publicizing the meetings as required above, and the additional reasonable personnel and other expenses that the Monitor will incur as a result of performing his obligations with respect to the Community Outreach Program. If the Monitor determines there is little interest or participation in such meetings among community members, or that they have otherwise fulfilled their purpose, he can file a request with the Court that this requirement be revised or eliminated.

Our preparations for the meeting in Tolleson began well in advance of the meeting date. Issues such as site selection, advertisement in local radio and print media in English and Spanish, agenda creation, and meeting logistics are of utmost importance in the planning stages. We emailed community leaders and media representatives soliciting their assistance in informing community members of the meeting and encouraging their attendance at the meeting. Before finalizing these items, we consider input from the CAB and the ACLU of Arizona. We also keep CID staff, as well as the Chief Deputy, abreast of the planning; and we consult with them on potential meeting security issues. Members of the Monitoring Team had numerous discussions with the ACLU of Arizona and the CAB members regarding preparations for the public meeting.

Our selection of the venue for the meeting was based on accessibility, adequate meeting space, adequate parking, and ease in locating the meeting site. We widely publicized the meeting in Tolleson. Advertisements, in both English and Spanish, appeared in print media with the widest circulation in the Tolleson area in which the meeting was held. These ads were also included in the media outlets' Facebook pages and websites. We also ran extensive radio spots in Spanish and English, and distributed flyers in the vicinity of the meeting venue. The ACLU of Arizona also submitted the notice of the meeting to numerous online calendars and its local media contacts.

b. ~~Community Liaison Officer~~ Monitor

Paragraph 113. *[REMOVED] Within 90 days of the Effective Date, MCSO shall select or hire a Community Liaison Officer (“CLO”) who is a sworn Deputy fluent in English and Spanish. The hours and contact information of the CLO shall be made available to the public including on the MCSO website. The CLO shall be directly available to the public for communications and questions regarding the MCSO.]*

Paragraph 114. *In addition to the duties set forth in Title XIII of this order, ~~The CLO~~ the Monitor shall have the following duties in relation to community engagement:*

- a. to coordinate the district community meetings described above in Paragraphs 109 to 112;*
- b. to provide administrative support for, coordinate and attend meetings of the Community Advisory Board described in Paragraphs 117 to 111; and*
- c. to compile any Complaints, concerns and suggestions submitted to ~~CLO~~ him by members of the public about the implementation of this Order and the Court's order of December 23, 2011, and its findings of fact and conclusions of law dated May 24, 2013, even if they don't rise to the level of requiring formal action by IA or other component of the MCSO, and to respond to Complainants' concerns;*
- [d. [REMOVED] to communicate concerns received from the community at regular meetings with the Monitor and MCSO leadership; and]*
- [e. [REMOVED] to compile concerns received from the community in a written report every 180 days and share the report with the Monitor and the Parties.]*

At the community meeting in Tolleson, we and the Plaintiffs' representatives explained the breadth of the Order to the community members in attendance. The MCSO representative thanked the community members for attending the meeting, and stated that MCSO wished to hear the community members' comments and complaints. Members of the PSB attended the meeting to receive any complaints from attendees.

In order to facilitate a dialogue, we invited community members to ask any questions of these representatives directly, and gave them an opportunity to comment on the information provided by these representatives. We provided community members with forms to document any concerns or complaints about MCSO. After the meeting, members of the Monitoring Team remained and spoke to several attendees who voiced their compliments, concerns, and opinions regarding MCSO's operations.

c. Community Advisory Board

Paragraph 115. ~~*MCSO*~~ *The Monitor and Plaintiffs' representatives shall work with community representatives to create a Community Advisory Board ("CAB") to facilitate regular dialogue between the MCSO Monitor and community leaders, and to provide specific recommendations to MCSO about policies and practices that will increase community trust and ensure that the provisions of this Order and other orders entered by the Court in this matter are met.*

We work closely with Plaintiffs' counsel to support and provide guidance to the three-member CAB. We conduct planning discussions with CAB members and representatives of the ACLU of Arizona regarding scheduling small gatherings of Monitoring Team members, CAB members, ACLU of Arizona representatives, and Latino community leaders during our site visits.

Paragraph 116. ~~*The CAB shall have six three members, three to be selected by the MCSO and three to be selected by Plaintiffs' representatives. Members of the CAB shall not be MCSO Employees or any of the named class representatives, nor any of the attorneys involved in this case. However, a member of the MCSO Implementation Unit and at least one representative for Plaintiffs shall attend every meeting of the CAB. The CAB shall continue for at least the length of this Order.*~~

The CAB is currently comprised of three community members. None of these members are, or have been, MCSO employees, named as class representatives in this matter, or attorneys involved in the *Melendres* litigation.

Paragraph 117. ~~*The CAB shall hold public meetings at regular intervals of no more than four months. The meetings may be either public or private as the purpose of the meeting dictates, at the election of the Board. The Defendants shall either provide a suitable place for such meetings that is acceptable to the Monitor, or pay the Monitor the necessary expenses incurred in arranging for such a meeting place. The Defendants shall also pay to the Monitor the additional reasonable expenses that he will incur as a result of performing his obligations with respect to the CAB including providing the CAB with reasonably necessary administrative support. The meeting space shall be provided by the MCSO. The CLO Monitor shall coordinate the meetings and communicate with Board members, and provide administrative support for the CAB.*~~

Members of the Monitoring Team frequently communicate with CAB members to assist in scheduling CAB meetings, identifying appropriate meeting venues, and providing appropriate logistical support. During this reporting period, CAB members – along with members of the Monitoring Team and the ACLU of Arizona – met with members of the Center for Neighborhood Leadership (CNL) and other community representatives to discuss the quality of law enforcement support provided by MCSO, and the relationship between community members and MCSO.

***Paragraph 118.** During the meetings of the CAB, members will relay or gather concerns from the community about MCSO practices that may violate the provisions of this Order and the Court's previous injunctive orders entered in this matter ~~and make reasonable efforts to address such concerns.~~ and transmit them to the Monitor for his investigation and/or action. Members ~~will~~ may also hear from MCSO Personnel on matters of concern pertaining to the MCSO's compliance with the orders of this Court.*

We continue to emphasize with CAB members the importance of transmitting to us any complaints they have received that may require investigation. In addition, we have discussed the crucial role of CAB to access the community in a way that the Monitoring Team cannot. We have advised the CAB members to compile community members' concerns regarding MCSO's actions or compliance with the Order. To facilitate this effort, the ACLU of Arizona operates a bilingual website, ChangingMCSO.org/CambiandoMCSO.org. The website allows the public to gather information about the monitoring process, including the times and locations for community meetings, Monitoring Team reports, MCSO reports, and significant Court filings. The website also includes a form for filling out complaints, which are directly conveyed to the CAB and Monitoring Team.

Second Supplemental Permanent Injunction/Judgment Order

Section 12: Misconduct Investigations, Discipline, and Grievances

COURT ORDER XV. MISCONDUCT INVESTIGATIONS, DISCIPLINE, AND GRIEVANCES

Paragraph 163. The Sheriff will ensure that all allegations of employee misconduct, whether internally discovered or based on a civilian complaint, are fully, fairly, and efficiently investigated; that all investigative findings are supported by the appropriate standard of proof and documented in writing; and that all officers who commit misconduct are held accountable pursuant to a disciplinary system that is fair, consistent, unbiased and provides due process. To achieve these outcomes, the Sheriff shall implement the requirements set out below.

A. Policies Regarding Misconduct Investigations, Discipline, and Grievances

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 directives related to misconduct investigations, employee discipline, and grievances, and shall provide to the Monitor and Plaintiffs new policies and procedures 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.

Phase 1: Not applicable

Phase 2: Deferred

MCSO provided us with draft revisions of:

- GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices), currently under revision.
- GA-1 (Development of Written Orders), currently under revision.
- GC-7 (Transfer of Personnel), currently under revision.
- GE-4 (Use, Assignment, and Operation of Vehicles), currently under revision.
- GI-5 (Voiance Language Services), currently under revision.
- GC-4 (Employee Performance Appraisals), currently under revision.
- GC-11 (Employee Probationary Periods), currently under revision.
- CP-2 (Code of Conduct), currently under revision.
- EA-2 (Patrol Vehicles), currently under revision.

- GC-12 (Hiring and Promotion Procedures), currently under revision.
- GH-5 (Early Identification System), currently under revision.
- GJ-26 (Sheriff's Reserve Deputy Program), currently under revision.
- GJ-27 (Sheriff's Posse Program), currently under revision.
- CP-3 (Workplace Professionalism), currently under revision.
- CP-5 (Truthfulness), currently under revision.
- CP-11 (Anti-Retaliation), currently under revision.
- GH-2 (Internal Investigations), currently under revision.
- GC-16 (Employee Grievance Procedures), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Review of Body-Worn Video During IA Administrative Broadcast, currently under revision.
- GH-4 (Bureau of Internal Oversight), currently under revision.
- GG-1 (Peace Officer Training Administration), currently under revision.
- GG-2 (Detention/Civilian Training Administration), currently under revision.
- GB-2 (Command Responsibility), currently under revision.
- GJ-24 (Community Relations and Youth Programs), currently under revision.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

All of the above documents were provided within one month of the entry of the Order. The Monitoring Team and the Parties conducted an initial review, and MCSO is currently revising internal policies and manuals related to misconduct investigations, employee discipline, and grievances. Those policies identified by MCSO are currently in some phase of review by our Team, the Plaintiffs, and/or the Plaintiff-Intervenors. All policy drafts have been returned to MCSO for further modifications, and many have gone through multiple rounds of review. In addition to ongoing document exchange of revisions and recommendations, our Team initiated meetings with the Plaintiffs and Plaintiff-Intervenors during our October site visit for the purpose of discussing content and progress of policy revisions. The policies and manuals, when completed, will incorporate all of the requirements of the Second Order.

This Paragraph implies that the review process and final adoption of the updated policies would take two months to complete, assuming that the new or revised policies were provided within one month of the Second Order's issuance. The sheer volume of policies, as well as the extensive modifications they contain, rendered that target date unachievable. Many of the policies required several iterations, and are still being revised pursuant to our and the Parties' comments as of the writing of this report. On October 25, MCSO's attorneys requested – and were ultimately granted – an extension from the Court to finalize the revised policies.

Paragraph 166. *Such policies shall apply to all misconduct investigations of MCSO personnel.*

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.*

Phase 1: Not in compliance

- CP-2 (Code of Conduct), currently under revision.
- CP-3 (Workplace Professionalism), currently under revision.
- CP-5 (Truthfulness), currently under revision.
- CP-11 (Anti-Retaliation), currently under revision.
- GH-2 (Internal Investigations), currently under revision.
- GC-16 (Employee Grievance Procedures), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Deferred

To determine Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

During this reporting period, we reviewed 20 closed misconduct investigations that were completed after the issuance of the Court's Second Order on July 20, 2016. The case reviews included 10 complaint investigations completed for alleged misconduct by Patrol personnel. Of the 10 cases involving sworn personnel, seven were investigated by PSB. These investigations included: one internal criminal misconduct investigation; three cases involving potential serious misconduct by Patrol personnel, two CRM cases, and one case that was a bias policing complaint not related to members of the Plaintiffs' class. PSB also investigated eight cases involving Detention personnel and two cases involving civilian personnel. The remaining three cases were investigated by District supervisors.

Paragraph 167.a.i-iii. prohibits any employee with any conflicts of interest from participating in, holding hearings on, or making any disciplinary decisions in a misconduct investigation. There

were no conflicts of interest found in our review of misconduct investigations for this reporting period that were completed after July 20, 2016.

Paragraph 167.b. requires that if the internal affairs investigator or a commander responsible for making disciplinary decisions identifies a conflict of interest, appropriate notifications must be made immediately. There were no instances found in our review of misconduct investigations completed after July 20, 2016 where any conflict of interest was identified. The PSB Commander identified conflicts of interest in a number of cases identified in the Court's Findings of Fact, and these cases are being properly outsourced to another law enforcement agency and a private vendor for completion.

Paragraph 167.c. requires that investigations into truthfulness be initiated by the Chief Deputy or the PSB Commander. In one case completed after July 20, 2016, a truthfulness allegation was authorized by the Chief Deputy. A separate internal affairs investigation was initiated on this allegation.

Paragraph 167.d. requires that any MCSO employee, who observes or becomes aware of misconduct by another employee, shall immediately report such conduct to a supervisor or directly to PSB. During the period in which the Monitor has authority to oversee any operations of MCSO, any employee may also report alleged misconduct to the Monitor. There were no investigations completed after July 20, 2016 where any employee made such notifications or reports.

Paragraph 167.e. requires that when supervisors are made aware of an act of misconduct, the supervisor shall immediately document and report the information to PSB. There were no misconduct investigations completed after July 20, 2016 that were initiated based on alleged misconduct brought forward to a supervisor by an employee regarding the observation of misconduct by another employee.

Paragraph 167.f. provides for the potential for a disciplinary sanction or other corrective action if an employee fails to bring forth an act of misconduct. There were no indications in any of the investigations completed after July 20, 2016 that any employee failed to bring forward any alleged acts of misconduct.

Paragraph 167.g. requires that all misconduct investigations conducted at the District level be conducted by a sergeant or higher-ranking officer. All cases completed after July 20, 2016 complied with this requirement.

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.*

Phase 1: Not in compliance

- CP-2 (Code of Conduct), currently under revision.
- CP-3 (Workplace Professionalism), currently under revision.
- CP-5 (Truthfulness), currently under revision.
- CP-11 (Anti-Retaliation), currently under revision.
- GH-2 (Internal Investigations), currently under revision.
- GC-16 (Employee Grievance Procedures), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Deferred

There were no misconduct investigations completed after July 20, 2016 where an MCSO employee alleged any reprisal, discouragement, intimidation, coercion, or adverse action because of a good faith misconduct complaint or cooperation in a misconduct investigation; nor were any such allegations brought forward to our Team.

***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.*

Phase 1: Not in compliance

- CP-2 (Code of Conduct), currently under revision.
- CP-3 (Workplace Professionalism), currently under revision.
- CP-5 (Truthfulness), currently under revision.
- CP-11 (Anti-Retaliation), currently under revision.
- GH-2 (Internal Investigations), currently under revision.
- GC-16 (Employee Grievance Procedures), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Deferred

There were no misconduct investigations completed after July 20, 2016 where an MCSO employee alleged any retaliation for reporting misconduct, nor were any such allegations brought forward to our Team.

***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.*

Phase 1: Not in compliance

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

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

None of the 20 misconduct investigations completed after July 20, 2016 included any third party or anonymous complainants.

***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.*

Phase 1: Not in compliance

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

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

There were no investigations completed after July 20, 2016 where the complainant sought to withdraw the complaint or was unavailable, unwilling, or unable to cooperate with the investigation. There was one case where a civilian employee, who was a principal in an investigation, resigned while the investigation was in progress. PSB appropriately completed the investigation against this former employee and a second employee still employed by MCSO. The allegations against both of these employees were exonerated.

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.*

Phase 1: Not in compliance

- CP-5 (Truthfulness), currently under revision.
- GH-2 (Internal Investigations), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Deferred

To assess Phase 2 compliance with this Paragraph, we will review applicable completed misconduct investigations conducted by MCSO personnel.

There were no misconduct investigations completed after July 20, 2016 that had any indication that any employee had failed to provide all relevant evidence and information in their custody and control to internal affairs investigators.

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.*

Phase 1: Not in compliance

- GC-4 (Employee Performance Appraisals), currently under revision.
- GC-11 (Employee Probationary Periods), currently under revision.
- GC-12 (Hiring and Promotion Procedures), currently under revision.

Phase 2: Deferred

During our October site visit, we met with PSB representatives regarding policy updates and status. PSB command personnel explained that the current process to ensure at least partial compliance with this Paragraph is that when the promotion list is established, PSB will receive the promotion list. Prior to any finalized promotion, PSB conducts a disciplinary check in the automated system, IAPro; and the results of the check will be provided to attendees at the promotion meeting as part of the promotional consideration process. We have not been made aware – or been in receipt – of any written justification whereby a principal or an applicant in an ongoing serious misconduct investigation has been promoted or hired since the issuance of the Second Order.

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.*

Phase 1: Not in compliance

- GC-12 (Hiring and Promotional Procedures), currently under revision.

Phase 2: Deferred

As of August 1, 2016, MCSO began submitting advance notice of transfers of personnel to and from the Professional Standards Bureau, the Bureau of Internal Oversight, and the Court Implementation Division. During this reporting period, MCSO submitted the resumes and disciplinary history of 15 employees for approval. The Monitoring Team reviewed the documentation submitted for each employee, and for each transfer, requested additional information to ensure that each employee met the requirements of this Paragraph. We approved all of the submitted transfers based on the information provided. During our October site visit, the Monitoring Team audited the files of all employees transferred and verified the accuracy of the information submitted for each employee. MCSO also submitted lists of all personnel hired, promoted, or transferred. Due to the nature of the information required, MCSO is providing the information 30 days in arrears. For this reporting period, we reviewed the documentation provided for August only.

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

Phase 1: Not in compliance

- GH-5 (Early Identification System), currently under revision.

Phase 2: Not in compliance

MCSO has not provided proof of compliance with this Paragraph. In its submission documents for September, MCSO submitted a memorandum that stated, "MCSO does not uniformly and consistently collect the requested data. The issue will be addressed in EIS Policy GH-5, which is currently in the review/approval process. MCSO plans on capturing this information as soon as possible."

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

Phase 1: Not in compliance

- GC-4 (Employee Performance Appraisals), currently under revision.

Phase 2: Not in compliance

The requirements of this Paragraph were not addressed in the Employee Performance Appraisals reviewed for this reporting period.

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.*

Phase 1: Not in compliance

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

Phase 2: Deferred

To assess Phase 2 compliance with this Paragraph, we will review applicable completed misconduct investigations conducted by MCSO personnel.

MCSO previously used name-clearing hearings in cases where an unclassified employee was being considered for dismissal for serious misconduct. No investigations involving principals who are unclassified employees have been completed since July 20, 2016.

B. Misconduct-Related Training

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:*

- investigative skills, including proper interrogation and interview techniques, gathering and objectively analyzing evidence, and data and case management;*
- 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;*
- properly weighing the credibility of civilian witnesses against employees;*
- 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.*

Phase 1: Not in compliance

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

Phase 2: Not in compliance

During this reporting period, MCSO requested that our Team provide technical assistance for the development and delivery of misconduct investigative training. During our October site visit, we presented MCSO with a plan of instruction, a proposed lesson plan, and a proposed training schedule. MCSO did not provide misconduct investigative training during this reporting period.

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.*

Phase 1: Not in compliance

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

Phase 2: Deferred

The initial misconduct investigative training was not developed and delivered during this reporting period. The training required by Paragraph becomes applicable one year after the initial misconduct investigative training is offered.

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.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- GC-17 (Employee Disciplinary Procedures), currently under revision.
- GC-16 (Employee Grievance Procedures), currently under revision.

Phase 2: Not in compliance

During this reporting period, MCSO did not develop or deliver the training for all employees on MCSO's new or revised policies related to misconduct investigations, discipline, and grievances, as required by this Paragraph. The relevant policies are still under revision.

***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.*

Phase 1: Not in compliance

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

Phase 2: Not in compliance

During this reporting period, MCSO did not provide training on how to properly handle civilian complaint intake, including how to provide complaint materials and information, and the consequences for failing to take complaints. The relevant policies are still under revision.

***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.*

Phase 1: Not in compliance

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

Phase 2: Not in compliance

During this reporting period, MCSO did not develop or deliver training for 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.

C. Administrative Investigation Review

Paragraph 183. *The Sheriff and the MCSO will conduct objective, comprehensive, and timely administrative investigations of all allegations of employee misconduct. The Sheriff shall put in place and follow the policies set forth below with respect to administrative investigations.*

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.*

Phase 1: Not in compliance

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

Phase 2: Not in compliance

To determine Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

For this reporting period, there were 20 misconduct investigations that were completed after July 20, 2016. Three of the cases were completed by District personnel and were related to Patrol personnel. The remaining 17 cases were investigated by sworn and Detention supervisors assigned to PSB. The cases investigated by PSB included allegations of misconduct by sworn, Detention, and civilian personnel. We found five cases in which we do not believe a proper finding was reached. One of these investigations was conducted by a Patrol supervisor. The investigation did not support a finding of exonerated and should have been not sustained. In the cases investigated by PSB, two lacked sufficient investigative information to allow us to determine if the findings were appropriate. One case failed to address one of the allegations. In another case, the finding of exonerated for all allegations was not supported and we believe one of the allegations should have been not sustained. There were no cases where we believe that investigators should have sustained any allegations, and failed to do so.

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.*

Phase 1: Not in compliance

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

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

For this reporting period, of the 20 misconduct investigations completed after July 20, 2016, only four were initiated after July 20, 2016. All were reported to PSB as required by this Paragraph.

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.*

Phase 1: Not in compliance

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

Phase 2: In compliance

To assess compliance with this Paragraph, a member of our Team observed and received access to the IAPro database, which serves as the centralized electronic numbering and tracking system for all allegations of misconduct, whether internally discovered or based on an external complaint. This database contains the information required for compliance with this Paragraph.

During this reporting period, we reviewed 20 misconduct investigations that were completed after July 20, 2016. All of the investigations contained a unique identifier assigned by PSB. Because MCSO takes some complaints outside of PSB, by personnel who do not have access to the IAPro database, in some cases, the complainant did not immediately receive the unique tracking number at the time of the complaint. Based on the necessity for PSB to maintain and make the database entries, compliance for this Paragraph is based on PSB notifying the complainant of the unique identifier once PSB receives the complaint information. In all of the cases involving civilian complainants, this unique identifier was provided by PSB as required.

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.*

Phase 1: Not in compliance

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

Phase 2: Deferred

To determine compliance with this Paragraph, we observed that PSB maintains both hardcopy and electronic files intended to contain all of the documents required for compliance with this Paragraph. Phase 2 compliance is deferred until we have an opportunity to verify that randomly selected files contain all of the required documentation. This will occur during our next site visit.

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.*

Phase 1: Not in compliance

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

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

During our Team's technical assistance visit with MCSO on August 10th, 2016, compliance with this Paragraph was discussed. After discussion, we agreed with PSB that Phase 2 compliance with this Paragraph should be based on PSB's determination of the initial allegations, not which category of offense it will be once the investigation is completed.

To assess Phase 2 compliance with this Paragraph, we reviewed 20 cases where the investigation was completed after July 20. In all of these cases, that were also initiated after July 20, 2016, PSB was in compliance with this Paragraph. Investigations initiated prior to July 20, 2016 were not assessed for compliance with this Paragraph.

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.*

Phase 1: Not in compliance

- CP-2 (Code of Conduct), currently under revision.
- CP-3 (Workplace Professionalism), currently under revision.
- CP-5 (Truthfulness), currently under revision.
- CP-11 (Anti-Retaliation), currently under revision.
- GH-2 (Internal Investigations), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

During this reporting period, we reviewed 20 misconduct investigations that were completed after July 20, 2016. PSB investigated all but three of these cases. None of these cases investigated outside of PSB contained any allegations that would have required PSB to conduct the investigation, and none contained any allegations indicating apparent criminal misconduct by an employee.

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.*

Phase 1: Not in compliance

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

Phase 2: Deferred

To determine Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

Of the 20 cases we reviewed for compliance with this Paragraph, three were investigated by District personnel. None of these investigations were found to be of a serious nature that would require investigation by PSB. Supervisors in the Districts do not yet meet the requirements of this Paragraph related to qualifications and training. The required training module has not yet been completed and delivered. Paragraph 182 does not require this training to take place until after finalization of those policies related to misconduct investigations, all of which are still in

some form or revision or draft. Phase 2 compliance is deferred pending the finalization of policies 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.*

Phase 1: Not in compliance

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

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

During this reporting period, we reviewed 20 misconduct investigations completed after July 20, 2016. Only three of these investigations were conducted by a supervisor outside of PSB. None of the three cases resulted in any determination that the principal might have committed misconduct of a serious or criminal nature that should be forwarded to PSB for investigation.

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.*

Phase 1: Not in compliance

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

During our October 2016 site visit, PSB command personnel advised us that the bureau is currently hiring a Management Analyst to provide PSB with the capacity to produce semi-annual reviews of misconduct cases. The semi-annual report will be made available to the public to ensure that complaints are properly handled from receipt through investigation; the report will identify problematic trends or patterns, and ensure that the aggregate data is reported as required. The proposed PSB Operations Manual contains a vacant position for an analyst that will perform the various audit functions required by this Order.

See Paragraph 251 below, regarding the additional summary information, analysis, and aggregate data PSB is required to assess for the semi-annual public report.

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.*

Phase 1: Not in compliance

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

Phase 2: In compliance

During this reporting period, to assess MCSO's Phase 2 compliance with this Paragraph, we reviewed 20 misconduct investigations, conducted by MCSO personnel, that were completed after July 20, 2016. The cases involved 33 principals with misconduct allegations, and 43 alleged potential policy violations. Only three of the investigations resulted in sustained findings with formal discipline; in all three cases, there were written reprimands issued. In these three cases, the disciplinary outcomes were consistent with the existing categories of offenses and the Disciplinary Matrix. There were no cases where the exoneration of any offense precluded any discipline for other misconduct.

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.*

Phase 1: Not in compliance

- CP-2 (Code of Conduct), currently under revision.
- CP-3 (Workplace Professionalism), currently under revision.
- CP-5 (Truthfulness), currently under revision.
- CP-11 (Anti-Retaliation), currently under revision.
- GH-2 (Internal Investigations), currently under revision.
- GC-16 (Employee Grievance Procedures), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

Compliance with Phase 2 of this Paragraph 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.

During our technical assistance visit with PSB personnel from August 10-11, 2016, we had lengthy discussions regarding the requirements of the Second Order. We found PSB personnel to be prepared for our visit and responsive to our input. We provided a copy of the spreadsheet we will be using to assess compliance with all requirements of misconduct investigations to PSB personnel, and reviewed the spreadsheet with them to clarify the reporting requirements. Since our technical assistance visit, we have had numerous conversations with PSB personnel regarding the requirements of the Second Order. A member of our Team meets weekly with PSB to discuss potential CRM cases. The overall requirements of reporting under the Second Order are often discussed during or after these CRM meetings. We have found that PSB personnel continue to be responsive, and we have observed their sincere efforts to attain compliance. As we have reviewed investigations during this reporting period, we have provided input to PSB regarding those areas of the Order where we consistently see lack of compliance. Many of our concerns have been related to specific requirements for the written investigation and are noted in the relevant Paragraphs in this report.

While none of the 20 misconduct investigations completed after July 20, 2016 meet all the requirements of the Second Order, we are encouraged by the efforts PSB personnel are making to comply with the Second Order and will continue to meet with them during our future site visits to discuss those investigations that fail to meet all the requirements of the Second Order.

PSB is properly outsourcing those cases where PSB has identified a conflict of interest, and PSB personnel have kept our Team aware of those cases where they believe a conflict exists.

None of the required misconduct training has yet been delivered, as the related policies have not been approved.

PSB has reviewed the disciplinary backgrounds of all those who might conduct internal investigations and notified our Team of those supervisors that will be prohibited from conducting such investigations due to their background.

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.*

Phase 1: Not in compliance

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Deferred

In conjunction with this Paragraph, Paragraph 178 of the Second Order mandates that within three months of the finalization of policies consistent with Paragraph 165 of the Order, all PSB personnel will be provided 40 hours of comprehensive training. However, a multitude of policies and manuals are under revision and review by our Team, Plaintiffs, and Plaintiff-Intervenors. Moreover, this Paragraph requires sufficient trained personnel within six months

of the entry of the Order, which would be January 20, 2017. MCSO cannot commence with the required training of sufficient personnel because none of the policies have been finalized. Additionally, training curricula is being developed in concert with all Parties, and is nearly complete. The policies and manuals, when finalized, will incorporate all of the requirements of the Second Order as required in Paragraph 165. We note that draft versions of the PSB Operations Manual, GG-1 (Peace Officer Training Administration), and GG-2 (Detention/Civilian Training Administration) include language regarding Paragraph 178 whereby investigators shall receive 40 hours of training. We anticipate the training of PSB personnel will, at a minimum, include all policies and manuals that are directly relevant to PSB's responsibilities. Upon finalization of the policies, manuals, and training curricula, we anticipate that MCSO will commence with the required training of sufficient PSB staff. We will initiate monthly requests to determine the ratio of PSB staff required as compared to the PSB staff employed. The monthly request will also seek documentation regarding the completion of sufficient training in compliance with this Paragraph.

***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.*

Phase 1: Not in compliance

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

Phase 2: Deferred

To determine Phase 2 compliance with this Paragraph, we will review completed misconduct investigations conducted by MCSO and request follow-up information on those cases that have been referred to another law enforcement agency or individual for investigation.

None of the 20 cases completed by MCSO after July 20, 2016 and reviewed by our Team necessitated outsourcing. There are, however, three cases that were outsourced to another law enforcement agency that have not yet been completed, and additional cases for which MCSO intends to retain an outside investigator. MCSO is currently processing a Request for Proposal to retain a qualified outside investigator with the requisite background and experience to conduct these investigations. We are in agreement with MCSO's decision to outsource these cases based on the requirements of this Paragraph. As the outside investigator has not yet been selected, Phase 2 compliance is deferred. We will review the background and experience of any investigator retained to assess Phase 2 compliance with this Paragraph.

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.*

Phase 1: Not in compliance

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

Phase 2: In compliance

The current PSB Commander has been in place since September 2015. Throughout our interactions, we have found her to be professional, committed to the responsibilities of her position, and responsive to our input and concerns. Members of our Team have at least weekly contact with her to discuss concerns we find during our case reviews, CRMs, and other internal investigation matters. Despite the many challenges of her position, and the increased workload necessitated by the requirements of the Second Order, she has continued to maintain her focus and commitment to ensuring that misconduct investigations are thoroughly investigated and appropriate findings determined. Under her leadership, we have observed significant improvement in those cases investigated by PSB and have noted the continued efforts to ensure those investigations conducted outside of PSB are completed properly as well.

In those internal investigations completed after July 20, 2016 that had sustained findings, the PSB Commander approved the final finding and determined the disciplinary range in every case. PSB has created a form that details the decision-making process for the disciplinary range. This will allow for a more comprehensive review by our Team in future reports.

While we believe that the current PSB Commander is qualified for this position, we must note, as we have in the past, that no one person assigned to the position of PSB Commander can possibly singlehandedly achieve compliance with all of the requirements of either the First or the Second Order, nor should they be expected to. The leadership of MCSO must take an active role in ensuring that all personnel conducting investigations do so properly and expeditiously, and hold those who fail to do so accountable. Without this commitment by the agency's leadership, MCSO will not attain compliance.

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.*

Phase 1: Not applicable

Phase 2: Deferred

MCSO provided our Team with documentation that outlines its efforts to explore a qualifying off-site facility for PSB that complies with this Paragraph. County real estate professionals have established acceptable parameters in conducting their search, and County representatives have conducted real estate searches for both commercial office and retail locations that meet the parameters. During our October site visit, representatives of our Team, Plaintiffs, and Plaintiff-Intervenors visited one potential site. All Parties continue with their evaluation of this one particular site and other possible options. MCSO and County representatives are making reasonable efforts to obtain compliance with this Paragraph.

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.*

Phase 1: Not in compliance

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

Phase 2: In compliance

MCSO has reviewed the qualifications of all those who might be required to conduct internal affairs investigations, and has currently identified two supervisors who are ineligible to conduct these investigations based on the requirements of this Paragraph. MCSO provided written notification to our Team regarding these supervisors.

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.*

Phase 1: Not in compliance

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

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

MCSO completed 20 misconduct investigations after July 20, 2016 that we reviewed for this reporting period. One of these cases was an internal criminal investigation. The remaining 19 included: nine cases involving misconduct allegations against sworn Patrol personnel; eight cases alleging misconduct against Detention personnel; and two cases alleging misconduct against civilian personnel. Of the total 20 cases reviewed that were completed after July 20, 2016, only four were also initiated after July 20, 2016 and all four complaints were investigated by PSB personnel. All of these cases involved sworn personnel. Two were classified as CRMs, one was a bias complaint not related to the Plaintiffs' class, and the fourth case involved a conduct unbecoming complaint. All four cases resulted in findings of not sustained, exonerated, or unfounded. We are in agreement with the findings in each case. Since the requirements of this Paragraph were not in place during the initial, and in some cases, the majority of the investigative process for the cases reviewed, only those cases initiated after July 20, 2016 were reviewed for this reporting period. Future reporting periods will continue to include a review of all cases initiated after July 20, 2016 to determine compliance with this Paragraph.

Paragraph 200.a. requires that misconduct investigations be conducted in a rigorous and impartial manner. All four cases reviewed met the requirements of this Subparagraph.

Paragraph 200.b. requires that investigations be approached without prejudging the facts or permitting preconceived impressions. All four cases reviewed met the requirements of this Subparagraph.

Paragraph 200.c. requires that investigators identify, collect, and consider all relevant evidence. All four cases reviewed met the requirements of this Subparagraph.

Paragraph 200.d. requires that investigators make reasonable attempts to locate and interview all witnesses. In the two cases where witnesses were present, they were contacted. Two of the cases did not involve any witnesses. MCSO made reasonable efforts to locate witnesses in those cases for which it was appropriate to do so.

Paragraph 200.e. requires that investigators make reasonable attempts to interview civilian complaints in person. In two cases, the complainants were interviewed in person. In two cases, complainants were not interviewed in person. In one of these cases, the complainant lives out of state; and in the second, the complainant lives in another part of the state and declined an in-person interview.

Paragraph 200.f. requires audio and video recording of all interviews. In the two interviews conducted with complainants that declined in-person interviews, only audio recordings of the interviews took place. In the other two cases, both audio and video recordings of the interviews took place.

Paragraph 200.g. requires that when conducting interviews, investigators avoid asking leading questions or questions that may suggest justification for the alleged misconduct. All four of the investigations reviewed met the requirements of this Paragraph.

Paragraph 200.h. requires that proper credibility determinations are made. All four cases reviewed met the requirements of this Paragraph.

Paragraph 200.i. requires that investigators attempt to resolve all material inconsistencies. All four cases reviewed met the requirements of this Paragraph.

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.*

Phase 1: Not in compliance

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

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

None of the 20 misconduct investigations completed by MCSO after July 20, 2016 had any indication that there was any automatic preference for an employee's statement over a non-employee's statement. There was no indication that internal affairs investigators disregarded a witness statement for any reason; and no indication that any witness, complainant, or officer was determined to have been deceptive or untruthful in any prior legal proceeding, misconduct investigation, or other investigation.

***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.*

Phase 1: Not in compliance

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

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed completed investigations conducted by MCSO personnel.

We reviewed 20 misconduct investigations completed after July 20, 2016 for this reporting period. In one case, a District supervisor was conducting follow-up on some unexplained charges on an employee's County credit card. Initially it was believed that this employee may not have been aware of the charges. As soon as it became apparent that possible misconduct had occurred, the information was forwarded to PSB where both a criminal and administrative investigation was properly initiated.

***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.*

Phase 1: Not in compliance

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

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

There were no indications in any of the 20 misconduct investigations completed after July 20, 2016 that any MCSO investigators considered any pleading or finding of guilty by any person as a reason to make any determination regarding the potential misconduct of any MCSO personnel, nor were any investigations discontinued for this reason.

***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.*

Phase 1: Not in compliance

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

Phase 2: Not in compliance

To assess Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

During this reporting period, 20 investigations were completed after July 20, 2016. Of these investigations, 19 were administrative investigations. Four of these cases were not completed within the required 85 days by PSB investigators, and two were not completed by District investigators within the required 60 days. Only one case, completed by PSB, contained the required extension approval. We note that the majority of these cases were initiated before the requirements of this Paragraph. However, even prior to the Second Order, MCSO policy required the 60- and 85-day time limits for the completion of administrative investigations. We have consistently observed MCSO's failure to meet these time limits in past reports.

***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.*

Phase 1: Not in compliance

- Professional Standards Bureau Operations Manual, currently under revision.
- GH-5 (Early Identification System), currently under revision.
- GH-2 (Internal Investigations), currently under revision.
- GC-16 (Employee Grievance Procedures), currently under revision.

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

Phase 2: Deferred

In addition to ongoing document exchange of revisions and recommendations, we initiated meetings with PSB command staff during our October site visit for the purpose of discussing content and progress of policy revisions. We requested specific information regarding PSB compliance with this Paragraph, and PSB personnel explained the process used with IAPro and internal procedures to ensure electronic tracking of ongoing misconduct cases and generating alerts when deadlines are not met. In general, PSB generates monthly alerts utilizing IAPro for all administrative investigations. The alerts represent data about open or pending cases, who is assigned primary responsibility for the investigation, and whether a completed investigation is overdue. Investigations that are assigned at the Division level are due to PSB within 60 days. Investigations that are assigned to personnel within PSB are to be completed within 85 days. The monthly alerts are provided to commanders and the deputy chief of the assigned investigator. As a failsafe measure, all PSB and Division investigators can access the electronic Blue Team database at any time to view the assignment and status of administrative investigations to which they are assigned.

During the same site visit, we also met with PSB command personnel to witness a demonstration of the IAPro database and its capabilities. We currently receive monthly notices from PSB regarding closed administrative investigations, and we evaluate closed investigations against a multitude of criteria, to include whether timelines were compliant.

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;*

- f. 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;*
- g. 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.*

Phase 1: Not in compliance

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

Phase 2: Not in compliance

To assess Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

During this reporting period, we reviewed 19 administrative misconduct investigations completed after July 20, 2016 to determine compliance with the requirements of this Paragraph. Many of the investigations did not comply with all requirements of this Paragraph. We will discuss those areas of concern with PSB during our next site visit.

Paragraph 206.a. requires a written description on the incident be included in the investigative report. All 19 administrative misconduct cases reviewed complied with this requirement.

Paragraph 206.b. requires documentation of all evidence gathered, including all known information about witnesses. Two of the 19 administrative misconduct investigations did not comply with this requirement.

Paragraph 206.c. requires documentation of whether employees were interviewed, and a transcript or recording of these interviews. All 19 administrative misconduct investigations indicated that the employee was interviewed. Seven of the investigations submitted for review did not contain a transcript or recording of the employee interview.

Paragraph 206.d. requires the names of all MCSO employees who witnessed the incident be included in the report. All 19 administrative investigations reviewed complied with this requirement.

Paragraph 206.e. requires the evaluation of the incident by the internal affairs investigator, including whether the actions of the employees appear to be within MCSO policy, procedure, and law. All 19 of the administrative misconduct investigations reviewed complied with this Paragraph.

Paragraph 206.f. requires that investigative reports include a precise description of evidence that supports or detracts from credibility assessments. Two of the 19 administrative misconduct investigations reviewed did not comply with this Paragraph.

Paragraph 206.g. requires that when material inconsistencies must be resolved, a precise description of the evidence be included in the report. One of the 19 administrative misconduct investigations reviewed did not comply with this Paragraph.

Paragraph 206.h. requires that assessment of the incident for policy, training, tactical, or equipment concerns be included in the investigative report. None of the 19 investigations included this information in the report. Due to the consistent lack of the inclusion of this information, a member of our Team discussed this requirement with the PSB Commander, who acknowledged this information was not being included. The PSB Commander advised us that this information would be included in the required investigation checklist when it is revised. In the interim, investigators have been advised to include this information in report narratives.

Paragraph 206.i. requires that if a weapon was used, documentation that the employee's certification and training for the weapon must be included in the investigative written. Though it did not appear from our case reviews that any weapon was used during any of the investigations we reviewed, this information has not been specifically included in the investigative reports. As with the requirements of 206.h, PSB has advised that this information will be added to the investigative checklist when it is revised.

Paragraph 206.j. requires that documentation of the initiation of the disciplinary process be included in the investigation. In all 19 administrative misconduct investigations we reviewed for this reporting period, the assigned investigator provided a written summary and conclusion for each investigation. In the three investigations where discipline resulted, the investigator documented the findings of sustained for policy violations. Once the PSB Commander approves sustained findings in the investigation, the discipline process is initiated.

Paragraph 206.k. requires that any contacts and updates with the complainant be documented in the investigative report. Two of the 19 administrative misconduct investigations that we reviewed noted that there was follow-up contact with an external complainant.

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.*

Phase 1: Not in compliance

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

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

To assess Phase 2 compliance with this Paragraph, we reviewed misconduct investigations conducted by MCSO personnel.

During this reporting period, we reviewed 20 misconduct investigations completed by MCSO personnel after July 20, 2016. Nineteen of these were administrative investigations and subject to the requirements of this Paragraph. We consistently found that internal investigators were not complying with the requirements of this Paragraph in the cases we reviewed. A member of our Team discussed this requirement with PSB, who acknowledged the lack of inclusion of this information. PSB intends to revise the required checklist once all relevant policies are finalized. In the interim, the PSB Commander has notified investigative personnel that this information should be included in the narrative portion of the report.

***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.*

Phase 1: Not in compliance

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

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

Of the 20 misconduct investigations reviewed during this reporting period, 19 were administrative investigations subject to the requirements of this Paragraph. In all of the cases, internal investigators identified one of these four findings. While we are not in agreement with some of the findings, compliance with Phase 2 for this Paragraph is based only on the specific requirement to *identify* a finding. We will discuss those cases where we disagree with the findings with PSB personnel during our next site visit.

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.*

Phase 1: Not in compliance

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

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

Of the 20 investigations completed after July 20, 2016, 19 were administrative investigations. Only three of these 19 investigations were completed by personnel outside of PSB. In all three cases, the Division Commander approved the investigations and findings prior to forwarding to PSB. While we disagree with one of the findings, Phase 2 compliance is based only on the specific requirement for the Division Commander to approve and forward the investigations. We will discuss the cases where we disagree with the finding with PSB, Division, and District command personnel during our next site visit.

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

Phase 1: Not in compliance

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

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

In all of the investigations completed by PSB personnel and reviewed for this reporting period, completed investigations were forwarded to the PSB Commander as required.

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.*

Phase 1: Not in compliance

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

Phase 2: Deferred

To assess Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

None of the cases completed by PSB and forwarded to the PSB Commander that we reviewed for this reporting period indicate that the report was returned to the investigator for correction or additional investigation. There were also no cases reviewed during this reporting period where a Commander, other than the PSB Commander, returned an investigation for correction or additional investigation. We are aware of one case where the PSB Commander overturned a finding of sustained based on her review of the investigation. She documented her decision in writing, and the documentation was attached to the investigative report. While the PSB Commander did document the change of findings, no information has been provided that addresses what action, if any, was taken regarding the necessity to change the finding.

Phase 2 compliance for this Paragraph is deferred pending additional review of incidents where investigations or findings are overturned and actions are taken to address this necessity.

***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.*

Phase 1: Not in compliance

- GB-2 (Command Responsibility)
- GC-4 (Employee Performance Appraisals)

MCSO is currently revising internal policies and manuals related to misconduct investigations, employee discipline, and grievances. Those policies identified by MCSO are currently in some phase of review by our Team, the Plaintiffs, and the Plaintiff-Intervenors.

Phase 2: Deferred

Our Team conducts reviews of a multitude of completed administrative investigations each month and we evaluate the quality of those investigations against robust criteria. As the volume of completed investigations – cases that commenced after the issuance of the Second Order – increases, we will inquire about what actions were taken with investigative personnel associated with deficient investigations subsequent to our identification of those investigations.

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.*

Phase 1: Not in compliance

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

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

Of the 20 internal investigations reviewed for this reporting period, only three were investigated by personnel outside of PSB. All three of these investigations involved allegations of minor misconduct and were conducted by a supervisor as required in this Paragraph. None of these cases were returned to the investigators by PSB for additional investigation.

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.*

Phase 1: Not in compliance

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

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed misconduct investigations conducted by MCSO personnel.

For this reporting period, none of the 20 misconduct investigations was assigned or reassigned to another supervisor for further investigation or analysis.

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.*

Phase 1: Not in compliance

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

Phase 2: Deferred

To assess Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

During this reporting period, none of the investigations for which there were sustained findings were conducted outside of PSB. Phase 2 compliance is deferred until investigations completed outside of PSB result in sustained findings that will allow us to review whether compliance with this Paragraph is being met.

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.*

Phase 1: Not in compliance

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

Phase 2: Not in compliance

To determine Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

During this reporting period, three of the 19 administrative investigations we reviewed resulted in sustained violations; and written reprimands were issued to four employees, all Detention employees. In all three cases, the PSB Commander ensured that the written reprimands were served. However, in one case, based on our review of the investigation, we believe that additional and more serious policy violations should have been alleged and investigated. Had these additional policy violations been investigated and sustained, more serious discipline would likely have been appropriate.

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.*

Phase 1: Not in compliance

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

Phase 2: Not applicable

As a result of the requirements of the Second Order, District and Division Commanders will not impose discipline for minor misconduct. In all cases, the PSB Commander will determine the final findings for internal investigations and the presumptive range of discipline for those cases sustained cases. The appointing authority will then make the final determination of discipline.

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.*

Phase 1: Not in compliance

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

Phase 2: Deferred

To determine compliance with this Paragraph, we observed that PSB maintains both hardcopy and electronic files intended to contain all of the documents required for compliance with this Paragraph. Compliance with Phase 2 is deferred until we have an opportunity to verify that randomly selected files contain all of the required documentation. This will occur during our next site visit.

D. Discipline

Paragraph 219. *The Sheriff shall ensure that discipline for sustained allegations of misconduct comports with due process, and that discipline is consistently applied, fair, and based on the nature of the allegation, and that mitigating and aggravating factors are identified and consistently applied and documented regardless of the command level of the principal of the investigation.*

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.*

Phase 1: Not in compliance

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

Phase 2: Deferred

To assess Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

During this reporting period, only three of the 19 administrative investigations completed after July 20, 2016 had sustained findings. All three investigations involved the misconduct of Detention employees and all received written reprimands. Phase 2 compliance for this Paragraph will be deferred until relevant policies regarding discipline matrices are finalized and published.

Paragraph 220.a. requires a presumptive range of discipline for each type of violation. Phase 2 compliance with this Paragraph is deferred until revised discipline matrices are finalized and published. We will then determine Phase 2 compliance based on whether administrative investigations comply with this requirement.

Paragraph 220.b. requires that presumptive discipline be increased if an employee has prior violations. Phase 2 compliance with this Paragraph is deferred until revised discipline matrices are finalized and published. We will then determine Phase 2 compliance based on whether administrative investigations comply with this requirement.

Paragraph 220.c. requires that mitigating and aggravating factors be defined. Phase 2 compliance with this Paragraph is deferred until revised discipline matrices are finalized and published. We will then determine Phase 2 compliance based on whether administrative investigations comply with this requirement.

Paragraph 220.d. prohibits the consideration of any prohibited biases when determining discipline. Only three of the 19 administrative investigations completed after July 20, 2016 resulted in sustained findings. None of these cases had any indication that any biases were considered when determining discipline.

Paragraph 220.e. prohibits any conflicts, nepotism, or bias of any kind in the administration of discipline. Only three of the 19 administrative investigations completed after July 20, 2016 resulted in sustained findings. None of these cases had any indication of conflicts, nepotism, or bias of any kind when determining the disciplinary sanction.

Paragraph 220.f. prohibits the consideration of the high (or low) profile nature of an incident when determining discipline. Only three of the 19 administrative investigations completed after July 20, 2016 resulted in sustained findings. None of the three cases resulted in the consideration of the high or low profile nature of the incident when considering discipline.

Paragraph 220.g. requires that clearly defined forms of discipline and classes of discipline be defined. This Paragraph requires only Phase 1 compliance. Phase 2 compliance is not applicable.

Paragraph 220.h. requires that corrective action such as coaching or training is not considered to be discipline and should not be used as a substitute for discipline. Only three of the 19 administrative investigations completed after July 20, 2016 resulted in sustained findings. Formal discipline was issued in all three cases.

Paragraph 220.i. requires that MCSO will not take only non-disciplinary action in cases where the disciplinary matrices call for the imposition of discipline. Only three of the 19 administrative investigations completed after July 20, 2016 resulted in sustained findings. None of these cases resulted in MCSO taking non-disciplinary action when the disciplinary matrices currently in effect called for the imposition of discipline.

Paragraph 220.j. requires that MCSO consider whether non-disciplinary corrective action is also appropriate in a case where discipline has been imposed. None of the three cases that resulted in discipline had any additional non-disciplinary corrective action taken.

Paragraph 220.k. requires that any departure from the discipline recommended under the disciplinary matrices be justified in writing and included in the employee's file. Only three of the 19 administrative investigations completed after July 20, 2016 resulted in sustained findings with associated discipline. None of the three had a final discipline sanction that was a departure from the discipline recommended.

Paragraph 220.l. requires that a Disciplinary Matrix for unclassified management employees be at least as demanding as the Disciplinary Matrix for management-level employees. Phase 2 compliance with this Paragraph is deferred until revised discipline matrices are finalized and published. We will then determine Phase 2 compliance based on whether disciplinary sanctions for unclassified management employees comply with this requirement.

***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.*

Phase 1: Not in compliance

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

Phase 2: Not in compliance

To assess Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

During this reporting period, we reviewed 20 misconduct investigations that were completed by MCSO personnel after July 20, 2016. Only three of these cases resulted in sustained findings and formal discipline. In one of the cases, involving two Detention employees, the discipline imposed – a written reprimand – appears appropriate based on the allegations and policy violations sustained. However, we believe that MCSO investigators failed to allege and sustain other appropriate allegations and policy violations against these employees, which would have likely resulted in more serious discipline. We will discuss our specific concerns with this case with PSB personnel during our next site visit.

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.*

Phase 1: Not in compliance

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

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

During this reporting period, we reviewed 19 administrative misconduct investigations that were completed by MCSO personnel after July 20, 2016. Only three of these cases resulted in formal discipline. In each of the three cases, the PSB Commander documented in writing the presumptive range of discipline based on the Disciplinary Matrix still currently in effect. In all three cases, the final discipline was a written reprimand, which fell within the presumptive range determined by the PSB Commander. In our reviews of these three investigations, we found that the category and offense number was provided in the recommendation and that the investigative file included the employee's disciplinary history.

E. Pre-Determination Hearings

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.*

Phase 1: Not in compliance

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

Phase 2: Deferred

To assess Phase 2 compliance with this Paragraph in future reporting periods, we will review completed misconduct investigations conducted by MCSO personnel where a Pre-Determination Hearing (PDH) occurs.

During this reporting period, there were 19 administrative misconduct investigations completed after July 20, 2016. While some of these investigations had sustained findings, only minor discipline was imposed. None of the cases contained any recommendation for serious discipline by the PSB Commander, and no PDHs took place. Phase 2 compliance is deferred until we are able to review any cases that are referred for this hearing.

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.*

Phase 1: Not in compliance

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

Phase 2: Deferred

To assess compliance with this Paragraph, we will review completed misconduct investigations conducted by MCSO personnel.

During this reporting period, there were 19 administrative misconduct investigations completed after July 20, 2016. While some of these investigations had sustained findings, only minor discipline was imposed. None of the cases contained any recommendation for serious discipline by the PSB Commander, and no PDHs took place. Phase 2 compliance is deferred until we are able to review any cases that are referred for this hearing.

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.*

Phase 1: Not in compliance

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

Phase 2: Deferred

To assess compliance with this Paragraph, we will review completed misconduct investigations conducted by MCSO personnel.

During this reporting period, there were 19 administrative misconduct investigations completed after July 20, 2016. While some of these investigations had sustained findings, only minor discipline was imposed. None of the cases contained any recommendation for serious discipline by the PSB Commander, and no PDHs took place. Phase 2 compliance is deferred until we are able to review any cases that are referred for this hearing.

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.*

Phase 1: Not in compliance

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

Phase 2: Deferred

To assess compliance with this Paragraph, we will review completed misconduct investigations conducted by MCSO personnel.

During this reporting period, there were 19 administrative misconduct investigations completed after July 20, 2016. While some of these investigations had sustained findings, only minor discipline was imposed. None of the cases contained any recommendation for serious discipline by the PSB Commander. Phase 2 compliance is deferred until we are able to review any cases that are referred for a PDH.

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:*

- his or her personal opinion about the employee's reputation;*
- the employee's past disciplinary history (or lack thereof), except as provided in the disciplinary matrix;*
- 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.*

Phase 1: Not in compliance

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

Phase 2: Deferred

To assess compliance with this Paragraph, we will review completed misconduct investigations conducted by MCSO personnel.

During this reporting period, there were 19 administrative misconduct investigations completed after July 20, 2016. While some of these investigations had sustained findings, only minor discipline was imposed. There were no investigations reviewed for this reporting period where a PDH took place. Phase 2 compliance is deferred until we are able to review any cases that are referred for this hearing.

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.*

Phase 1: Not in compliance

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

Phase 2: In compliance

To assess compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

During this reporting period, there were no instances where the Sheriff or his designee rescinded, revoked, or altered any disciplinary decision made by either the Commander of the Professional Standards Bureau or the appointed MCSO disciplinary authority.

F. Criminal Misconduct Investigations

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.*

Phase 1: Not in compliance

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

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed completed criminal misconduct investigations conducted by MCSO personnel.

During this reporting period, only one internal criminal investigation was completed after July 20, 2016. In this case, a District supervisor observed irregularities in credit card charges by an MCSO employee. An initial inquiry was conducted at the District level, as it was not known how these charges came about. Once the District supervisor became aware of potential criminal conduct, the case was immediately transferred to PSB, as required. The criminal investigation was properly completed by PSB criminal investigators and forwarded to an appropriate prosecuting authority, which declined prosecution. The companion administrative investigation has not yet been finalized.

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.*

Phase 1: Not in compliance

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

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by both internal and administrative investigators to ensure that they contained appropriate documentation that complies with the requirements of this Paragraph.

During this reporting period, only one internal criminal investigation was completed after July 20, 2016. The companion administrative investigation has not yet been finalized. There are currently two in-progress CRM cases that have both a criminal and an administrative investigation in progress. During our weekly meetings with PSB, the administrative investigators have provided continuous updates on the status of these cases and the actions they are taking. While they have conducted some follow-up and investigation on these cases, at the direction of the PSB Commander, they have appropriately held all interviews of the principals in these investigations in abeyance, pending the completion of the criminal investigations.

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.

Phase 1: Not in compliance

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

Phase 2: In compliance

PSB is separated into criminal and administrative sections. Criminal investigators and administrative investigators are housed on separate floors of the building. Criminal investigators have no access to the IAPro database for administrative investigations, and there are separate file rooms for criminal and administrative investigative documents and reports.

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.

Phase 1: Not in compliance

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

Phase 2: In compliance

To determine MCSO's compliance with this Paragraph, we reviewed administrative and criminal misconduct investigations conducted by MCSO on a monthly basis.

During this reporting period, only one internal criminal investigation was completed after July 20, 2016 that is subject to the requirements of the Second Order. We reviewed the criminal investigation and found it to be properly completed. The case was submitted to a prosecuting agency, which declined prosecution. There is a companion administrative investigation that has not yet been finalized.

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.

Phase 1: Not in compliance

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

Phase 2: In compliance

Of the 20 internal investigations reviewed for this reporting period that were completed after July 20, 2016, only one was an internal criminal investigation. This investigation was submitted to a prosecuting agency, which declined prosecution.

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.

Phase 1: Not in compliance

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

Phase 2: In compliance

Of the 20 internal investigations reviewed for this reporting period completed after July 20, 2016, only one was an internal criminal investigation. In this case, the PSB Commander did not direct additional investigation prior to submittal to the prosecuting agency. We reviewed this investigation and found it to be thorough and well-written.

***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.*

Phase 1: Not in compliance

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

Phase 2: In compliance

Of the 20 internal investigations reviewed during this reporting period, only one was a criminal investigation. The prosecuting agency declined to prosecute this case. MCSO followed up with the prosecuting agency, which responded that although the investigator had “left no stone unturned,” without a video, a confession, or an eyewitness, there was “inadequate evidence of identification.” The companion administrative investigation has not yet been finalized.

***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.*

Phase 1: Not in compliance

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

Phase 2: Deferred

To determine compliance with this Paragraph, we observed that PSB maintains both hardcopy and electronic files intended to contain all of the documents required for compliance with this Paragraph. Compliance with Phase 2 is deferred until we have an opportunity to verify that randomly selected files contain all of the required documentation. This will occur during our next site visit.

G. Civilian Complaint Intake, Communication, and Tracking

Paragraph 237. *Within six months of the entry of this Order, the Monitor, in consultation with the Community Advisory Board, will develop and implement a program to promote awareness throughout the Maricopa County community about the process for filing complaints about the conduct of MCSO employees.*

Phase 1: Not applicable

The Monitoring Team is developing a two-part program for promoting awareness throughout the Maricopa County community regarding the process for filing complaints about the conduct of MCSO employees. First, the program will include ongoing public service announcements – made via local media outlets and social media – that provide basic information (in both English and Spanish) about the MCSO complaint process. Second, workshops will be offered to social, professional, civic, and faith organizations throughout Maricopa County to discuss the process for filing complaints. The program will incorporate input from the Community Advisory Board (CAB), MCSO, and the ACLU of Arizona. We will describe the program more fully in our next quarterly status report.

Phase 2: Not applicable

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.*

Phase 1: Not in compliance

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

Phase 2: In compliance

We have reviewed a multitude of completed administrative investigations since the issuance of the Second Order. The overwhelming majority of those cases were initiated prior to the issuance of the Order. Even so, we have not observed any indication in those investigations, or in any reports made directly to us, that represent any violation of this Paragraph.

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.*

Phase 1: Not in compliance

- GJ-24 (Community Relations and Youth Programs), currently under revision.

Phase 2: Not in compliance

The permanent placards were not approved during this report period, and consequently were not placed in locations at MCSO headquarters and all District stations. We and the Parties reviewed the proposed content for the placards as part of the policy review process, and expect compliance with this Paragraph during the next reporting period.

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.*

Phase 1: Not in compliance

- GJ-24 (Community Relations and Youth Programs), currently under revision.

Phase 2: Not in compliance

MCSO began implementation of their plan to distribute complaint forms to deputies to carry in their patrol vehicles during this reporting period. The plan included: printing the forms; disseminating them to deputies; and ensuring that all deputies understand their obligations to provide individuals with complaint forms and information about how to file a complaint, their name and badge number, and the contact information for their immediate supervising officer. However, MCSO has not yet provided cell phones to all patrol supervisors.

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.*

Phase 1: Not applicable

Phase 2: Not in compliance

As noted in Paragraph 198, MCSO did not identify a Professional Standards Bureau facility easily accessible to members of the public during this reporting period. However, during this reporting period, MCSO provided our Team with documentation that outlines its efforts to explore a qualifying off-site facility for PSB that complies with this Paragraph. County real estate professionals have established parameters in conducting their search, and County representatives have conducted real estate searches for both commercial office and retail locations that meet the parameters. During our October site visit, representatives of our Team, Plaintiffs, and Plaintiff-Intervenors visited a potential site. There were some noted concerns on the parts of the Plaintiffs and Intervenors about the proposed site. All Parties continue with their evaluation of this one particular site and other possible options that are easily accessible to members of the public.

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.*

Phase 1: Not in compliance

- GJ-24 (Community Relations and Youth Programs), currently under revision.

Phase 2: Not in compliance

During the community meeting during our last site visit, MCSO announced that the complaint forms were available, and that members of the MCSO PSB were present at the meeting to receive any complaints. In addition, MCSO drafted a list of locations around Maricopa County identified as readily available to community members in every MCSO District, and advised of their intent to make complaint forms available in those locations. In addition to citing the MCSO and Maricopa County websites, the list also contained MCSO facilities, County offices, public library branches, community centers, and other locations where community groups meet. The forms were not, however, disbursed during the reporting period. We will verify MCSO's follow-through during the next site visit.

Paragraph 243. *The Sheriff shall establish a free, 24-hour hotline for members of the public to make complaints.*

Phase 1: Not in compliance

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

Phase 2: In compliance

The free 24-hour hotline for members of the public to make complaints was established during this reporting period. The hotline provides instructions in English and Spanish on how to register a complaint. Callers are advised that if the call is an emergency, they are to call 911. Callers are requested to provide their name, phone number and a brief message about their complaint. If they leave a recorded message, they are advised they will be contacted as soon as possible. If callers do not wish to leave a recorded message, they are provided with a phone number to call to speak to a supervisor. That number connects the callers to the MCSO switchboard operator, who will connect the caller to an appropriate supervisor. Callers are further advised of the MCSO operating hours if they wish to contact PSB directly.

The hotline is housed in PSB, and PSB personnel access any recorded messages at the beginning of each business day.

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.*

Phase 1: Not in compliance

- GJ-24 (Community Relations and Youth Programs), currently under revision.

Phase 2: In compliance

Our review of the English and Spanish complaint forms' content did not reveal any language that could reasonably be construed as discouraging the filing of a complaint.

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.*

Phase 1: Not in compliance

- GJ-24 (Community Relations and Youth Programs), currently under revision.

Phase 2: In compliance

Complaint forms in English and Spanish were approved during this reporting period. The complaint form states that complainants who speak other languages (including sign language) can file a complaint in the language with which they are most comfortable. MCSO also subscribes to a language translation service which can be accessed 24 hours a day. The forms also provide a Telecommunications Device for the Deaf (TDD) number that can be utilized by the deaf or hard of hearing.

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.*

Phase 1: Not in compliance

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

Phase 2: In compliance

Compliance with this Paragraph is based on our review of externally generated complaint investigations conducted by MCSO.

Paragraph 246.a. requires that a civilian complainant receive a written notice of receipt of their complaint within seven days. This letter must include the tracking number, the name of the investigator assigned, and information regarding how the complainant can inquire about the status of their complaint. While all of the 20 cases reviewed were completed after July 20, 2016, only 10 were externally generated complaints. Of these 10, only two were initiated after July 20, 2016; and both complied with the requirements of this Paragraph.

Paragraph 246.b. requires that PSB notify a civilian complainant of the outcome of the investigation. Of the 20 investigations reviewed, 10 involved external complainants. Seven of the complainants were advised of the findings of the investigation. Two complainants did not provide contact information. In another case, the letter sent to the complainant was returned to MCSO.

Paragraph 246.c. requires that PSB notify a civilian complainant of the discipline imposed as soon as permitted by law. There was no discipline imposed in any of the externally generated complaint investigations we reviewed.

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.

Phase 1: Not in compliance

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

Phase 2: In compliance

To determine compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

During this reporting period, there were no instances in the 10 externally generated cases completed after July 20, 2016, where the investigative report indicated that any complainant and/or his/her representative contacted MCSO requesting the status of his/her complaint.

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.*

Phase 1: Not in compliance

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

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by MCSO personnel.

Each month, PSB provides a list of new complaints alleging bias policing. PSB also provides all closed investigations where bias policing was alleged. For this Paragraph, only allegations of bias policing that do not affect the Plaintiffs' class are reported. Those complaints alleging bias against members of the Plaintiffs' class are captured in a separate category and reported under Paragraphs 276-288.

During this reporting period, PSB provided two completed investigations where bias had been alleged that did not affect members of the Plaintiffs' class. Only one of these investigations was completed after July 20, 2016, and was appropriately tracked as required by this Paragraph.

Paragraph 249. *The Professional Standards Bureau will track, as a separate category of complaints, allegations of unlawful investigatory stops, searches, seizures, or arrests.*

Phase 1: Not in compliance

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

Phase 2: In compliance

To determine Phase 2 compliance for this Paragraph, we review a monthly report from PSB that lists those closed misconduct investigations that are being tracked as allegations of unlawful investigatory stops, searches, seizures, or arrests. We also review misconduct investigations completed by MCSO on a monthly basis.

For this reporting period, PSB provided a list of four completed misconduct investigations that were being tracked in accordance with this Paragraph. We have received three of these cases in monthly document submissions. One of the investigations, completed in August 2016, was not provided in the closed cases we receive as required for Paragraphs 32 and 183.b., and therefore we did not review it for compliance. We contacted PSB about this case, and it was determined that the case had been included in response to other Paragraphs of the First Order, but was inadvertently not included in Paragraphs 32 or 183.b. While PSB did not provide this case for our review as required under other Paragraphs, we have determined that the case was properly included in the list of cases being tracked for this Paragraph.

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.*

Phase 1: Not in compliance

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

During our October 2016 site visit, PSB command personnel indicated that the bureau is only conducting informal assessments of the types of complaints received, and that it has not completed a formal assessment as required by this Paragraph.

H. Transparency Measures

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;*

- e. *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.*

Phase 1: Not in compliance

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

The proposed PSB Operations Manual reviewed by the Monitoring Team during this reporting period identified the PSB Captain as responsible for preparing the Semi-Annual Public Report on misconduct investigations. The proposed manual also contains provisions for the production of summary information regarding sustained conflict of interest violations; an analysis of the complaint intake process; and aggregate data on complaints (internal and external), processing of misconduct cases, outcomes of misconduct cases, and employees with persistent misconduct problems.

During our October site visit, PSB command personnel indicated that a timeframe for the first semi-annual public report has not been established.

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.*

Phase 1: Not in compliance

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

PSB has not made detailed summaries of completed internal investigations readily available to the public in electronic form in a designated section of the MCSO website.

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.*

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), currently under revision.

Phase 2: Not in compliance

During our October 2016 site visit, the BIO Commander indicated that the bureau will conduct a trial run assessment of misconduct cases during the next reporting period; and that all completed cases should qualify for the six-month review. BIO personnel also mentioned that there could be a couple of backlog cases trickling in that will become part of the audit. BIO command verified that completed cases are cases that have been closed and signed off on by the appropriate signing authority.

The Monitoring Team mentioned the possibility of additional irregularities identified outside of the Order and the BIO Commander indicated the Bureau will stay within the irregularities indicated by the Order (Subparagraphs a. through o.). BIO will provide the methodology for the audits.

The BIO Commander requested assistance from the Monitoring Team in identifying the stratified random sample to be used for the audits. Subsequent to our October site visit, we provided guidance on what information would need to be supplied to identify a valid sample.

I. Testing Program for Civilian Complaint Intake

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.*

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), currently under revision.
- Maricopa County Complaint Intake Testing Program, currently under revision.

Phase 2: Not in compliance

The draft GH-4 policy reviewed by the Monitoring Team, during this reporting period, contains a definition for “tester” and provisions for the annual non-audit compliance review of the testing program to identify and investigate employees engaging in improper behavior.

On September 7, 2016, during a conference call with the Parties, the Plaintiff-Intervenors mentioned that it would provide assistance in identifying organizations with existing testing

programs as possible vendors for MCSO. The Plaintiff-Intervenors suggested that MCSO would not need to create the testing program, but that it could instead work with a vendor to adjust an existing model to suit its needs.

On September 8, 2016, via email, the Plaintiff-Intervenors identified three organizations as potential vendors for the Complaint Intake Testing program. MCSO personnel indicated that MCSO would contact the suggested testing organizations and assess their capabilities and desire to assist MCSO with this project.

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.*

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), currently under revision.
- Maricopa County Complaint Intake Testing Program, currently under revision.

Phase 2: Not in compliance

BIO is contacting and vetting organizations identified by the Plaintiff-Intervenors as possible vendors to facilitate development of a CIT program model for MCSO.

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.*

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), currently under revision.
- Maricopa County Complaint Intake Testing Program, currently under revision.

Phase 2: Not in compliance

BIO is contacting and vetting organizations identified by the Plaintiff-Intervenors as possible vendors to facilitate development of a CIT program model for MCSO.

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.*

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), currently under revision

- Maricopa County Complaint Intake Testing Program, currently under revision.

Phase 2: Not in compliance

BIO is contacting and vetting organizations identified by the Plaintiff-Intervenors as possible vendors to facilitate development of a CIT program model for MCSO.

***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.*

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), currently under revision.
- Maricopa County Complaint Intake Testing Program, currently under revision.

Phase 2: Not in compliance

BIO is contacting and vetting organizations identified by the Plaintiff-Intervenors as possible vendors to facilitate development of a CIT program model for MCSO.

***Paragraph 259.** MCSO shall not permit current or former employees to serve as testers.*

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), currently under revision.
- Maricopa County Complaint Intake Testing Program, currently under revision.

Phase 2: Not in compliance

BIO is contacting and vetting organizations identified by the Plaintiff-Intervenors as possible vendors to facilitate development of a CIT program model for MCSO.

***Paragraph 260.** The MCSO shall produce an annual report on the testing program. This report shall include, at a minimum:*

- 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);*
- the number and proportion of tests in which employees responded inappropriately to a tester;*
- the number and proportion of tests in which employees provided inaccurate information about the complaint process to a tester;*
- 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.*

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), currently under revision.
- Maricopa County Complaint Intake Testing Program, currently under revision.

Phase 2: Not in compliance

BIO is contacting and vetting organizations identified by the Plaintiff-Intervenors as possible vendors to facilitate development of a CIT program model for MCSO.

Section 13: Community Outreach and Community Advisory Board

COURT ORDER XVI. COMMUNITY OUTREACH AND COMMUNITY ADVISORY BOARD

Paragraph 261. The Community Advisory Board may conduct or retain a consultant to conduct a study to identify barriers to the filing of civilian complaints against MCSO personnel.

Phase 1: Not applicable

Phase 2: Not applicable

During this reporting period, the Monitoring Team began exploring with the CAB members the possibility of retaining a consultant to conduct a study to identify barriers to the filing of civilian complaints against MCSO personnel. We will continue these discussions with the CAB during our upcoming site visit.

Paragraph 262. In addition to the administrative support provided for in the Supplemental Permanent Injunction, (Doc. 670 ¶ 117), the Community Advisory Board shall be provided with annual funding to support its activities, including but not limited to funds for appropriate research, outreach advertising and website maintenance, stipends for intern support, professional interpretation and translation, and out-of-pocket costs of the Community Advisory Board members for transportation related to their official responsibilities. The Community Advisory Board shall submit a proposed annual budget to the Monitor, not to exceed \$15,000, and upon approval of the annual budget, the County shall deposit that amount into an account established by the Community Advisory Board for that purpose. The Community Advisory Board shall be required to keep detailed records of expenditures which are subject to review.

Phase 1: Not applicable

Phase 2: Not applicable

During this reporting period, the Monitoring Team began discussions with the CAB members on how CAB could propose an annual budget. ACLU of Arizona staff offered assistance to CAB from their office to prepare a budget and define budget categories. We will continue these discussions with the CAB during our upcoming site visit.

Section 14: Supervision and Staffing

COURT ORDER XVII. SUPERVISION AND STAFFING

Paragraph 263. *The following Section of this Order represents additions and amendments to Section X of the first Supplemental Permanent Injunction, Supervision and Evaluations of Officer Performance, and the provisions of this Section override any conflicting provisions in Section X of the first Supplemental Permanent Injunction.*

Paragraph 264. *The Sheriff shall ensure that all patrol deputies shall be assigned to a primary, clearly identified, first-line supervisor.*

Phase 1: In compliance

- GB-2 (Command Responsibility), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: In compliance

To verify Phase 2 compliance with this Paragraph, we reviewed monthly rosters and shift rosters for the third quarter of 2016. We began auditing for compliance with this Paragraph on August 1, 2016. Consistent with our methodology, for August we reviewed a sample of shift rosters from Districts 3 and 4; for September, we reviewed a sample of shift rosters from Districts 6 and 7, and Lakes Patrol. Monthly and daily rosters showed that deputies are assigned to one single consistent supervisor. During our October 2016 site visit, we interviewed commanders from Districts 3 and 4 and confirmed our findings.

Paragraph 265. *First-line patrol supervisors shall be responsible for closely and consistently supervising all deputies under their primary command.*

Phase 1: Not in compliance

- GB-2 (Command Responsibility), currently under revision.

Phase 2: Deferred

As Paragraph 265 is a general directive that covers many aspects of supervision, there are several requirements covered in other Paragraphs of this Order that directly impact this Paragraph; these requirements must therefore be met before MCSO can establish compliance with Paragraph 265. We have determined that MCSO is in compliance with Paragraphs 89, 93, and 94 as they relate to this Paragraph. In addition to these, MCSO must be in compliance with Paragraphs 83, 85, 90, and 91, to meet the compliance requirements of Paragraph 265.

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.*

Phase 1: Deferred

- GB-2 (Command Responsibility), currently under revision.
- CID Operations Manual, currently under revision.

Phase 2: In compliance

We began compliance audits for this Paragraph starting on August 1, 2016. To verify Phase 2 compliance with this Paragraph, we reviewed monthly rosters and shift rosters for the months of August and September 2016. We also reviewed the August and September 2016 Patrol Bureau shift roster inspection summaries. The inspection summaries discuss the results of BIO's examination of MCSO shift rosters and verification of supervisor-to-deputy ratios.

The BIO inspection summary dated September 22, 2016, noted that there were five deficiencies in August; this resulted in a 99.73% compliance rate. Districts 1, 2, and 4 were missing shift rosters. Districts 3 and 7 had no sergeants assigned to one shift. The BIO inspection summary for September, dated October 25, 2016, noted two deficiencies. District 7 listed one shift where one squad had no supervisor assigned. District 3 listed one supervisor covering two squads during one shift. These noted deficiencies exceeded the established span of control per MCSO policy, and BIO issued Action Forms for response.

Consistent with our methodology, for August we reviewed a sample of shift rosters from Districts 3 and 4; and for September we reviewed a sample of shift rosters from Districts 6, 7, and Lakes Patrol. Monthly and daily rosters showed that deputies are assigned to one single consistent supervisor and that supervisors are assigned no more than 10 deputies. Our review of randomly selected daily shift rosters for August and September revealed two instances where a supervisor had 11 deputies under his supervision during one shift. In most instances, the supervisor-deputy ratio was 1:8 or less.

There have been few instances of noted deficiencies. The compliance rates for August and September were at an acceptable level. During this reporting period, we did not receive any notification from MCSO with regard to any adjustments related to supervisor-deputy ratios. In our reviews of daily shift rosters and monthly rosters, with the exception of the deficiencies noted, we found that MCSO was in compliance with the Court-ordered supervisory ratios.

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.*

Phase 1: Not in compliance

- GB-2 (Command Responsibility), currently under revision.

Phase 2: Deferred

Close and effective supervision requires that supervisors consistently apply the concepts established in several Paragraphs of this Order. There are requirements covered in other Paragraphs that directly impact Paragraph 267, and must therefore be in compliance in order for MCSO to establish compliance with this Paragraph. We have determined that MCSO is in compliance with Paragraphs 89, 93, 94, and 96 as they relate to this Paragraph. In addition, MCSO must be in compliance with Paragraphs 83, 85, 90, and 91, in order to achieve compliance with Paragraph 267.

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.*

Phase 1: Deferred

- GC-7 (Transfer of Personnel), currently under revision.
- CID Operations Manual, currently under revision.

Phase 2: In compliance

As of August 1, 2016, MCSO began submitting advance notice of transfers of personnel to and from the Professional Standards Bureau, the Bureau of Internal Oversight, and the Court Implementation Division. During this reporting period, MCSO submitted the resumes and disciplinary history of 15 employees for approval. The Monitoring Team reviewed the documentation submitted for each employee. Although the documents provided generally met the minimum requirements established by the Order, we made further inquiries to ensure that each employee met the requirements of this Paragraph. We approved all of the submitted transfers based upon the information provided. During our October site visit, the Monitoring Team audited the files of all employees transferred and verified the accuracy of the information submitted by MCSO.

Section 15: Document Preservation and Production

COURT ORDER XVIII. DOCUMENT PRESERVATION AND PRODUCTION

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.*

Phase 1: Not in compliance

- GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices), currently under revision.

Phase 2: Not in compliance

To verify MCSO's Phase 2 compliance with this Paragraph, we reviewed monthly submittals of document preservation notices to MCSO employees for the reporting period. As of the drafting of the report, we had not received the information for the months of July and August 2016, so we find MCSO to be not in compliance with this Paragraph.

We assessed the preservation notices for September 2016, and found that they were transmitted by the Legal Liaison to the different MCSO divisions and personnel. Dissemination by the Legal Liaison to all personnel who might have responsive documents was done promptly, at least within five days of the receipt of the notice for document preservation.

Paragraph 270. *The Sheriff shall ensure that when the MCSO receives a request for documents in the course of litigation, it shall:*

- promptly communicate the document request to all personnel who might possibly be in possession of responsive documents;*
- ensure that all existing electronic files, including email files and data stored on networked drives, are sequestered and preserved through a centralized process; and*
- 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.*

Phase 1: Not in compliance

- GD-9 (Litigation Initiation, Document Preservation and Document Production Notices), currently under revision.

Phase 2: Not in compliance

To verify MCSO's Phase 2 compliance with this Paragraph, we reviewed monthly submittals of requests for documents to MCSO employees for the reporting period. As of the drafting of the report, we had not received the information for the months of July and August 2016, so we find MCSO to be not in compliance with this Paragraph.

We assessed the requests for documents in the course of litigation for September 2016, and found that they were transmitted from the Legal Liaison to the different MCSO divisions in search of responsive documents. The Legal Liaison gave prompt notice of document production requests, at least within five days, to all personnel. We learned during our site visit that the Technology Bureau already sequestered and preserved documents that were requested in the course of litigation. MCSO informed us that as a result of changes in GD-9, the internal procedures regarding this Paragraph were being revised.

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.*

Phase 1: Not in compliance

- GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices), currently under revision.
- The Compliance Division Operations Manual, currently under revision.

Phase 2: Not in compliance

The Compliance Division Operations Manual has to be consonant with GD-9. We have not yet been able to make this assessment since GD-9 is still under review.

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.*

Phase 1: Not in compliance

- GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices), currently under revision.

Phase 2: In compliance

We were able to ascertain that no internal investigations were filed against any MCSO employee during this reporting period for failure to preserve or produce documents, as required by this Paragraph.

Section 16: Additional Training

COURT ORDER XIX. ADDITIONAL TRAINING

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: Not applicable

Phase 2: In compliance

To verify compliance with this Paragraph, during the previous reporting period, we along with Plaintiffs and Plaintiff-Intervenors, reviewed the training memo identified as Training on Recent Findings and Orders in *Melendres v. Arpaio*. This training included: Relevant Background Information; the Court's May 13, 2016 Findings of Fact (Doc. 1677); and Terms of the Court's Second Supplemental Injunctive Order. We believe that this document was accurate and balanced; and that it articulated to the rank-and-file a balanced account of organizational and individual culpability.

The training was delivered on the E-Policy platform. To verify receipt of training, we reviewed the Training Plan Compliance Report For All Dates. The report indicates that a total employee number (sworn, Detention, Reserve, Posse, and civilian) of 4,165 were required to receive the training; and 4,071 employees received the training during this reporting period. This represents a 98% compliance rate. Those that did not receive the training were legitimately unavailable (military leave, FMLA, injury or illness, etc.). In future reporting periods, we will verify that these individuals receive the training as they return to duty.

Section 17: Complaints and Misconduct Investigations Relating to Members of the Plaintiff Class

COURT ORDER XX. COMPLAINTS AND MISCONDUCT INVESTIGATIONS RELATING TO MEMBERS OF THE PLAINTIFF CLASS

Paragraph 274. In light of the Court's finding that the MCSO, and in particular Sheriff Arpaio and Chief Deputy Sheridan, willfully and systematically manipulated, misapplied, and subverted MCSO's employee disciplinary policies and internal affairs processes to avoid imposing appropriate discipline on MCSO deputies and command staff for their violations of MCSO policies with respect to members of the Plaintiff class, the Court further orders as follows:

A. Investigations to be Overseen and/or Conducted by the Monitor

Paragraph 275. The Monitor is vested with the authority to supervise and direct all of the MCSO's internal affairs investigations pertaining to Class Remedial Matters. The Monitor is free from any liability for such matters as is set forth in ¶ 144 of the Supplemental Permanent Injunction.

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: Not applicable

Phase 2: In compliance

The Second Order requires oversight by the Monitor for all internal investigations determined to be Class Remedial Matters (CRMs). During our technical assistance visit with MCSO on August 10-11, 2016, we held several meetings with MCSO personnel to determine how compliance with this and other Paragraphs related to CRMs would be addressed.

During these meetings, we determined that the initial factors for consideration in assessing whether a complaint *could be* a CRM would be based on the complainant having a Latino surname, or any other information in the complaint that would suggest any possible bias affecting the Plaintiffs' class. PSB committed to holding a weekly meeting to discuss existing and incoming complaints to determine which, if any, could be CRMs. During these meetings, they would also discuss cases pending a CRM decision, cases determined to be CRMs, and any cases where the decision may be made that the case would not be classified as a CRM. During these meetings, the PSB Commander would make a decision on the classification of the cases. Since the technical assistance visit, and beginning on August 17, 2016, PSB has held weekly

meetings for this purpose. A member of our Team has attended each of these meetings to provide the oversight required in this Paragraph.

PSB determined that as of July 20, 2016, there were 442 open internal investigations. PSB personnel reviewed these cases and determined that 42 of them met the basic criteria that could make them CRMs. All of these cases were reviewed during the early CRM meetings that were held. Our Team also randomly selected an additional 52 cases from the 442 pending investigations list for review. None of the cases we reviewed were found to meet the basic criteria that could make them CRMs.

At each weekly meeting, PSB reviews those cases that are pending, and any new internal investigations cases that have been initiated during the prior week. At the end of this reporting period, a total of 52 cases had been reviewed for possible inclusion as “could be” CRMs. Forty of these cases were determined to meet the basic criteria that could make them CRMs. Of these 40 cases, 30 were ultimately determined not to be CRMs after further review and investigation, one was pending a CRM decision, and nine were determined to be CRMs.

During the weekly meetings, case investigators have provided investigative updates on all cases that could be, or are, Class Remedial Matters. Their briefings have been thorough and they have been responsive to any questions or input from members of our Team. In all of the cases reviewed during this reporting period, we agree with the decision made by the PSB Commander regarding the case classifications.

During this reporting period, two CRM cases were completed and forwarded for review. Neither case resulted in sustained findings. We are in agreement with the classification of these two cases and with the findings for both.

***Paragraph 277.** This authority is effective immediately and shall remain vested in the Monitor until the MCSO’s internal affairs investigations reach the benchmarks set forth in ¶ 288 below. With respect to Class Remedial Matters, the Monitor has plenary authority, except where authority is vested in the Independent Investigative and Disciplinary Authorities separately appointed by the Court, as is further set forth in ¶¶ 296–337 below.*

***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: Not applicable

Phase 2: In compliance

Since the first CRM meeting held on August 17, 2016, PSB has consistently completed the required notification to our Team regarding those cases that could be considered CRMs. A member of our Team has attended every CRM meeting with PSB where these matters are discussed and personally reviewed a number of the cases that were pending on July 20, 2016; and our Team member reviews the new cases that are presented each week. There has been no need for our Team to independently identify CRMs as PSB has consistently properly reported these cases as required.

***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: Not applicable

Phase 2: In compliance

During the weekly CRM meetings attended by a member of our Team, PSB has consistently properly identified cases that could be, or are, CRMs. PSB personnel brief each case during the weekly meetings, and we have found that their briefings generally include all appropriate information. They have been responsive to any questions from members of our Team during the meetings and have responded appropriately to any suggestions our Team has brought forward during these meetings.

***Paragraph 280.** The Monitor shall provide written notice to the Court and to the parties when he determines that he has jurisdiction over a Class Remedial Matter. Any party may appeal the Monitor's determination as to whether he has jurisdiction over a Class Remedial Matter to this Court within seven days of the Monitor's notice. During the pendency of any such appeal the Monitor has authority to make orders and initiate and conduct investigations concerning Class Remedial Matters and the Sheriff and the MCSO will fully comply with such action by the Monitor.*

Phase 1: Not applicable

Phase 2: Not applicable

During this reporting period, there were nine cases that PSB determined were CRMs. In all cases, our Team has agreed with the decision of the PSB Commander and has provided the required written notice to the Court and the Parties. There were no appeals by any Party during this reporting period.

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.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- GC-16 (Employee Grievance Procedures), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

To evaluate Phase 2 compliance with this Paragraph, a member of our Team has attended each weekly meeting conducted by PSB to discuss Class Remedial Matters. PSB has consistently provided thorough briefings, and the PSB Commander has made appropriate decisions regarding these matters. Only two CRMs were completed and submitted during this reporting period. Neither had sustained allegations, and we are in agreement with these findings.

However, as we have noted for other internal investigations reviewed, the two completed CRM investigations did not contain all of the required reporting components for the Second Order. We have discussed this with PSB personnel, and they will be addressing these deficiencies in future investigative reports.

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.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- GC-16 (Employee Grievance Procedures), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

There were no CRM cases completed during this reporting period in which the Sheriff and/or his appointee exercised their authority to resolve CRMs, which our Team needed to vacate or override.

Paragraph 283. The Monitor shall review and approve all disciplinary decisions on Class Remedial Matters.

Phase 1: Not applicable

- GH-2 (Internal Investigations), currently under revision.
- GC-16 (Employee Grievance Procedures), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not applicable

There were no CRM investigations completed during this reporting period that had sustained findings and no disciplinary actions were taken.

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.

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- GC-16 (Employee Grievance Procedures), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

During this reporting period, a member of our Team attended all PSB weekly CRM meetings that were conducted in an appropriate location at MCSO. PSB also provided a password and access to the IAPro system to a member of our Team so that we could complete independent case reviews.

During the weekly meetings, PSB personnel have been professional and responsive to all input, questions, or concerns we have brought forward.

Paragraph 285. *Should the Monitor decide to deviate from the Policies set forth in this Order or from the standard application of the disciplinary matrix, the Monitor shall justify the decision in writing and place the written explanation in the affected employee's (or employees') file(s).*

Phase 1: Not applicable

Phase 2: Not applicable

There have been no occasions during this reporting period where any discipline was assessed against any member of MCSO in a Class Remedial Matter.

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.*

Phase 1: Not in compliance

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

Phase 2: In compliance

During this reporting period, PSB identified one case that required both a criminal and administrative investigation. We are in agreement with this decision. There were no CRM cases identified independently by our Team that required a criminal investigation.

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:*

- 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.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- GC-16 (Employee Grievance Procedures), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

During this reporting period, there were no CRM cases completed and approved by our Team where discipline was imposed on any MCSO employee.

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: Not applicable

Phase 2: Not in compliance

During this first reporting period on the requirements of the Second Order, we and PSB have concurred on the investigative outcome of each CRM investigation completed.

PSB, now responsible for the investigation of all CRM cases, has appropriately identified cases that could be, or are CRMs. We have found PSB personnel to be both professional and thorough in their investigations of these cases. However, there are many required components of internal investigation reporting that are not yet being met. Most of these are requirements to include specific information in each investigation. We have discussed these requirements with PSB personnel, and they will be revising the investigative checklists and required investigative formats to ensure these components are included in future investigative reports.

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.*

Phase 1: Not in compliance

- CP-2 (Code of Conduct), currently under revision.
- CP-3 (Workplace Professionalism), currently under revision.
- CP-5 (Truthfulness), currently under revision.
- CP-11 (Anti-Retaliation), currently under revision.
- GH-2 (Internal Investigations), currently under revision.
- GC-16 (Employee Grievance Procedures), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 84 misconduct investigations during this reporting period. Of the 66 patrol investigations reviewed, 58 of the investigations were completed prior to July 20, 2016; and eight were completed after the Second Order. We reviewed two cases alleging bias not related to CRMs and two cases that were classified as CRMs. Only one of these four cases was completed after the Second Order. We reviewed 11 Detention cases, seven of which were completed after the Second Order, and three civilian cases, two of which were completed after the Second Order.

In the 20 total cases completed after July 20, 2016, we found some concerns in each of the cases, including: failure to complete thorough investigations; findings unsupported by the facts of the investigation; discipline that was not consistent with the existing Disciplinary Matrices; and ongoing concerns with delayed investigations and other specific documentation requirements of the Second Order. We will discuss all of these concerns with PSB personnel during our next site visit and provide them with specific case examples that illustrate our concerns.

Paragraph 290. *This requirement is necessitated by the Court's Findings of Fact that show that the MCSO manipulates internal affairs investigations other than those that have a direct relation to the Plaintiff class. The Court will not return the final authority to the Sheriff to investigate matters pertaining to members of the Plaintiff class until it has assurance that the MCSO uniformly investigates misconduct and applies appropriate, uniform, and fair discipline at all levels of command, whether or not the alleged misconduct directly relates to members of the Plaintiff Class.*

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.*

Phase 1: Not applicable

Phase 2: Not applicable

This report, including all commentary regarding MCSO's compliance with investigative and disciplinary requirements, serves as our report to the Court on these matters. During this reporting period, we reviewed 84 misconduct investigations conducted by MCSO. Of these cases, 20 were completed after July 20, 2016 and therefore must comply with the Second Order for MCSO to attain Phase 2 compliance with this, and other Paragraphs. While individually, some investigations were investigated thoroughly and appropriately, none of the cases we reviewed were in full compliance with all of the requirements of the Second Order. Concerns with misconduct investigations have been covered both generally and specifically in previous Paragraphs.

PSB provided our Team with a memorandum describing PSB's efforts in meeting the requirements of this Paragraph related to the Court's Findings of Fact. MCSO has outsourced three cases to another law enforcement agency, and an additional four investigations are pending outsourcing to an outside investigator. All of these cases are being outsourced due to the involvement of the Chief Deputy, or other conflicts of interest identified by MCSO, and include those investigations identified in Paragraph 300. MCSO is currently processing a Request for Proposal to retain an outside investigator who meets the requirements of Paragraphs 167iii and 196 to conduct the investigations they have identified. One potential misconduct case identified in the Court's Findings of Fact is being retained and investigated by PSB as no identifiable conflict of interest appears to exist.

PSB also provided our Team with a document PSB received from the Independent Investigator assigned by the Court to investigate, or reinvestigate, some of the misconduct that is related to the Plaintiffs' class. The Independent Investigator clarified his intent to investigate those matters assigned to him by the Court, as well as those matters that the Court determined were within the discretion of the Independent Investigator. He further clarified that his investigations will include the initial misconduct alleged, as well as any misconduct that might have occurred during the process of review or issuance of discipline by MCSO personnel.

We will continue to monitor those cases identified in the Findings of Fact to ensure that proper and thorough investigations are conducted.

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: Not applicable

Phase 2: In compliance

While policies involving internal investigation processes have not been finalized, during this reporting period, PSB personnel continued to make our Team aware of both criminal and administrative misconduct investigations PSB is conducting. A member of our Team attends each weekly CRM meeting, reviews the lists of new internal investigations, and has access to the PSB IAPro database. The only cases for which any oversight occurs during the investigative process are those that are determined to be CRMs. All other misconduct investigations are reviewed by members of our Team once they are completed, reviewed, and approved by MCSO personnel.

Paragraph 293. *The Monitor shall append to the quarterly reports it currently produces to the Court its findings on the MCSO's overall internal affairs investigations. The parties, should they choose to do so, shall have the right to challenge the Monitor's assessment in the manner provided in the Court's previous Order. (Doc. 606 ¶¶ 128, 132.)*

Phase 1: Not applicable

Phase 2: Not applicable

Since we began reviewing internal investigations conducted by MCSO more than two years ago, we have reviewed hundreds of their investigations into alleged misconduct by MCSO personnel. As noted throughout this report, we have continued to find concerns with their internal investigations but have also noted some improvements.

Each site visit, we have met with PSB personnel to provide them with information on those cases we have found to be deficient. We have provided them with extensive feedback regarding our concerns and our recommendations for improvement, including numerous specific case examples. We have found the PSB Commander and personnel to be both receptive and appreciative of our feedback. We have observed continuing and significant improvement in those investigations conducted by PSB, particularly in the past year.

During our most recent site visit in October 2016, in addition to meeting with PSB personnel, we met with Division and District command personnel to provide specific feedback to them regarding those internal administrative investigations conducted outside of PSB. While some of the Division and District investigations have improved, overall, there is still a consistent lack of compliance with the requirements of those Paragraphs relevant to internal investigations.

In our quarterly status reports and during our site visits, we have continued to stress that compliance is not the sole responsibility of any one individual or division, but dependent on all those who complete, review, or approve internal investigations. The leadership of the

organization must provide proper oversight, and must also ensure that there are consequences for those who fail to comply with the requirements of the Orders. The Second Order dictates additional requirements and will necessitate an even greater commitment from MCSO and its leadership to attain compliance. Until MCSO leadership becomes fully engaged in the efforts of the organization to comply with the requirements of both the First and Second Orders, it is unlikely that MCSO will achieve compliance with the requirements set forth by the Court.

B. Investigations to be Conducted by the Independent Investigator and the Independent Disciplinary Authority

Paragraph 294. *In its Findings of Fact, (Doc. 1677), the Court identified both: (1) internal affairs investigations already completed by the MCSO that were inadequate or insufficient; (see, e.g., Doc. 1677 at ¶ 903), and (2) misconduct or alleged misconduct that had never been investigated by MCSO that should be or should have been investigated. (Id. at ¶ 904.)*

Paragraph 295. *In light of MCSO's failure to appropriately investigate these matters, the Court appoints an Independent Investigator and an Independent Disciplinary Authority from the candidates set forth by the parties, and vests them with the authority to investigate and decide discipline in these matters.*

1. The Independent Investigator

Paragraph 298. *In assessing the existence of previously uncharged acts of misconduct that may be revealed by the Findings of Fact, the Independent Investigator does not have authority to investigate acts of misconduct that are not sufficiently related to the rights of the members of the Plaintiff class. While the Independent Investigator should identify such acts of misconduct and report those acts to the Commander of the Professional Standards Bureau, and to the Monitor for purposes of making the Monitor's assessment identified in ¶¶ 291–93 above, the Independent Investigator may not independently investigate those matters absent the authorization and the request of the Sheriff.*

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:*

- a. Uninvestigated untruthful statements made to the Court under oath by Chief Deputy Sheridan concerning the Montgomery investigation. (Doc. 1677 at ¶ 385).*
- b. Uninvestigated untruthful statements made to the Court under oath by Chief Deputy Sheridan concerning the existence of the McKessy investigation. (Id. at ¶ 816).*
- c. 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).*

- d. *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: Not applicable

Phase 2: Not in compliance

PSB has identified a number of investigations associated with this Paragraph. However, concerning Paragraph 300 subsection (d), in the Findings of Fact of May 13, 2016, the Court specifically draws attention to additional uninvestigated acts of misconduct that MCSO has not yet identified. Acts of misconduct involving the Chief Deputy and a Captain are pointedly outlined in the Findings of Fact. Prior to our October site visit, members of our Team identified all acts of misconduct that are known to us and which fall within the criteria of Paragraph 300(a-d). We presented these uninvestigated acts to MCSO PSB during our site visit. We are disappointed that, in light of the information we provided to MCSO PSB, not all of the misconduct had been specifically identified by MCSO in their written response that was authored subsequent to that meeting. My Team re-contacted the MCSO PSB commander and inquired about the absence of documented acts of misconduct that would be provided to an independent investigator. The PSB commander concurred there was additional misconduct identified by the Court. The PSB commander has assured us that all acts of misconduct that were identified and discussed during our October site visit will be provided to a contracted independent investigator for investigative purposes.

PSB has correlated the acts of misconduct with policy violations for purposes of administrative investigation. We reviewed the policy violations that PSB has identified for investigation and concluded that – in addition to those already identified – there are acts of misconduct, which if sustained, would constitute violations of additional, important, and consequential policy. We note that, in acts of misconduct already identified by MCSO, the PSB neglects to incorporate applicable policy violations such as Unbecoming Conduct, Abuse of Process and Withholding Evidence, Interference with Official Investigations, Unethical Conduct, and Dereliction of Duty. We re-contacted the MCSO PSB commander and inquired about the absence of documented policy violations we had identified. The PSB commander provided a reasonable explanation regarding the preliminary use of specific policy as a “placeholder” only. The PSB commander has considered a variety of methods to communicate potentially appropriate and specific policy violations to a contracted independent investigator.

MCSO has determined the necessity to issue a Request for Proposal to obtain a qualified independent investigator possessing the criteria outlined by the Court for purposes of investigating acts of misconduct associated with Paragraph 300(a-d). Final compliance with this Paragraph will be determined after the investigations are completed.

Paragraph 310. *The Monitor and the parties are directed to promptly comply with the Independent Investigator's requests for information. The Monitor and the Independent Investigator may communicate to coordinate their investigations. Nevertheless, each is independently responsible for their respective jurisdiction set forth in this Order, and each should make independent decisions within his own delegated responsibility.*

2. The Independent Disciplinary Authority

Paragraph 337. *Nevertheless, 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:*

- 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.*

Phase 1: Not in compliance

- GC-16 (Employee Grievance Procedures), currently under revision.

Phase 2: Deferred

Our review of the monthly submissions for this reporting period reflects that MCSO had no activity to report relevant to this Paragraph.

Section 18: Concluding Remarks

We assess compliance with 89 Paragraphs of the First Order, and 123 Paragraphs of the Second Order, for a total of 212 Paragraphs. MCSO is in Phase 1 compliance with 45 of the First Order Paragraphs, or 60%; and one of the Second Order Paragraphs, or 1%. MCSO is in Phase 2, or operational compliance, with 44 of the First Order Paragraphs, or 49%; and 49 of the Second Order Paragraphs, or 43%. Combining the requirements of both Orders, MCSO is in Phase 1 compliance with 46 Paragraphs, or 26%; and in Phase 2 compliance with 93 Paragraphs, or 46%.

As mentioned in previous reports, in July 2015, the Court granted us the additional responsibility of reviewing MCSO's Property Unit operations. Over the past one-and-one-half years, we conducted interviews with key personnel both during and in between our site visits; and also, along with the Parties, reviewed several iterations of the three policies affecting the seizing and securing of property: GE-3 (Property Management); GJ-4 (Evidence Control); and DD-2 (Inmate Property).

Our assessment of the Property Unit operations is in its final stages. Under technical assistance, we provided MCSO with methodologies and valid random samples so that MCSO could complete its first-ever inventory. MCSO was able to locate all items in the samples we identified.

We are drafting a final report that includes a number of recommendations, some of which have been already implemented based on our discussions with MCSO personnel.

In our last report, we indicated that we discussed at length various ways to involve non-Headquarters personnel in the compliance efforts normally reserved for CID and those few components – such as BIO, EIU, and PSB – that have primary responsibility for implementing the Order's requirements. During our most recent site visit, members of our Team and representatives of the Parties spent an entire day at the Lakes Patrol office, conducting meetings that would normally have taken place in Headquarters. The District Captain and his personnel were gracious hosts. MCSO encouraged field personnel to audit the meetings as their schedules allowed, and lunchtime provided an excellent opportunity to meet with the District personnel in an informal setting. We will continue our efforts to make the compliance process as non-Headquarters-centric as possible.

In our past reports, we have been critical of the lack of steadfast and unequivocal commitment to reforms on the part of MCSO's previous leadership team – most notably, the former Sheriff and the former Chief Deputy. Despite the sincere efforts of line-level personnel charged with working on the various Order requirements, MCSO's progress has been stunted because the leadership team as a whole did not make compliance a priority.

Since the inception of our engagement, we have consistently recommended that MCSO appoint a single executive at the highest possible level to bear daily, internal responsibility for the management of its compliance efforts. We have also advised the leadership of the agency and its legal representatives of this necessity. MCSO's progress – while showing some signs of momentum – has been woefully slow; and in some instances, inexcusably deficient. We note that Sheriff Penzone created an Executive Deputy Chief position to oversee key components of the Office – CID, BIO, PSB, and Training – that directly impact compliance with the Orders.

We recently completed our first site visit since the new Sheriff took office, and we noted a marked contrast in the level of interest and involvement of the Sheriff and his team. We hope and expect that Sheriff Penzone shall heed our belief that compliance with the Court's two Orders must be a priority embraced by the entire organization and recognized as such by the community it serves.

Appendix: Acronyms

The following is a listing of acronyms frequently used in our reports:

ACLU	American Civil Liberties Union
ASU	Arizona State University
ATU	Anti-Trafficking Unit
BIO	Bureau of Internal Oversight
CAB	Community Advisory Board
CAD	Computer Aided Dispatch
CID	Court Implementation Division
CEU	Criminal Employment Unit
CRM	Class Remedial Matter
DOJ	Department of Justice
EIS	Early Identification System
EIU	Early Identification Unit
EPA	Employee Performance Appraisal
FTO	Field Training Officer
IIU	Internal Investigations Unit
IR	Incident Report
LOS	Length of stop
MCAO	Maricopa County Attorney's Office
MCSO	Maricopa County Sheriff's Office
NOI	Notice of Investigation
PAL	Patrol Activity Log
PDH	Pre-Determination Hearing
PPMU	Posse Personnel Management Unit
PSB	Professional Standards Bureau
SID	Special Investigations Division
SPSS	Statistical Package for the Social Science
SRT	Special Response Team
TraCS	Traffic Stop Data Collection System
VSCF	Vehicle Stop Contact Form