

**Maricopa County Sheriff's Office  
Joseph M. Arpaio, Sheriff**

**COURT IMPLEMENTATION DIVISION**

**TENTH QUARTERLY COMPLIANCE REPORT**



**COVERING THE  
3RD QUARTER OF 2016, JULY 01 – SEPTEMBER 30**

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## Section 1: Introduction

This is the 10<sup>th</sup> Quarterly Report assessing the Maricopa County Sheriff's Office's (MCSO) level of compliance with the Hon. G. Murray Snow's October 2, 2013 *Supplemental Permanent Injunction/Judgment Order* (Doc. 606), as amended, (the "Court Order"). MCSO submits this Quarterly Report to comply with Paragraph 11 of the Court's Order.

On July 20, 2016, the Hon. G. Murray Snow issued the Second Supplemental Permanent Injunction/Judgment Order (Doc. 1748); subsequently, on July 26, 2016, Judge Snow issued a Second Amended Second Supplemental Permanent Injunction/Judgment Order (Doc. 1765). The July 2016 Order created new reporting requirements for MCSO. This Report is MCSO's initial opportunity to address its additional reporting responsibilities under the July 2016 Order.

***Please note that the reporting period for this report covers the third quarter of 2016 (i.e. July 1, 2016-June 30, 2016).***

The Court Order, Paragraph 11, requires that MCSO file with the Court, no later than 30 days before the Monitor's quarterly report is due, a report that shall:

- (i) delineate the steps taken by MCSO during the reporting period to implement this Order;
- (ii) delineate MCSO's plans to correct any problems; and
- (iii) include responses to any concerns raised in the Monitor's previous quarterly report.

MCSO intends to achieve its goal of "Full and Effective Compliance" as the Court's Order defines it. The purpose of this Quarterly Report is to describe and document the steps MCSO has taken to implement the Court's Order, as well as MCSO's plans to correct any difficulties encountered in its implementation of the Court's Order. Lastly, this Quarterly Report includes responses to concerns raised in the Monitor's previous 9<sup>th</sup> Quarterly Report filed on October 28, 2016.

MCSO is committed to achieving full and effective compliance with the Court's Orders and has dedicated unprecedented financial and personnel resources to advance the organization towards compliance—something that is seldom reported to the public by the media, discussed with the Court, or acknowledged by the parties. As noted in MCSO's last quarterly report, the pace of compliance may appear to be slow, but it is a result of the collaborative effort and process among MCSO, the Monitor, and the multiple attorneys representing the Plaintiffs and the DOJ; it is also the result of vast changes to MCSO as a result of the Order and implementation of changes in the organization of MCSO, including changes in the structure, functions and training of MCSO divisions and personnel. In fact, MCSO has

### **Increased Pace of Compliance**

During the July 2016 Monitor Site Visit, the Monitor Team provided MCSO with several ideas calculated to increase the pace of compliance. MCSO appreciates the input from the Monitor Team, and certainly welcomed these and is open to any additional, constructive suggestions to streamline the compliance process to enable MCSO to attain its goal of full and effective compliance with the Court's Orders.

### **Document Review Protocol**

Among the ideas to accelerate the pace of compliance of compliance was the circulation of a draft policy and curriculum review proposal. Under this proposal, the parties will have established deadlines to provide their respective revisions to and voice any concerns with MCSO policies and training curricula at issue. As noted above and in the 9<sup>th</sup> Quarterly Report, the collaborative efforts of the parties and their respective, multiple attorneys, often decelerate the pace of compliance. MCSO has previously voiced its concern regarding such deceleration, as the perception is that any delay was solely MCSO's responsibility—something it wholeheartedly refutes. The Monitor, Parties, and MCSO finalized this document review proposal in August 2016; Adherence to the adopted procedures and established deadlines will decrease the amount of time necessary to finalize and deliver MCSO policies and curricula to MCSO personnel. The newly adopted protocol has already positively affected the pace of compliance, especially in the area of policy and training lesson plan review, revision and creation necessary to comply with and reflect the spirit and mandate of the Court's Orders.

### **Monitor Consulting and MCSO/Monitor Meetings**

Recently, the Monitor Team has worked with MCSO in a consulting capacity. This entailed meetings between Monitor Team members and MCSO personnel and counsel. These "technical assistance meetings" ("TA meetings") are in addition to the Monitor Team site visits in which multiple attorneys and representatives of the plaintiffs and plaintiff intervener participate. MCSO found these Monitor Team/MCSO TA meetings to be extremely fruitful and anticipates that future technical assistance sessions with the Monitor Team will have a positive effect on the pace of compliance. While MCSO welcomes the input of the representatives of plaintiffs and plaintiff intervener, MCSO has found the Monitor Team's advice and direction to be extremely helpful towards gaining full and effective compliance. For instance, the finalizing of the 2016 Annual Combined Training ("ACT") curriculum is one recent example of the positive impact that resulted from an all-day meeting between MCSO Training personnel and Major Peters of the Monitor Team. In addition, Major Peters attended the Train the Trainer for the 2016 Annual Combined Training ("ACT") in September 2016, which allowed for immediate feedback from the Monitor on the training process. Moreover, a twist in the TA visits is hoped to accelerate the pace of compliance, also.

Although not required to do so under any Order, MCSO considered and granted the requests of the ACLU and the Department of Justice ("DOJ") to participate in technical assistance meetings with members of the Monitor Team. However, to avoid the delays associated with the

participation of multiple attorneys of the Parties, the TA visits will be a streamlined approach to the collaborative, compliance process. While MCSO does not waive its right to engage in TA visits with the Monitor alone, it anticipates that TA visits which include party participation will continue in the future and increase the speed of the compliance process.

MCSO also values substantive suggestions from the parties and appreciates when they provide helpful feedback during this process. As documented in the previous quarterly report, MCSO appreciated an email from Attorney Brenda Munoz Furnish of the American Civil Liberties Union of Arizona, in which Attorney Munoz Furnish commended MCSO on collaborative development of the 2016 ACT (“Annual Combined Training”). In addition, DOJ and ACLU attorneys also provided information regarding administrative warrants and sample policies addressing transgender issues, which MCSO found both helpful and educational and, thus, used in creating the 2016 ACT. In the end, the additional Monitor consulting and immediate input of party representatives will streamline the compliance process, while ensuring that plaintiffs’ voices are still heard and incorporated, but in a more immediately collaborative and effective manner. MCSO looks forward to additional TA meetings in the future.

As with every Monitor Site Visit, at the close of the July 2016 Monitor Site Visit, Chief Warshaw held an exit meeting with all the parties in attendance at his office to apprise MCSO of his observations and voice any immediate suggestions. During this meeting, Chief Warshaw suggested MCSO needed to get commanders assigned outside of MCSO Headquarters more involved in the compliance process. Chief Warshaw offered several ways to accomplish his suggestions that, although not required under the Order, would increase the pace of compliance in the long run. MCSO has successfully implemented several of Chief Warshaw’s suggestions and believe that headway toward full and effective compliance will result from the adoption of these suggestions. MCSO, and specifically CID, implemented several of those suggestions including the following.

- Captain Aldorasi created the CID Liaison Program in August 2016. Under this program, he assigned a CID sergeant to each patrol district and requires that the sergeants visit their respective districts several times a month. The CID sergeants not only meet with the command staff at the district, but also attend squad briefings to answer any compliance questions sergeants and line level deputies may have. The program functions to address concerns and questions of deputies in the districts immediately regarding their responsibilities under the Order and their effect on their daily duties. The creation of the CID Liaison Program also ensures that the overall concern with complying with the Order and the development of innovative ways to comply with the Order is not solely viewed as the responsibility of command staff assigned to headquarters or, specifically, of CID. Additionally, under this program, a Liaison Sergeant will now visit non-patrol enforcement divisions, such as the Enforcement Support Division and the Special Investigations Division, at least quarterly, but more frequently if needed. As a result of this program, leadership at that districts now have an assigned sergeant from CID to contact with any compliance questions or concerns. During a recent meeting, CID received overwhelmingly positive feedback from district commanders regarding the CID Liaison Program.

- In addition, on a monthly basis, the captains from outside divisions attend a meeting in which the status of compliance with the Order is discussed. The participation of division captains in these meetings is beneficial; it allows captains outside of Headquarters to observe, first-hand, the “big picture” of compliance, and participate in the discussion of overall compliance issues, as well as patrol related compliance issues. The inclusion of the division captains into the compliance meeting has been received positively by all and is expected to streamline compliance.
- Moreover, Chief Warshaw had suggested that MCSO consider holding some of the Monitor Site Visit Meetings at an off-site location away from MCSO Headquarters. This presents some challenges because, unlike Headquarters, many of the MCSO Patrol Districts do not have meeting rooms big enough to accommodate the large groups of site visit participants. . However, during the July 2016 Monitor Site Visit, MCSO held several meetings at the Lake Patrol Substation which does have a large meeting room. At lunch time, MCSO hosted a barbeque for all meeting participants. Representatives of MCSO, the Monitor team, plaintiff, and plaintiff intervener all sat down and ate lunch together in a friendly atmosphere before resuming compliance meetings. MCSO believes that this personal approach to the site visit meetings was very productive and thanks the Monitor for the suggestion. In addition to the Lake Patrol meeting, CID asked several captains assigned outside of Headquarters to attend Monitor Site Visit meetings being held at the Headquarters. CID received positive feedback from the captains on being included in these meetings. MCSO will continue to ask captains and lieutenants assigned outside of Headquarters to attend site visit meetings in the future.

#### Transfer of Additional Personnel to PSB and CID

Pursuant to Paragraph 268 of the Second Amended Second Supplemental Permanent Injunction/Judgment Order (Doc. 1765) MCSO, with the Monitor’s approval, has increased the number of PSB personnel by four (4) Lieutenants and five (5) Sergeants. These nine (9) personnel are in addition to those retained in PSB, as explained in MCSO’s response comments regarding Paragraph 32, *infra*. This increase in personnel will have a positive effect on PSB’s ability to process internal investigations.

Similarly, and also pursuant to Paragraph 268, MCSO, with the Monitor’s approval, has also increased the number of CID personnel by two (2) sergeants and one (1) lieutenant. The transfer of these personnel to CID will ensure the quality and speed of MCSO’s responses to Monitor and party requests.

#### Approval and Delivery of Supervisor Responsibilities Lesson Plan

On June 7, 2016, the Monitor approved the lesson plan for the “Supervisor Responsibilities: Effective Law Enforcement Training” course. As a result, MCSO began to deliver associated supervisor training on June 13, 2016, just six (6) days later. By July 15, 2016, MCSO concluded this training. New supervisors will be required to attend this training after they are promoted. The completion of this training is a significant and positive step towards full and effective



compliance. Although the reporting period of this report is third quarter of 2016 (*i.e. July 1, 2016-June 30, 2016*), to wait another 5-6 months to report such an important accomplishment is nonsensical, and would deprive the Court and the public of information that demonstrates MCSO's compliance efforts in a timely manner.

#### MCSO Approach to Ensure Compliance with the New Order

The Honorable G. Murray Snow issued the Second Supplemental Permanent Injunction/Judgment Order (Doc. 1748) in this case on July 20, 2016. MCSO's CID ("Court Implementation Division"), a division that Sheriff Arpaio specifically created to ensure compliance with court orders) immediately disseminated the Order to the Executive level employees at MCSO. MCSO personnel from several heavily impacted areas such as CID, BIO ("Bureau of Internal Oversight"), Training, PSB ("Professional Standards Bureau"), and Policy Development, as well as Executive Level employees and counsel, met and read the Order together, line by line, and developed a preliminary plan to meet deadlines set forth in the Order. MCSO personnel also used that meeting as an opportunity to attempt to forecast what additional resources would be required to achieve compliance with the Order. MCSO wishes to make clear to the reader of this 10<sup>th</sup> Quarterly Report the unwavering commitment by Sheriff Joseph M. Arpaio, MCSO leadership, and all MCSO personnel to achieve full and effective compliance with the Second Amended Second Supplemental Injunction/Order as soon as possible—a commitment that will continue in the future under the new administration. After reviewing this report, the reader should be well informed of MCSO's significant compliance activity related to the Second Supplemental Permanent Injunction/Order.

#### Paragraph 165 Compliance; Review and Revision of Policies, Manuals and Procedures

Paragraph 165 of the Second Amended Second Supplemental Permanent Injunction/Judgment Order (Doc. 1765) requires MCSO to conduct a comprehensive review of all policies, procedures, manuals and other written directives related to misconduct investigations, employee discipline, and grievances, and to provide to the Monitor and Plaintiffs revised policies and procedures that incorporate all the requirements of the Order within thirty (30) days of the date of the Order. After conducting a comprehensive review pursuant to the Order, MCSO revised thirty-four (34) policies, procedures and manuals, and produced them to the Monitor and the plaintiffs over three dates on and before the thirty day deadline. MCSO filed a Notice of Compliance with Paragraph 165 of the Second Amended Second Supplemental (Doc. 1797).

#### Paragraph 273 Compliance: Summary Approved and Delivered

The Court's recent Order also required MCSO to brief and present terms of the Order, along with relevant background information about the Court's May 13, 2016 Findings of Fact (Doc. 1677), to all MCSO employees within sixty (60) days of the Order. The Monitor approved the summary that MCSO created to accomplish the additional training pursuant to paragraph 273. All MCSO employees to include Sworn, Detention, Reserve, Posse and Civilian who are not on some form of extended leave have all read the Monitor approved summary. All posse members who did not comply with the requirement to read the summary have received suspensions and are not allowed to participate in any MCSO function until they are compliant. MCSO tracks

compliance with this training electronically, and as of September 15, 2016, MCSO was 97% compliant. As of November 2, 2016 MCSO was 99.2% compliance. There are 4150 total MCSO employees and 4120 employees are compliant with this paragraph. While this was a large undertaking with a compressed timeline, MCSO is proud of this accomplishment. MCSO filed a Notice of Compliance with Paragraph 273 on October 18, 2016 (Doc. 1838). Again, while outside of the reporting period of this report, MCSO believes that the Court and the public should be aware of such accomplishments with the Court's Order, and that MCSO accomplished this requirement of the Court's Order with alacrity.

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

The *Melendres* Court Order Compliance Chart (Appendix A) was developed from information provided in the Monitor's 9<sup>th</sup> Quarterly Report (covering the reporting period of April 1, 2016 – July 31, 2015). Therefore, it only includes a compliance rating for paragraphs from the October 2013 Supplemental Injunction/Order. A compliance rating for paragraphs from the Second Supplemental Order will be included in MCSO's next quarterly report. According to the Monitor's 9<sup>th</sup> Quarterly Report, the Monitor will evaluate MCSO on 89 paragraphs for compliance. The Monitor will assess these paragraphs in two phases. Phase 1 compliance assessment entails a consideration of "whether requisite policies and procedures have been developed and approved and agency personnel have received documented training on their content". Phase 2 compliance is "generally considered operational implementation" and must comply "more than 94% of the time or in more than 94% of the instances being reviewed".

According to the Monitor's 9<sup>th</sup> Quarterly Report, MCSO is in compliance with fifty (50) of the seventy-five (75) paragraphs assessed for Phase 1 compliance and with thirty-nine (39) of the eighty-nine (89) paragraphs assessed for Phase 2 Compliance. Fourteen (14) paragraphs are not applicable to Phase 1 compliance as they do not require a corresponding policy or procedure. Nine (9) paragraphs are currently deferred. The status of "Deferred" is used in circumstances in which the Monitor is unable to fully determine compliance due to a lack of data or information or in situations where MCSO is fulfilling the requirements of the paragraph in practice, but has not yet published a formal policy memorializing the paragraph's requirements.

Please see Appendix A.



## Section 2: Implementation Division & Internal Agency-Wide Assessment

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

MCSO took major steps to implement Section III of the Court Order. In October 2013, MCSO formed a division titled the Court Compliance and Implementation Division consistent with paragraph 9. In February 2015, MCSO changed the name of this division to the Court Implementation Division (CID). Captain Fred Aldorasi assumed command in September 2015. In August 2016, CID added 1 lieutenant and 2 sergeants to the division as a result of the issuance of the Second Supplemental Order. The CID is comprised of eleven (13) MCSO personnel with interdisciplinary backgrounds and various ranks: 2 lieutenants, 6 sergeants, 2 deputies, 1 management assistant (currently vacant), and 1 administrative assistant. CID is currently in the process of hiring for the management assistant position, which was left vacant when CID's Management Analyst was promoted. MCSO conducted interviews for the Management Assistant position in December 2016 and submitted a candidate to Personnel to begin the hiring process. As Captain of CID, Captain Aldorasi functions as the single point of contact with the Court and the Monitor, although MCSO legal team also communicates with the Monitor Team. Along with his CID staff, Captain Aldorasi coordinates visits and other activities with each of the parties, as the Court Order requires. Members of CID work very closely with MCSO counsel, attorneys and paralegals of the law firm of Jones, Skelton & Hochuli, P.L.C., to ensure that MCSO maintains a sustained effort to achieve its goal of full and effective compliance with the Court's Orders.

### **Document Production**

The CID is responsible for facilitating data collection and document production. During the subject three month period of this report, CID responded to 7 (Seven) large document requests (*See* Table #1.) Additional document production is underway as part of CID's efforts to assist the Monitor and the Monitor Team's quarterly review. In addition to the document requests, CID facilitates the production of training materials and policies and procedures to the Monitor for review and approval. As a reflection of MCSO's efforts to achieve full and effective compliance with the Order, CID through MCSO counsel, produced over 63,000 pages of documents during the three month period of July 1, 2016 to September 30, 2016 alone. Compliance with the Court's Order and Monitor's requests truly comprises a monumental task that those without involvement could not possibly comprehend. Yet MCSO readily accepts its responsibilities to achieve full and effective compliance with the Court's Order.

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

Table #1	
Monitor Production Requests	
Title	General Description
07/18/2016 Site Visit Request (Approx. 22 Requests)	Documents Requests as a result of the Site Visit
July Monthly Request (Approx. 102 Requests, First & Second Supp. Order )	Monitor's Monthly Production Request
10/17/2016 Site Visit Request (27 Requests)	Document Requests as a result of the Site Visit
August Monthly Request (Approx. 103 Requests, First & Second Supp. Order )	Monitor's Monthly Production Request
October Quarterly Document Request (Approx. 9 Requests)	Document Request from Monitor needed for Quarterly Assessments
September Monthly Request (Approx. 107 Requests, First & Second Supp. Order )	Monitor's Monthly Production Request
07/01/2016-09/30/2016 (Approx. 30 Requests)	Various Misc. Requests

The CID, with the Sheriff's approval, ensures the proper allocation of document production requests to the appropriate MCSO units to achieve full and effective compliance with the Court Order. Thus, the efforts to achieve compliance and to fulfill the Monitor's requests involve the efforts of MCSO divisions, bureaus, personnel and command staff, as well as personnel from the law firm of Jones, Skelton & Hochuli, P.L.C. and the Maricopa County Attorney's Office. Before its recent addition to the compliance phase, Jones, Skelton & Hochuli, P.L.C. was solely involved in the litigation aspect of this lawsuit. Approximately six months ago, MCSO welcomed the Jones, Skelton & Hochuli's involvement in and overall assistance with its compliance efforts. The shared effort and allocation of compliance assignments are set forth in Table #2 immediately below.

Table #2	
MCSO Unit Assignments for Court Order	
Section	Unit Name
III. MCSO Implementation Unit and Internal Agency-Wide Assessment	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Jones, Skelton, &amp; Hochuli, P.L.C.</li> </ul>
IV. Monitor Review Process	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Jones, Skelton, &amp; Hochuli, P.L.C.</li> </ul>

V. Policies and Procedures	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Human Resources Bureau, Compliance Division - Policy Section</li> <li>• Maricopa County Attorney's Office</li> <li>• Jones, Skelton, &amp; Hochuli, P.L.C.</li> </ul>
VI. Pre-Planned Operations	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Compliance Division – Policy Section</li> <li>• Detective and Investigations Bureau</li> </ul>
VII. Training	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Maricopa County Attorney's Office</li> <li>• Jones, Skelton, &amp; Hochuli, P.L.C.</li> <li>• Training Division</li> </ul>
VIII. Traffic Stop Documentation and Data Collection and Review (First Supplemental Order)	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Bureau of Internal Oversight/Early Intervention Unit</li> </ul>
IX. Early Identification System (EIS) (First Supplemental Order)	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Bureau of Internal Oversight/Early Intervention Unit</li> </ul>
X. Supervision and Evaluation of Officer Performance (First Supplemental Order)	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Command Staff</li> <li>• Human Resources Bureau, Compliance Division and Personnel Services Division</li> <li>• Bureau of Internal Oversight/Early Intervention Unit</li> <li>• Enforcement Bureau</li> <li>• Maricopa County Attorney's Office</li> <li>• Training Division</li> </ul>
XI. Misconduct and Complaints (First Supplemental Order)	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Command Staff</li> <li>• Professional Standards Bureau</li> <li>• Supervisors in each unit</li> </ul>
XII. Community Engagement (First Supplemental Order)	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Community Outreach Division</li> </ul>
XV. Misconduct Investigations, Discipline, and Grievances (Second Supplemental Order)	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Professional Standards Bureau</li> <li>• MCSO Training</li> <li>• Community Outreach Division</li> <li>• MCSO Command Staff and District Commanders</li> <li>• Compliance Division</li> </ul>
XVI. Community Outreach and the Community Advisory Board (Second Supplemental Order)	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Community Outreach Division</li> <li>• Professional Standards Bureau</li> </ul>

<p>XVII. Supervision and Staffing (Second Supplemental Order)</p>	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Command Staff</li> <li>• Human Resources Bureau, Compliance Division and Personnel Services Division</li> <li>• Bureau of Internal Oversight/Early Intervention Unit</li> <li>• Enforcement Bureau</li> </ul>
<p>XIX. Additional Training (Second Supplemental Order)</p>	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Jones, Skelton, &amp; Hochuli, P.L.C.</li> <li>• MCSO Training</li> </ul>
<p>XX. Complaint and Misconduct Investigations Relating to Members of the Plaintiff Class (Second Supplemental Order)</p>	<ul style="list-style-type: none"> <li>• Court Implementation Division</li> <li>• Jones, Skelton, &amp; Hochuli, P.L.C.</li> <li>• Professional Standards Bureau</li> </ul>

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

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

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

**Paragraph 10.** MCSO shall collect and maintain all data and records necessary to: (1) implement this order, and document implementation of and compliance with this Order, including data and records necessary for the Monitor to conduct reliable outcome assessments, compliance reviews, and audits; and (2) perform ongoing quality assurance in each of the areas addressed by this Order. At a minimum, the foregoing data collection practices shall comport with current professional standards, with input on those standards from the Monitor.

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

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

**Paragraph 11.** *Beginning with the Monitor's first quarterly report, the Defendants, working with the unit assigned for implementation of the Order, shall file with the Court, with a copy to the Monitor and Plaintiffs, a status report no later than 30 days before the Monitor's quarterly report is due. The Defendants' report shall (i) delineate the steps taken by the Defendants during the reporting period to implement this Order; (ii) delineate the Defendants' plans to correct any problems; and (iii) include responses to any concerns raised in the Monitor's previous quarterly report.*

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

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

**Paragraph 12.** *The Defendants, working with the unit assigned for implementation of the Order, shall conduct a comprehensive internal assessment of their Policies and Procedures affecting Patrol Operations regarding Discriminatory Policing and unlawful detentions in the field as well as overall compliance with the Court's orders and this Order on an annual basis. The comprehensive Patrol Operations assessment shall include, but not be limited to, an analysis of collected traffic-stop and high-profile or immigration-related operations data; written Policies and Procedures; Training, as set forth in the Order; compliance with Policies and Procedures; Supervisor review; intake and investigation of civilian Complaints; conduct of internal investigations; Discipline of officers; and community relations. The first assessment shall be conducted within 180 days of the Effective Date. Results of each assessment shall be provided to the Court, the Monitor, and Plaintiffs' representatives.*

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

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

**Paragraph 13.** *The internal assessments prepared by the Defendants will state for the Monitor and Plaintiffs' representatives the date upon which the Defendants believe they are first in compliance with any subpart of this Order and the date on which the Defendants first assert they are in Full and Effective Compliance with the Order and the reasons for that assertion. When the Defendants first assert compliance with any subpart or Full and Effective Compliance with the Order, the Monitor shall within 30 days determine whether the Defendants are in compliance with the designated subpart(s) or in Full and Effective Compliance with the Order. If either party contests the Monitor's determination it may file an objection with the Court, from which the Court will make the determination. Thereafter, in each assessment, the Defendants will indicate with which subpart(s) of this Order it*

*remains or has come into full compliance and the reasons therefore. The Monitor shall within 30 days thereafter make a determination as to whether the Defendants remain in Full and Effective Compliance with the Order and the reasons therefore. The Court may, at its option, order hearings on any such assessments to establish whether the Defendants are in Full and Effective Compliance with the Order or in compliance with any subpart(s).*

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

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



## Section 3: Policies and Procedures

### **General Comments Regarding Policies and Procedures**

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

During this reporting period, MCSO published one policy relevant to the Court Order: GC-13, *Awards*.

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

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

- DD-2, *Inmate Property Control*
- EA-2, *Patrol Vehicles*
- EA-3, *Field Interview*
- EA-5, *Enforcement Communications*
- EB-1, *Traffic Enforcement, Violator Contacts, and Citation Issuance*
- EB-7, *Traffic Control and Services*
- ED-2, *Covert Operations*
- GA-1, *Development of Written Orders*
- GB-2, *Command Responsibility*
- GC-4, *Employee Performance Appraisals*
- GC-7, *Transfer of Personnel*
- GC-11, *Employee Probationary Periods*
- GC-12, *Hiring and Promotional Procedures*
- GC-16, *Employee Grievance Procedures*
- GC-17, *Employee Disciplinary Procedure*
- GD-9, *Receipt of Litigation and Subpoenas*
- GE-3, *Property Management*
- GE-4, *Use, Assignment, and Operation of Vehicles*
- GF-1, *Criminal Justice System*
- GF-3, *Criminal History Information and Public Records*
- GF-5, *Incident Report Guidelines*
- GG-1, *Peace Officer Training Administration*

- GG-2, *Detention/Civilian Training Administration*
- GH-2, *Internal Investigations*
- GH-4, *Bureau of Internal Oversight*
- GH-5, *Early Identification System (EIS)*
- GI-4, *Calls for Service (Patrol Related)*
- GI-5, *Voiance Language Line Services*
- GI-7, *Bias Free Tips and Information Processing*
- GJ-2, *Critical Incident Investigations (Patrol Related)*
- GJ-3, *Search and Seizure*
- GJ-4, *Evidence Control*
- GJ-24, *Community Relations and Youth Services*
- GJ-25, *Canine Operations (Patrol Related)*
- GJ-26, *Sheriff's Reserve Deputy Program*
- GJ-27, *Sheriff's Posse Program*
- GJ-29, *Independent Testing for DUI and OUI (Patrol Related)*
- GJ-33, *Significant Operations*
- GJ-35, *Body-Worn Cameras*
- GJ-36, *Use of Digital Recording Devices*
- GM-1, *Electronic Communication and Voice Mail*

**Policies pending legal review:**

(None)

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

- CP-2, *Code of Conduct*
- CP-3, *Workplace Professionalism*
- CP-5, *Truthfulness*
- CP-11, *Anti-Retaliation*
- EA-2, *Patrol Vehicles*
- EB-7, *Traffic Control and Services*
- GA-1, *Development of Written Orders*
- GB-2, *Command Responsibility*
- GC-4, *Employee Performance Appraisals*
- GC-7, *Transfer of Personnel*
- GC-11, *Employee Probationary Periods*
- GC-12, *Hiring and Promotional Procedures*
- GC-16, *Employee Grievance Procedures*
- GC-17, *Employee Disciplinary Procedure*
- GD-9, *Receipt of Litigation and Subpoenas*
- GE-4, *Use, Assignment, and Operation of Vehicles*
- GF-1, *Criminal Justice System*
- GF-3, *Criminal History Information and Public Records*

- GG-1, *Peace Officer Training Administration*
- GG-2, *Detention/Civilian Training Administration*
- GH-4, *Bureau of Internal Oversight*
- GH-5, *Early Identification System (EIS)*
- GI-4, *Calls for Service*
- GI-5, *Voiance Language Line Services*
- GJ-24, *Community Relations and Youth Services*
- GJ-26, *Sheriff's Reserve Deputy Program*
- GJ-27, *Sheriff's Posse Program*
- GM-1, *Electronic Communication and Voice Mail*

Pursuant to the Second Supplemental order, the MCSO Policy Section has submitted twenty-two (22) polices to the Monitor Team, and two (2) are still under review<sup>1</sup>:

- CP-2, *Code of Conduct*
- CP-3, *Workplace Professionalism*
- CP-5, *Truthfulness*
- CP-11, *Anti-Retaliation*
- EA-2, *Patrol Vehicles*
- GA-1, *Development of Written Orders*
- GB-2, *Command Responsibility*
- GC-7, *Transfer of Personnel*
- GC-11, *Employee Probationary Periods*
- GC-12, *Hiring and Promotional Procedures*
- GC-16, *Employee Grievance Procedures*
- GC-17, *Employee Disciplinary Procedure*
- GD-9, *Receipt of Litigation and Subpoenas*
- GC-4, *Employee Performance Appraisals*
- GE-4, *Use, Assignment, and Operation of Vehicles\**
- GG-1, *Peace Officer Training Administration*
- GG-2, *Detention/Civilian Training Administration*
- GH-2, *Internal Investigations\**
- GH-4, *Bureau of Internal Oversight*
- GH-5, *Early Identification System (EIS)*
- GI-5, *Voiance Language Line Services*
- GJ-24, *Community Relations and Youth Services*
- GJ-26, *Sheriff's Reserve Deputy Program*
- GJ-27, *Sheriff's Posse Program*

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<sup>1</sup> Policies followed by an asterisk denote the policy is still under review by the MCSO Policy Section. All other policies have been sent to the Monitor Team and parties for review.

In addition, to expeditiously implementing the Court's directives, MCSO disseminated one *Briefing Board* and five MCSO Administrative Broadcasts that referenced Court Order related topics during this reporting period<sup>2</sup>. The published *Briefing Boards* and Administrative Broadcasts are listed in the following table:

Table #3		
MCSO Briefing Boards/Administrative Broadcasts		
B.B. /A.B. #	Subject	Date Issued
BB 16-25	Policy Change: Policy EB-1, Traffic Enforcement, Violator Contacts, and Citation Issuance	07/20/16
AB 16-70	Daily Activity Patrol Logs	07/20/16
AB 16-84	External and Internal Complaints in EI Pro	08/24/16
AB 16-85	Review of Body-Worn Camera Video During an Administrative Investigation	08/24/16
AB 16-89	EIS Data Validation Entries	08/30/16
AB 16-97	TraCS Update	08/27/16

MCSO *Briefing Board* 16-25, published on July 20, 2016 and noted in Table #3 above, announced an immediate policy change to Policy EB-1, Traffic Enforcement, Violator Contacts, and Citation Issuance. This publication advised deputies when contacting members of the public related to traffic violations, that all violators shall have license and warrant checks performed on them.

MCSO Administrative Broadcast 16-70, published on July 20, 2016, announced an update to the Daily Activity Patrol Logs. This publication advised deputies to use the Out of Service Code sheet throughout their shift, when not assigned to an event.

MCSO Administrative Broadcast 16-84, published August 24, 2016, announced to all employees that completed/closed external and internal complaint information is viewable within the EI Pro Application.

MCSO Administrative Broadcast 16-85, published August 24, 2016, announced to all sworn supervisors conducting administrative investigations in which a Body-Worn Camera video was

<sup>2</sup> Please note that *Briefing Boards* have the full effect of an Office Policy; MCSO Administrative Broadcasts provide written directives and information to employees on material other than Policy.

reviewed as evidence, that video footage needs to be properly labeled and downloaded to a DVD/CD.

MCSO Administrative Broadcast 16-89, published on August 30, 2016, announced to all sworn supervisors how to properly address possible data entry errors identified by the Early Identification Unit.

MCSO Administrative Broadcast 16-97, published on September 27, 2016, announced an update to the TraCS system.

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

During the subject three month reporting period, MCSO used the E-Policy system to distribute and obtain attestation of eight (8) policies which includes one (1) policy related to the Court Order, GC-13, *Awards*.

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

***MCSO is in Phase 1 Compliance with Paragraph 19.***

MCSO requested the Monitor provide a list of what policies should be considered patrol related policies. The Monitor provided MCSO that list during the July 2016 Site Visit. The Monitor Team instructed MCSO to review all policies on the provided list and determine what policies reflect the Court's Permanent Injunction Order and what policies would need to be opened and updated. MCSO completed this task and sent the Monitor documentation of its review of the patrol related policies on August 19, 2016. Since then, MCSO has responded to the Monitor's September 2, 2016 request for additional information on September 8, 2016.

The request for additional information included these five (5) lists of patrol related policies from MCSO:

1. A list of twelve (12) patrol related policies that MCSO believes are compliant with both Court Orders dated October 2, 2013 and July 20, 2016, respectively;
2. A list of five (5) patrol related policies which require changes/updates to be compliant with the First Supplement Order dated October 2, 2013;
3. A list of five (5) patrol related policies which require changes/updates to be compliant with the Second Supplemental Order dated July 20, 2016;

4. A list of thirty (30) patrol related policies that are currently open for revision/update but are not related to the either of the Court Orders other than being patrol related; and
5. A list of one (1) patrol related policy that has been rescinded.

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

***Paragraph 21.*** *The MCSO shall promulgate a new, department-wide policy or policies clearly prohibiting Discriminatory Policing and racial profiling. The policy or policies shall, at a minimum:*

- a. define racial profiling as the reliance on race or ethnicity to any degree in making law enforcement decisions, except in connection with a reliable and specific suspect description;*
- b. prohibit the selective enforcement or non-enforcement of the law based on race or ethnicity;*
- c. prohibit the selection or rejection of particular policing tactics or strategies or locations based to any degree on race or ethnicity;*
- d. specify that the presence of reasonable suspicion or probable cause to believe an individual has violated a law does not necessarily mean that an officer's action is race-neutral; and*
- e. include a description of the agency's Training requirements on the topic of racial profiling in Paragraphs 48–51, data collection requirements (including video and audio recording of stops as set forth elsewhere in this Order) in Paragraphs 54–63 and oversight mechanisms to detect and prevent racial profiling, including disciplinary consequences for officers who engage in racial profiling.*

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

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

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

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

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



policing is unacceptable.

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

Quarterly Bias Free Reinforcement:

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

Quarterly Bias Free Reinforcement (Detention): In the third quarter of 2016, a quarterly inspection of Bias Free Reinforcement was conducted and compliance rates increased by 12.86%; from 78.57% to 91.43%. Management staff continues to provide on-site mentorship to supervisors at all levels to address the importance of ensuring that all Supervisors comply with the specific requirements

Quarterly Bias Free Reinforcement (Patrol): In the third quarter of 2016, a quarterly inspection of Bias Free Reinforcement was conducted and compliance rates decreased by 12.86%; from 100% to 85.71%. Efforts are underway to determine the reason for the decrease in compliance.

CAD Messaging/Alpha Paging System Inspection:

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

Employee Email Inspection:

The purpose of this inspection is to determine employee email accounts are utilized in compliance with Office Policy and in support of the Melendres Order. To achieve this, inspectors reviewed a random sample of county email accounts for 35 Office employees during the month inspected. The AIU (Audits and Inspections Unit) continued to inspect employee email accounts to ensure content was in compliance with Policy. The compliance rates were 99.98% in July, 99.91% in August, and 100% in September. The average compliance rate for the third quarter of 2016 was 99.96%. ***The inspection rates for e-mails have remained consistently high.***

Supervisory Notes Inspection:

The purpose of this inspection (sworn, detention, and civilian) is to determine if supervisor notes entered into the Blue Team application by supervisors are in compliance with Office policy and in support the Melendres Order. Inspectors reviewed the supervisory note entries within the IAPro database relative to the random sample selected by the Monitor Team for MCSO patrol,

detention, and civilian employees. These entries are uniformly inspected utilizing the matrix developed by the BIO in accordance with policies CP-8, EA-11, EB-1, and EB-2, GB-2, and GJ-35.

Supervisory Notes-Detention:

*The average compliance rate for the quarter was 93.33%; 94% in July, 96% in August, and 90% in September of 2016. MCSO detention staff continued to maintain compliance rates averaging in the mid-90th percentile range during the second and third quarter of 2016.*

Supervisory Notes-Civilian:

*The average compliance rate for the quarter was 97.14%; 100% in both July and August, and 91.43% in September. MCSO civilian staff inspections reflected improved compliance rates for the third consecutive quarter in 2016 totaling a 6.54% increase.*

Supervisory Note-Sworn (Patrol):

*The average compliance rate for the quarter was 89.58%; 96% in July, 98.99% in August, and 73.74% in September. MCSO sworn staff inspections reflected a decrease in compliance of 4.08% from the second quarter. **Efforts are underway to determine the reason for the decrease in compliance.***

District Operations Inspection:

The purpose of this inspection is to determine MCSO facilities and retained property are managed and maintained in compliance with Office policy and in support of the Melendres Order. To achieve this, inspectors conducted sight visits to randomly selected districts/divisions and utilized the Facility Inspection Checklist, containing 31 points of inspection, to evaluate facility operations and the processing of retained property. An average compliance rate for the quarter was 99.67%; 100% in July (Inmate Medical Services (IMS) Division), 99% in August (District 6), and 100% in September (Estrella Jail). **An average compliance rate for the quarter was 99.67%.**

**Paragraph 23.**

*Within 30 days of the Effective Date, MCSO shall modify its Code of Conduct to prohibit MCSO Employees from utilizing County property, such as County e-mail, in a manner that discriminates against, or denigrates, anyone on the basis of race, color, or national origin.*

**MCSO remains in Phase 1 and Phase 2 compliance with Paragraph 23.** MCSO continues to provide the Monitor with all relative information to enable the Monitor to continue to assess compliance with Paragraph 23.

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

CAD Messaging/Alpha Paging System Inspection:

The purpose of this inspection is to determine if CAD and Alpha Paging were transmitted in compliance with Office policy and in support of the Melendres Order. The Audits and

Inspections Unit (AIU) conducted a CAD Messaging/Alpha Paging Inspection on a monthly basis. This inspection had an average compliance rate of 100% for the quarter. The compliance rates were 100% in July, August, and September of 2016.

Employee Email Inspection:

The purpose of this inspection is to determine employee email accounts are utilized in compliance with Office Policy and in support of the Melendres Order. To achieve this, inspectors reviewed a random sample of county email accounts for 35 Office employees during the month inspected. The AIU continued to inspect employee email accounts to ensure content was in compliance with Policy. The compliance rates were 99.98% in July, 99.91% in August, and 100% in September. The average compliance rate for the third quarter of 2016 was 99.96%. ***The inspection rates for e-mails have remained consistently high.***

District Operations Inspection:

The purpose of this inspection is to determine MCSO facilities and retained property are managed and maintained in compliance with Office policy and in support of the Melendres Order. To achieve this, inspectors conducted sight visits to randomly selected districts/divisions and utilized the Facility Inspection Checklist, containing 31 points of inspection, to evaluate facility operations and the processing of retained property. An average compliance rate for the quarter was 99.67%; 100% in July (Inmate Medical Services (IMS) Division), 99% in August (District 6), and 100% in September (Estrella Jail). ***An average compliance rate for the quarter was 99.67%.***

***Paragraph 24.*** *The MCSO shall ensure that its operations are not motivated by or initiated in response to requests for law enforcement action based on race or ethnicity. In deciding to take any law enforcement action, the MCSO shall not rely on any information received from the public, including through any hotline, by mail, email, phone or in person, unless the information contains evidence of a crime that is independently corroborated by the MCSO, such independent corroboration is documented in writing, and reliance on the information is consistent with all MCSO policies.*

The Monitors have stated that MCSO is not in Phase 1 Compliance. The Monitor's 9<sup>th</sup> Quarterly Report indicated that Phase 2 Compliance for this Paragraph went from being "Not in Compliance" to "Deferred." MCSO thanks the Monitor for placing MCSO in a Deferred compliance status and will endeavor to achieve Phase 2 compliance for this paragraph.

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

The Monitor's basis for determining that MCSO is not in compliance with this paragraph is that MCSO was not employing a consistent methodology or tracking system for its tip-lines or other community complaints of potential criminal activity and that MCSO does not have a policy that governs the use of tip lines/hotlines. To address the Monitor's concern, MCSO created a new unit called the Sheriff's Intelligence Leads and Operations (SILO) whose sole purpose will be to receive tips/information and vet the information appropriately and consistently and within compliance of the Order. MCSO has hired personnel to staff SILO. MCSO provided the

Monitor with the first draft of Policy GI-7 (Bias Free Tips and Information Processing) on July 01, 2016. MCSO received combined comments back from the Monitor on August 18, 2016. MCSO addressed the comments and resubmitted the second draft of Policy GI-7 to the Monitor and parties on October 27, 2016. MCSO received combined comments back from the Monitor on November 28, 2016 and is currently addressing the comments and will submit the third draft of GI-7 as soon as possible.

MCSO is developing a short presentation that will inform MCSO personnel on how to use SILO. MCSO will submit this presentation to the Monitor to determine if it should be considered Training.

MCSO Policy CP-8, Preventing Racial and Other Biased-Based Profiling specifically addresses Paragraph 24 with the following language:

***Reliability of Information:*** *Deputies 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 deputy. Such independent corroboration shall be documented in writing, and reliance on the information shall be consistent with all Office policies.*

- A. ***Consideration of Group Traits in Law Enforcement Decisions:*** *Racial and biased-based profiling is strictly prohibited. Race, ethnicity, national origin, and other group traits shall not be considered as factors in deciding law enforcement actions unless those characteristics are part of a description received of a specific suspect, perpetrator, or witness for whom a deputy is then searching.*
1. *Laws shall not be selectively enforced, or not enforced, based on race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or national origin.*
  2. *Deputies are prohibited from selecting or rejecting particular policing tactics, strategies, or locations based to any degree on race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or national origin.*
  3. *Deputies are prohibited from relying on a suspect's speaking Spanish, 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, is committing, or is about to commit any crime; or reasonable suspicion to believe that an individual is in the country without authorization.*

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

- a. *prohibit racial profiling in the enforcement of traffic laws, including the selection*

*of which vehicles to stop based to any degree on race or ethnicity, even where an officer has reasonable suspicion or probable cause to believe a violation is being or has been committed;*

- b. provide Deputies with guidance on effective traffic enforcement, including the prioritization of traffic enforcement resources to promote public safety;*
- c. prohibit the selection of particular communities, locations or geographic areas for targeted traffic enforcement based to any degree on the racial or ethnic composition of the community;*
- d. prohibit the selection of which motor vehicle occupants to question or investigate based to any degree on race or ethnicity;*
- e. prohibit the use of particular tactics or procedures on a traffic stop based on race or ethnicity;*
- f. require deputies at the beginning of each stop, before making contact with the vehicle, to contact dispatch and state the reason for the stop, unless Exigent Circumstances make it unsafe or impracticable for the deputy to contact dispatch;*
- g. prohibit Deputies from extending the duration of any traffic stop longer than the time that is necessary to address the original purpose for the stop and/or to resolve any apparent criminal violation for which the Deputy has or acquires reasonable suspicion or probable cause to believe has been committed or is being committed;*
  - h. require the duration of each traffic stop to be recorded;*
- i. provide Deputies with a list and/or description of forms of identification deemed acceptable for drivers and passengers (in circumstances where identification is required of them) who are unable to present a driver's license or other state-issued identification; and*
- j. instruct Deputies that they are not to ask for the Social Security number or card of any motorist who has provided a valid form of identification, unless it is needed to complete a citation or report.*

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

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

*"The first comprehensive analysis was completed during this reporting period. That analysis, prepared by Arizona State University, contained several findings that "may be indicative of racially biased policing." We, the Parties, and MCSO are currently working to clarify if any of the instances that lead to these suppositions were, in fact, indicative of biased policing. While that process continues, MCSO's compliance with this Subparagraph is deferred."*

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

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

- a. require that Deputies have reasonable suspicion that a person is engaged in, has committed, or is about to commit, a crime before initiating an investigatory seizure;*
- b. require that Deputies have probable cause to believe that a person is engaged in, has committed, or is about to commit, a crime before initiating an arrest;*
- c. provide Deputies with guidance on factors to be considered in deciding whether to cite and release an individual for a criminal violation or whether to make an arrest;*
- d. require Deputies to notify Supervisors before effectuating an arrest following any immigration-related investigation or for an Immigration-Related Crime, or for any crime by a vehicle passenger related to lack of an identity document;*
- e. prohibit the use of a person's race or ethnicity as a factor in establishing reasonable suspicion or probable cause to believe a person has, is, or will commit a crime, except as part of a reliable and specific suspect description; and*
- f. prohibit the use of quotas, whether formal or informal, for stops, citations, detentions, or arrests (though this requirement shall not be construed to prohibit the MCSO from reviewing Deputy activity for the purpose of assessing a Deputy's overall effectiveness or whether the Deputy may be engaging in unconstitutional policing).*

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

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

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

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



*that they, at a minimum:*

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

*the circumstances justify such an action under MCSO policy and receive approval to proceed. Officers must also document, in every such case, (a) the reason(s) for making the immigration-status inquiry or contacting ICE/CBP, (b) the time approval was received, (c) when ICE/CBP was contacted, (d) the time it took to receive a response from ICE/CBP, if applicable, and (e) whether the individual was then transferred to ICE/CBP custody.*

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

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

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

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

***Paragraph 30.*** *Unless otherwise noted, the MCSO shall submit all Policies and Procedures and amendments to Policies and Procedures provided for by this Order to the Monitor for review within 90 days of the Effective Date pursuant to the process described in Section IV. These Policies and Procedures shall be approved by the Monitor or the Court prior to their implementation.*

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

***Paragraph 31.*** *Within 60 days after such approval, MCSO shall ensure that all relevant MCSO Patrol Operation Personnel have received, read, and understand their responsibilities pursuant to the Policy or Procedure. The MCSO shall ensure that personnel continue to be regularly notified of any new Policies and Procedures or changes to Policies and Procedures. The Monitor shall assess and report to the Court and the Parties on whether he/she believes relevant personnel are provided sufficient notification of and access to, and understand each policy or procedure as necessary to fulfill their responsibilities.*

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

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

***Paragraph 32.*** *The MCSO shall require that all Patrol Operation personnel report violations of policy; that Supervisors of all ranks shall be held accountable for identifying and*

*responding to policy or procedure violations by personnel under their command; and that personnel be held accountable for policy and procedure violations. The MCSO shall apply policies uniformly.*

**MCSO is in Phase 1 compliance with Paragraph 32.** Based on the Monitor's 9<sup>th</sup> Quarterly Report, MCSO is not in Phase 2 compliance with Paragraph 32.

In the Monitor's 9<sup>th</sup> Quarterly Report, the Monitor made the following statement that indicates that PSB's misconduct investigations have improved considerably:

*"Of the 74 cases reviewed, PSB investigated 14. We agree with the findings in all of these cases. In general, we found these investigations to be thorough and well documented. We have some follow-up questions and feedback on several cases, which we will raise with PSB during our next site visit, **but did not note any serious deficiencies with any of the investigations they completed. PSB has continued to be responsive to our questions and requests for information regarding internal investigations being conducted by MCSO.**"(emphasis added)*

The Monitor indicated more concern with the completeness of investigations completed by divisions outside PSB. The PSB added an additional sworn lieutenant who is permanently assigned to act as a liaison with the other divisions. This additional lieutenant is tasked with the primary responsibility of reviewing all division level cases for thoroughness and accuracy, providing investigative feedback to the investigator and his chain of command, and documenting and tracking investigative deficiencies, pursuant to the Second Amended Second Supplemental Injunction/Judgement Order, Paragraph 211.

Consistent with the Court's Order, Paragraph 32, requiring that all patrol operations personnel report violations of policy; PSB received 42 complaints from patrol personnel during this reporting period.

MCSO is endeavoring to achieve Phase 2 compliance.

**Paragraph 33.** *MCSO Personnel who engage in Discriminatory Policing in any context will be subjected to administrative Discipline and, where appropriate, referred for criminal prosecution. MCSO shall provide clear guidelines, in writing, regarding the disciplinary consequences for personnel who engage in Discriminatory Policing.*

**MCSO is in Phase 1 compliance with Paragraph 33.** MCSO is not in Phase 2 Compliance.

The Monitor stated they have reviewed 25 cases relevant to this paragraph and agreed with the findings 20 of the cases. The Monitor indicated they will meet with PSB ("Professional Standards Bureau") personnel during the next site visit and discuss the five investigations of concern.

In addition, PSB personnel will continue to work with the Monitor to identify steps that need to be taken to gain compliance with 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.*

***MCSO is in Phase 1 and Phase 2 compliance with Paragraph 34.***

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

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

## Section 4: Pre-Planned Operations

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

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

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

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

***Paragraph 36.*** *The MCSO shall ensure that any Significant Operations or Patrols are initiated and carried out in a race-neutral fashion. For any Significant Operation or Patrol involving 10 or more MCSO personnel, excluding posse members, the MCSO shall develop a written protocol including a statement of the operational motivations and objectives, parameters for supporting documentation that shall be collected, operations plans, and provide instructions to supervisors, deputies and posse members. That written protocol shall be provided to the Monitor in advance of any Significant Operation or Patrol.*

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

***Paragraph 37.*** *The MCSO shall submit a standard template for operations plans and standard instructions for supervisors, deputies and posse members applicable to all Significant Operations or Patrols to the Monitor for review pursuant to the process described in Section IV within 90 days of the Effective Date. In Exigent Circumstances, the MCSO may conduct Significant Operations or Patrols during the interim period but such patrols shall be conducted in a manner that is in compliance with the requirement of this Order. Any Significant Operations or Patrols thereafter must be in accordance with the approved template and instructions.*

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

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

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

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

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



*the Monitor and Plaintiffs may request any documentation related to such activity as they deem reasonably necessary to ensure compliance with the Court's orders.*

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

## Section 5: Training

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

The Monitor rates MCSO in non-compliance with Phase 1 and Phase 2 of this paragraph. MCSO made certain that this paragraph's requirements were followed when selecting instructors for Court Ordered related training such as the 4<sup>th</sup> and 14<sup>th</sup> Amendment Training, Bias-Free Policing Training, and Supervisor Training. MCSO disagrees with the Monitor's assessment. MCSO believes that should be placed in a deferred Phase 2 Compliance status pending the approval and publication of the Training Division Operations Manual, as well as MCSO Policies GG-1 and GG-2.

In the Monitor's 9<sup>th</sup> Quarterly report, the Monitor discusses a conference call held on April 11, 2016 relating to Policy GG-1 revisions.

The Monitor recommended that MCSO prioritize the finalization of this policy. The finalization of Policy GG-1 and GG-2 are high on the priority list for MCSO, as a 5% increase in Phase 1 Compliance is anticipated once the policies are published.

Prior to the Court Order, MCSO had one Training policy for continuing training (GG-2 Training Administration). After the Order was issued, MCSO split the continuing training policy into two separate policies. Policy GG-1, Peace Officer Training Administration, was created to provide guidelines and administrative procedures for sworn training and all Court Ordered Training. Policy GG-2 Training Administration was created to provide guidelines and administrative procedures for all other training for civilian and detention employees.

In MCSO's 8th Quarterly Report, MCSO disagreed with the Monitor's assessment that GG-2 must be reviewed and approved by the Monitor to gain compliance with this paragraph. The Monitor responded in the 8<sup>th</sup> Quarterly Report by stating, "*A review of GG-2 is required to ensure that organizationally training development and delivery, instructor selection and retention, and documentation of training are consistent and standardized.*" MCSO agrees that GG-2 requires approval from the Monitor and Parties especially when considering the Training requirements of the Second Amended Second Supplemental Permanent Injunction. MCSO produced Policy GG-2 to the Monitor and parties on August 19, 2016. MCSO received combined comments back from the Monitor on October 07, 2016. MCSO addressed the comments and resubmitted GG-2 to the Monitor and parties on December 05, 2016. MCSO received the policy from the Monitor on December 15, 2016. The Monitor indicated a change was made by them which the parties may want to review and weigh in on, which they will have 7 days to complete. MCSO looks forward to receiving the comments on this Policy so it can address any comments and resubmit it to the Monitor and parties for the Monitor's approval.

The history of Policy GG-1, Peace Officer Training Administration, is long and involved.

MCSO provided to the Monitor on September 11, 2015. This version of the GG-1 was returned with Monitor comments. MCSO submitted a new version of GG-1 on January 22, 2016 in which the previous comments were addressed. The Monitor returned this version of GG-1 to MCSO with additional, different comments on February 26, 2016. MCSO then received further direction from the Monitor on this policy on March 1, 2016. MCSO discussed needed revisions on GG-1 with the Monitor Team during a conference call on April 11, 2016. MCSO subsequently sent a third version of GG-1 to the Monitor on April 28, 2016. The Monitor returned this version of GG-1 to MCSO with comments from the Monitor and Parties on June 06, 2016. MCSO revised GG-1 to address comments and was preparing to re-submit it to the Monitor when the Second Supplemental Permanent Injunction was issued on July 20, 2016. MCSO did not submit GG-1 due to the fact it needed to update GG-1 to reflect the requirements of the Second Supplemental Permanent Injunction. MCSO produced this version of GG-1 to the Monitor and parties on August 19, 2016. MCSO received combined comments back from the Monitor and parties on October 07, 2016. MCSO addressed the comments and resubmitted GG-1 to the Monitor and parties on December 05, 2016.

In the Monitor's 9<sup>th</sup> Quarterly Report, the Monitor expressed a concern that, *"On April 26, 2016, we received our first copy of the Training Division Operations Manual, independent from policy GG-1. Our review was not favorable. We noted extensive grammatical and formatting errors throughout the document and recommended that a more comprehensive and thorough review be conducted by MCSO prior to submitting this document for review."*

Frankly, the Monitor's comment is unfair because it misstates the facts. When MCSO received the combined comments back from the Monitor, the Monitor was extremely critical of the grammatical and formatting errors. However, MCSO believes that the grammatical and formatting errors on which the Monitor based its criticism were the product of a document conversion process that MCSO did not accomplish, in which it did not participate, and that likely occurred once the document was out of MCSO's hands. The document which contained the grammatical and formatting errors did not even bear any Bates stamp; MCSO Bates stamps all documents that it produces to the Monitor and the parties. In addition, the Monitor Team and MCSO agreed to continue and use this "corrupted" version of the operations manual with the understanding that the grammatical and formatting errors would not be considered as reflections of MCSO's work product. Nevertheless, the fact that the Monitor's documentation and criticism of these grammatical and formatting errors appeared in a quarterly report, devoid of the facts that MCSO now provides, is disingenuous and rather disappointing. In this instance, the Monitor's criticism is certainly unwarranted.

Additionally, this issue was addressed in MCSO's last (9<sup>th</sup>) Quarterly Report. An excerpt is included below:

*"While MCSO has agreed to complete PSB checks The Monitor's 8th Quarterly Report stated, "The Training Division Operations Manual was not reviewed during this reporting period. During our February site visit, the Director of Training informed us that on January 26, 2016, he had signed a revised version of this operations manual. This revelation was troubling. Defense counsel advised that she had no prior knowledge of the*

*document. We reinforced with the Director of Training and Defense counsel that this operations manual, as directed by Section IV of the Order, must be reviewed for consistency with GG-1.”*

*MCSO provided a copy of the Training Division Operations Manual in April 2016. The Monitor and Parties provided comments on the Operations Manual on June 06, 2016. The version the Monitor and Parties utilized to comment was not the same as the PDF version that MCSO produced. It is believed that during the conversion of the document from PDF to Word, the document was changed to include extensive grammatical and formatting errors throughout the document. MCSO made an agreement with the Monitor Team that the substantive comments from this draft would be used to revise the Training Division Operation Manual which would be re-submitted. Part of the agreement was that MCSO would ignore all the comments regarding grammatical and formatting issues that were created by the document conversion process and did not reflect MCSO’s work product. MCSO forecasts the new version of the Training Division Operation Manual will be produced in the 3rd Quarter of 2016.”*

In the 9<sup>th</sup> Quarterly Report, Monitor appears to have agreed with the version of the facts that MCSO presents in this report. Without this factual detail, MCSO is portrayed as careless and unconcerned with detail. The insinuation that MCSO intentionally, or even unintentionally, provided an operations manual to the Monitor without a comprehensive and thorough review misleads the Court and the public and defies the facts.

To ensure compliance with Paragraph 42, MCSO gave the Director of Training the discretion to exclude instructors for cause as requested and noted in the Monitor’s 9<sup>th</sup> Quarterly Report.

The previous Monitor Report was critical that employees were given an opportunity to attend FTO training in February 2016 prior to a PSB check being conducted. MCSO believes the education associated with the FTO training process provides valuable insight for all interested deputies and detention officers. For that reason, the FTO training is open to any interested employee. Completion of the FTO training does not grant the attendee FTO status, that status will be granted after a successful PSB check is conducted. As of the writing of this report vacancies have existed in all recent FTO training classes, and the Training Division is of the opinion that an unwillingness to allow interested individuals to attend would be discriminatory. The Training Division will, therefore, continue to allow vacancies to be filled by interested employees, but only offer FTO status to those who have completed the mandated training and have passed the required PSB review. If circumstances change and student space becomes an issue, then PSB checks will be conducted on the front end to first offer seats to only those who can obtain FTO status as specified in GG-1. Furthermore, from a compliance standpoint, the FTO program is not addressed in the Court Orders. Therefore it should not delay compliance with Paragraph 42. While MCSO has agreed with the Monitors suggestion that FTO’s be required to pass a PSB check – this issue must not be used as a reason to withhold compliance with this paragraph.

MCSO is conducting PSB checks on each instructor 30 days prior to the individual teaching a course of instruction as specified in GG-1.

The Monitor Team has stated they accept the separation of Detention/Civilian (GG-2) and Sworn training (GG-1) because peer review of MCSO Policy GG-1 and GG-2 show the same methodology being implemented for all training in MCSO.

The “seven step training cycle” has been written into both policies and is currently being utilized for all training at MCSO. The Monitor Team was complimentary of MCSO utilizing the “seven step training cycle” during the October site visit and pointed out its success when MCSO Training’s analysis identified a test question that needed to be changed related to the 2016 Annual Combined Training.

The 9<sup>th</sup> Quarterly report mentions that the Training Organizational chart does not provide for critical training such as leadership, supervisory, and instructor training. These training topics are addressed through the Advanced Officer Training. Examples of this training which were provided during 2016 include: Blue Courage – Inclusive Leadership, Detention Supervisor Academies, Sworn Supervisor Academies, General Instructor School, etc. While these classes are not specified in the Court Order, MCSO delivered this training to its personnel for the betterment of MCSO and must not delay or prevent compliance with this Paragraph.

The approved “Supervisor Responsibility: Effective Law Enforcement (SRELE)” course was offered four (4) times during the 3<sup>rd</sup> quarter. One hundred (100) sworn personnel have attended the SRELE class. All one hundred sworn personnel who took the SRELE class achieved a passing grade.

The 2016 “Admin Investigations Checklist – Standardized Forms” class was offered once this quarter. One sworn personnel attended the class and passed it.

The 2016 Annual Combined Training (ACT) class was approved during this quarter. On September 19, 2016, MCSO held a “train the trainer” session which the Monitor Team attended. ACT instruction began on September 26, 2016. As of November 21, 2016, less than two months later, all sworn compensated employees have attended the ACT training, with the exception of those on extended leave. The class was offered five (5) times during the 3<sup>rd</sup> Quarter. One hundred eighty-four (184) personnel attended and passed the class during this quarter. Six (6) failed the initial test, but all passed the retest.

The 2014 Fourth and Fourteenth Amendment class was offered once during the 3<sup>rd</sup> Quarter. There were thirty-five (35) students that attended and passed the class. There were three (3) students that failed the initial test, but all passed the retest.

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

One TraCS class was offered during this quarter. One sworn personnel attended the class and passed it.

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

***Paragraph 43.** The Training shall include at least 60% live training (i.e., with a live instructor) which includes an interactive component and no more than 40% on-line training. The Training shall also include testing and/or writings that indicate that MCSO Personnel taking the Training comprehend the material taught whether via live training or via on-line training.*

Based on the Monitor's 9<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 Compliance. **Once MCSO Policy GG-1 is approved and published, however, MCSO stands to achieve Phase 1 and Phase 2 Compliance.** For details on the status of MCSO Policy GG-1, please refer to the summary of Paragraph 42, above.

Phase 2 compliance with Paragraph 43 is currently deferred.

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

MCSO has read the Monitor's comment in the 8<sup>th</sup> and 9<sup>th</sup> Quarterly Report that indicates: "MCSO has displayed a propensity for the use of open book tests. Although the methodology has merit, we recommend that MCSO refrain from universal use." MCSO is not opposed to administering closed book tests and encourages the Monitor to suggest when a closed book tests should be considered during the curriculum review/approval process.

***Paragraph 44.** Within 90 days of the Effective Date, MCSO shall set out a schedule for delivering all Training required by this Order. Plaintiffs' Representative and the Monitor shall be provided with the schedule of all Trainings and will be permitted to observe all live trainings and all on-line training. Attendees shall sign in at each live session. MCSO shall keep an up-to-date list of the live and on-line Training sessions and hours attended or viewed by each officer and Supervisor and make that available to the Monitor and Plaintiffs.*

Based on the Monitor's 9<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 Compliance. Once MCSO Policy GG-1 is approved and published, MCSO should achieve Phase 1 and Phase 2 Compliance. For details on the status of MCSO Policy GG-1, please refer to the summary of Paragraph 42 above.

MCSO thanks the Monitor for recognizing that the issues previously raised regarding the Master Training Calendar have been addressed.

MCSO will continue to comply with the requirements of Paragraph 42 and looks forward to receiving approval for and publishing of MCSO Policy GG-1 to be in full and effective compliance with Paragraph 44.



Phase 2 compliance is currently deferred.

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

Based on the Monitor's 9<sup>th</sup> Quarterly Report, MCSO is in Phase 2 compliance with this paragraph.

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

**Paragraph 46.** *The curriculum and any materials and information on the proposed instructors for the Training provided for by this Order shall be provided to the Monitor within 90 days of the Effective Date for review pursuant to the process described in Section IV. The Monitor and Plaintiffs may provide resources that the MCSO can consult to develop the content of the Training, including names of suggested instructors.*

The Monitor's 9<sup>th</sup> Quarterly Report rates MCSO in Phase 2 Compliance. Phase 1 compliance is not applicable.

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

**Paragraph 47.** *MCSO shall regularly update the Training to keep up with developments in the law and to take into account feedback from the Monitor, the Court, Plaintiffs and MCSO Personnel.*

In the 9<sup>th</sup> Quarterly Report, the Monitor rates MCSO in noncompliance with Phase 1 Compliance and Deferred for Phase 2 Compliance.

MCSO understands Phase 1 Compliance is dependent on the approval and publishing of Policy GG-1 (Peace Officer Training Administration). Please refer to the Paragraph 42 section of this document for further information on the status of Policy GG-1 (Peace Officer Training Administration).

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

**Paragraph 48.** *The MCSO shall provide all sworn Deputies, including Supervisors and chiefs, as well as all posse members, with 12 hours of comprehensive and interdisciplinary*

*Training on bias-free policing within 240 days of the Effective Date, or for new Deputies or posse members, within 90 days of the start of their service, and at least 6 hours annually thereafter.*

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

MCSO, the Monitor, and the parties conducted a very productive conference call on July 29, 2016 during which they reviewed the 2016 Annual Combined Lesson Plan line by line. This is the sort of beneficial, effective, collaborative effort about which the Court and the public should be aware. MCSO thanks the parties for their input and feedback during this call.

The lesson plan for the 2016 Annual Combined Training was approved after the Technical Assistance received by the Monitor in September 2016. MCSO thanks the Monitor for the guidance with this Training. The Train the Trainer for was conducted on September 19, 2016. MCSO began offering this Training course on September 26, 2016. Less than two months later, with the exception of employees on approved leave, all sworn compensated employees had attended the Training as of November 21, 2016.

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

***Paragraph 49. The Training shall incorporate the most current developments in federal and Arizona law and MCSO policy, and shall address or include, at a minimum:***

- a. definitions of racial profiling and Discriminatory Policing;*
- b. examples of the type of conduct that would constitute Discriminatory Policing as well as examples of the types of indicators Deputies may properly rely upon;*
- c. the protection of civil rights as a central part of the police mission and as essential to effective policing;*
- d. an emphasis on ethics, professionalism and the protection of civil rights as a central part of the police mission and as essential to effective policing;*
- e. constitutional and other legal requirements related to equal protection, unlawful discrimination, and restrictions on the enforcement of Immigration-Related Laws, including the requirements of this Order;*
- f. MCSO policies related to Discriminatory Policing, the enforcement of Immigration- Related Laws and traffic enforcement, and to the extent past instructions to personnel on these topics were incorrect, a correction of any misconceptions about the law or MCSO policies;*

- g. *MCSO's protocol and requirements for ensuring that any significant pre-planned operations or patrols are initiated and carried out in a race-neutral fashion; h. police and community perspectives related to Discriminatory Policing;*
- i. *the existence of arbitrary classifications, stereotypes, and implicit bias, and the impact that these may have on the decision-making and behavior of a Deputy;*
- j. *methods and strategies for identifying stereotypes and implicit bias in Deputy decision-making;*
- k. *methods and strategies for ensuring effective policing, including reliance solely on non-discriminatory factors at key decision points;*
- l. *methods and strategies to reduce misunderstanding, resolve and/or de-escalate conflict, and avoid Complaints due to perceived police bias or discrimination; m. cultural awareness and how to communicate with individuals in commonly encountered scenarios;*
- n. *problem-oriented policing tactics and other methods for improving public safety and crime prevention through community engagement;*
- o. *the benefits of actively engaging community organizations, including those serving youth and immigrant communities;*
- p. *the MCSO process for investigating Complaints of possible misconduct and the disciplinary consequences for personnel found to have violated MCSO policy;*
- q. *background information on the Melendres v. Arpaio litigation, as well as a summary and explanation of the Court's May 24, 2013 Findings of Fact and Conclusions of Law in Melendres v. Arpaio, the parameters of the Court's permanent injunction, and the requirements of this Order; and*
- r. *Instruction on the data collection protocols and reporting requirements of this Order.*

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

MCSO, the Monitor, and the parties conducted a very productive conference call on July 29, 2016 during which they reviewed the 2016 Annual Combined Lesson Plan line by line. This is the sort of beneficial, effective, collaborative, compliance effort about which the Court and the public should be aware. MCSO thanks the parties for their input and feedback during this call.

The Monitor approved the lesson plan for the 2016 Annual Combined Training after the Technical Assistance received by the Monitor in September 2016. MCSO thanks the Monitor

for its guidance with regard to this Training. The Train the Trainer for the 2016 ACT occurred on September 19, 2016. One week later, on September 26, 2016, MCSO began offering this Training course. With the exception of employees on approved leave, less than two months later, all sworn compensated employees had attended the Training as of November 21, 2016.

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

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

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

MCSO, the Monitor, and the parties conducted a very productive conference call on July 29, 2016 during which they reviewed the 2016 Annual Combined Lesson Plan line by line. This is the sort of beneficial, effective, collaborative, compliance effort about which the Court and the public should be aware. MCSO thanks the parties for their input and feedback during this call.

The lesson plan for the 2016 Annual Combined Training was approved after the Technical Assistance received by the Monitor in September 2016. MCSO thanks the Monitor for the guidance with this Training. The Train the Trainer for was conducted on September 19, 2016. MCSO began offering this Training course on September 26, 2016. With the exception of employees on approved leave, all sworn compensated employees had attended the Training as of November 21, 2016.

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

***Paragraph 51.*** *The Training shall incorporate the most current developments in federal and Arizona law and MCSO policy, and shall address or include, at a minimum:*

- a. an explanation of the difference between various police contacts according to the level of police intrusion and the requisite level of suspicion; the difference between reasonable suspicion and mere speculation; and the difference between voluntary consent and mere acquiescence to police authority;*
- b. guidance on the facts and circumstances that should be considered in initiating, expanding or terminating an Investigatory Stop or detention;*
- c. guidance on the circumstances under which an Investigatory Detention can become an arrest requiring probable cause;*

- d. *constitutional and other legal requirements related to stops, detentions and arrests, and the enforcement of Immigration-Related Laws, including the requirements of this Order;*
- e. *MCSO policies related to stops, detentions and arrests, and the enforcement of Immigration-Related Laws, and the extent to which past instructions to personnel on these topics were incorrect, a correction of any misconceptions about the law or EMCSO policies;*
- f. *the circumstances under which a passenger may be questioned or asked for identification;*
- g. *the forms of identification that will be deemed acceptable if a driver or passenger (in circumstances where identification is required of them) is unable to present an Arizona driver's license;*
- h. *the circumstances under which an officer may initiate a vehicle stop in order to investigate a load vehicle;*
- i. *the circumstances under which a Deputy may question any individual as to his/her alienage or immigration status, investigate an individual's identity or search the individual in order to develop evidence of unlawful status, contact ICE/CBP, await a response from ICE/CBP and/or deliver an individual to ICE/CBP custody;*
- j. *a discussion of the factors that may properly be considered in establishing reasonable suspicion or probable cause to believe that a vehicle or an individual is involved in an immigration-related state crime, such as a violation of the Arizona Human Smuggling Statute, as drawn from legal precedent and updated as necessary; the factors shall not include actual or apparent race or ethnicity, speaking Spanish, speaking English with an accent, or appearance as a Hispanic day laborer;*
- k. *a discussion of the factors that may properly be considered in establishing reasonable suspicion or probable cause that an individual is in the country unlawfully, as drawn from legal precedent and updated as necessary; the factors shall not include actual or apparent race or ethnicity, speaking Spanish, speaking English with an accent, or appearance as a day laborer;*
- l. *an emphasis on the rule that use of race or ethnicity to any degree, except in the case of a reliable, specific suspect description, is prohibited;*
- m. *the MCSO process for investigating Complaints of possible misconduct and the disciplinary consequences for personnel found to have violated MCSO policy;*
- n. *provide all trainees a copy of the Court's May 24, 2013 Findings of Fact and Conclusions of Law in Melendres v. Arpaio and this Order, as well as a summary*

*and explanation of the same that is drafted by counsel for Plaintiffs or Defendants and reviewed by the Monitor or the Court; and*

- o. Instruction on the data collection protocols and reporting requirements of this Order, particularly reporting requirements for any contact with ICE/CBP.*

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

MCSO, the Monitor, and the parties conducted a very productive conference call on July 29, 2016 during which they reviewed the 2016 Annual Combined Lesson Plan line by line. This is the sort of beneficial, effective, collaborative effort about which the Court and the public should be aware. MCSO thanks the parties for their input and feedback during this call.

The lesson plan for the 2016 Annual Combined Training was approved after the Technical Assistance received by the Monitor in September 2016. MCSO thanks the Monitor for the guidance with regard to this Training. The Train the Trainer for the 2016 ACT was conducted on September 19, 2016. One week later, MCSO began offering this Training course on September 26, 2016. With the exception of employees on approved leave, all sworn compensated employees had attended the Training as of November 21, 2016.

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

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

***Phase 1 compliance is not applicable to Paragraph 52. Based on the Monitor's 9<sup>th</sup> Quarterly Report, MCSO is not in Phase 2 compliance with Paragraph 52.***

The most recent lesson plan for the "Supervisor Responsibilities: Effective Law Enforcement Training" course was sent to the Monitor on May 19, 2016. The Monitor observed and gave MCSO valuable feedback regarding the train the trainer which occurred on June 01, 2016 and June 02, 2016. The Monitor then gave MCSO the final approval on the lesson plan on June 07, 2016. MCSO began delivering the "Supervisor Responsibilities: Effective Law Enforcement Training" course on June 13, 2016, and delivered the concluding course on July 15, 2016. During that approximately one month time period, MCSO delivered the Training to *all* sworn supervisors, with the exception of only three supervisors. Two of the three supervisors that did



not attend are retiring by the end of 2016. The one remaining supervisor who did not attend was sick and was scheduled for the last offering of the course. The supervisor who could not attend the last scheduled course due to an illness did attend the course held on October 04-05, 2016 to the newly promoted supervisors. One sergeant who was newly promoted was unable to attend the course for an excusable reason. Therefore, that sergeant will attend the next offering of the course which is tentatively planned for April 2017.

MCSO understands that the “Supervisor Responsibilities: Effective Law Enforcement Training” lesson plan did not incorporate the requirements of paragraph 53, subparagraph “I” or subparagraph “H”. These subparagraphs address how supervisors should respond to the scene of a traffic stop for a complaint and how the supervisor should respond to and investigate allegations of deputy misconduct. The Honorable G. Murray Snow issued a Second Supplemental Order on July 20, 2016 which in part required MCSO to provide all Supervisors with 40 hours of Misconduct Training (Paragraph 177). These topics will be covered in detail in the stand alone Misconduct Training which is currently being developed by the Monitor Team. Please see the summary for Paragraph 177 for further information regarding this Training.

***Paragraph 53. The Supervisor-specific Training shall address or include, at a minimum:***

- a. techniques for effectively guiding and directing Deputies, and promoting effective and constitutional police practices in conformity with the Policies and Procedures in Paragraphs 18–34 and the Fourth and Fourteenth Amendment Training in Paragraphs 48–51;*
- b. how to conduct regular reviews of subordinates;*
- c. operation of Supervisory tools such as EIS;*
- d. evaluation of written reports, including how to identify conclusory, “canned,” or perfunctory language that is not supported by specific facts;*
- e. how to analyze collected traffic stop data, audio and visual recordings, and patrol data to look for warning signs or indicia of possible racial profiling or unlawful conduct;*
- f. how to plan significant operations and patrols to ensure that they are race-neutral and how to supervise Deputies engaged in such operations;*
- g. incorporating integrity-related data into COMSTAT reporting;*
- h. how to respond to calls from Deputies requesting permission to proceed with an investigation of an individual’s immigration status, including contacting ICE/CBP;*
- i. how to respond to the scene of a traffic stop when a civilian would like to make a complaint against a Deputy;*
- j. how to respond to and investigate allegations of Deputy misconduct generally;*

- k. *evaluating Deputy performance as part of the regular employee performance evaluation; and*
- l. *building community partnerships and guiding Deputies to do the Training for Personnel Conducting Misconduct Investigations.*

***Phase 1 compliance is not applicable to Paragraph 53. Based on the Monitor's 9<sup>th</sup> Quarterly Report, MCSO is not in Phase 2 compliance with Paragraph 53.***

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

## Section 6: Traffic Stop Documentation and Data Collection

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

Between July 01, 2016 and September 30, 2016, the BIO conducted three (3) traffic stop related inspections to comply with Paragraph 64 of the Court's Order. These inspections were for traffic stop data, consistent with Paragraphs 54-57, to ensure that MCSO: a) collected all traffic stop data to comply with MCSO Policy, EB-2, Traffic Stop Data Collection; b) accurately completed all forms; c) closed and validated all TraCS forms; d) used the correct CAD codes and sub codes; and e) supervisors reviewed and memorialized Incident Reports within guidelines. In the second quarter of 2016, the overall compliance rate for the quarter was 82.33%. During the 3<sup>rd</sup> Quarter of 2016 the overall compliance rate for the quarter was 80.38%. July's compliance rate was 89%, August's compliance rate was 75%, and September's compliance rate was 77.14%. With the implementation of body worn cameras, the AIU's inspection matrix increased beyond the scope of the Melendres Court Order or Court Monitors, giving some explanation for the decrease.

MCSO implemented a system that allows deputies to input traffic stop data electronically. As of March 31, 2016, MCSO installed all of the approximately one hundred-seventy-nine (179) marked patrol vehicles assigned to the Patrol Bureau with the electronic equipment, including the TraCS system, to capture the traffic stop data that Paragraph 54 requires, and issued a contact receipt to the vehicle occupants.

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

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

Table #4			
Summary of TraCS Changes			
Date	Entity	Issue	Resolution
09/27/2016	Vehicle Stop Contact	'Date Approved' was not being captured as a unique data element.	Date Approved, Time Approved and serial number of person approving the form are now captured as data elements.
09/27/2016	Tow Sheet	Phone number for E-Z towing was incorrect.	Corrected Phone Number.
09/27/2016	Tow Sheet	Address for Charity Towing and First Class Towing was incorrect.	Corrected address.
09/27/2016	Tow Sheet	Address for Ace Towing and Salvage – Southwest	Corrected address.

		was incorrect.	
09/27/2016	Tow Sheet	Information was missing when auto-populate was done from a citation.	Corrected auto-populate rule so all pertinent information from a citation is added to the Tow Sheet.
09/27/2016	Citation	Arrowhead Justice Court changed court day information for juveniles.	Help Text in the Citation form has been modified to show the correct days.

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

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

*was contacted, and if so, the facts supporting the inquiry or contact with ICE/CBP, the time Supervisor approval was sought, the time ICE/CBP was contacted, the time it took to complete the immigration status investigation or receive a response from ICE/CBP, and whether ICE/CBP ultimately took custody of the individual;*

- k. whether any individual was asked to consent to a search (and the response), whether a probable cause search was performed on any individual, or whether a pat-and-frisk search was performed on any individual;*
- l. whether any contraband or evidence was seized from any individual, and nature of the contraband or evidence; and*
- m. The final disposition of the stop, including whether a citation was issued or an arrest was made or a release was made without citation.*

***MCSO is in Phase 1 Compliance with this Paragraph.***

MCSO went from being in Phase 2 compliance with Paragraph 54 to being Not in Compliance. The reason MCSO fell out of compliance is due to not being in compliance with subsection k which involves documenting searches related to traffic stops.

While MCSO understands why the Monitor changed the compliance rating it believes that the public and Court should understand why, exactly, MCSO lost its in-compliance rating.

During the previous quarter (April 01 thru June 30, 2016), the Monitor reviewed 105 random traffic stops. Out of the one hundred and five (105) traffic stops, four (4) of the stops involved a search. In 3 of the stops, the Deputies accurately recorded the search on the vehicle stop contact form (VSCF); however, in one stop the deputy failed to document the search on the VSCF. The traffic stop where the search was not documented on the VSCF was a very positive interaction between a deputy and a male Latino driver.

Basically, the deputy stopped the driver and found he had a suspended license. The driver was cited and released and the vehicle was towed as Arizona State Law requires. The driver had explained to the deputy that he was on his way to work. The deputy went above and beyond to provide great customer service to the driver and offered to drive him to work so he would not have employment repercussions due to the traffic stop. The deputy was in no way required by policy to go above and beyond and complete this act of kindness.

Before providing the driver this additional assistance, the deputy completed a consent pat down of the driver for officer safety reasons before placing him in the back seat of his MCSO patrol vehicle. On the way to the driver's work, the Deputy and driver engaged in cordial conversation which is captured by the deputy's body worn camera. Once the Deputy arrived at the driver's work, he let him out of the MCSO patrol vehicle. The driver thanked the deputy and the contact was concluded. ***The irony is not lost that MCSO lost an in-compliance rating based on an***

*extremely positive contact with a Latino Driver because the Deputy went above and beyond to provide the violator with great customer service. The deputy simply made a human error and failed to document the search on the VSCF, during an incident in which he committed an act of human kindness when considered the impact that the traffic stop could have on the driver's employment situation.* Since only 4 searches were reviewed by the monitor this resulted in a 75% compliance rating for subsection K of Paragraph 54. The body worn camera video footage reveals the deputy's act of kindness which, in turn, resulted in MCSO's draconian loss of its in compliance rating.

MCSO will continue to provide monthly documentation to the Monitor to enable the Monitor to assess MCSO's compliance with Paragraph 54. MCSO will work hard to re-gain Phase 2 Compliance and, hopefully, not suffer injury due to a deputy's provision of stellar service to a member of the public, as in this instance.

***Paragraph 55.*** *MCSO shall assign a unique ID for each incident/stop so that any other documentation (e.g., citations, incident reports, tow forms) can be linked back to the stop.*

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

***Paragraph 56.*** *The traffic stop data collection system shall be subject to regular audits and quality control checks. MCSO shall develop a protocol for maintaining the integrity and accuracy of the traffic stop data, to be reviewed by the Monitor pursuant to the process described in Section IV.*

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

***Paragraph 57.*** *MCSO shall explore the possibility of relying on the CAD and/or MDT systems to check if all stops are being recorded and relying on on-person recording equipment to check whether Deputies are accurately reporting stop length. In addition, MCSO shall implement a system for Deputies to provide motorists with a copy of non-sensitive data recorded for each stop (such as a receipt) with instructions for how to report any inaccuracies the motorist believes are in the data, which can then be analyzed as part of any audit. The receipt will be provided to motorists even if the stop does not result in a citation or arrest.*

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

Phase 2 compliance is dependent on MCSO *"rectifying the verification of motorist receipts of the traffic stop, and utilizing the body-worn camera recordings in all districts to verify stop length."*

In January of 2016, body-worn cameras were deployed in District 1, District 2, District 3, District 7, SWAT Division, Enforcement Support, and the Anthem Deputies assigned to



District 4. Body-worn cameras were not deployed to personnel assigned to the Cave Creek substation at District 4 at that time.

The District 4 Cave Creek office did not have the connectivity infrastructure to support downloading the cameras at the end of each shift. Since November 2015, MCSO has been working with Qwest Communication to have the infrastructure updated at the District 4 Cave Creek Office. Qwest has not been able to update the infrastructure to provide the connectivity and bandwidth to download the cameras at the end of each shift. Similarly, the Lake Patrol Division lacks connectivity and bandwidth at the substation to download the cameras at the end of each shift. Clearly, the connectivity issue that MCSO encountered is one that only QWEST could remedy.

In May 2016, as a temporary measure, MCSO issued all personnel assigned to Cave Creek/District 4 and Lake Patrol with two (2) body-worn cameras each, until these technical obstacles can be resolved. In October 2016, however, the connectivity issue in District 4 was resolved. ***Therefore, as of May 16, 2016, all personnel required to utilize a body-worn camera have been issued cameras and they are in use office wide.***

On the issue of motorists, while MCSO attempts to verify that motorists received a receipt by obtaining a signature from the motorist, the body-worn camera video can also visually verify if a deputy provided the motorist a receipt. Going forward, as CID reviews the monthly traffic stop data prior to providing it to the Monitor, MCSO will provide body worn camera video for any stops for which a signed receipt is not available as proof of compliance. The body-worn camera video can be used to verify that the motorist received a receipt when a signature was not captured. This should allow MCSO to become Phase 2 Compliant with this Paragraph.

***Paragraph 58.*** *The MCSO shall ensure that all databases containing individual-specific data comply with federal and state privacy standards governing personally-identifiable information. MCSO shall develop a process to restrict database access to authorized, identified users who are accessing the information for a legitimate and identified purpose as defined by the Parties. If the Parties cannot agree, the Court shall make the determination.*

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

***Paragraph 59.*** *Notwithstanding the foregoing, the MCSO shall provide full access to the collected data to the Monitor and Plaintiffs' representatives, who shall keep any personal identifying information confidential. Every 180 days, MCSO shall provide the traffic stop data collected up to that date to the Monitor and Plaintiffs' representatives in electronic form. If proprietary software is necessary to view and analyze the data, MCSO shall provide a copy of the same. If the Monitor or the Parties wish to submit data with personal identifying information to the Court, they shall provide the personally identifying information under seal.*

***Phase 1 compliance for Paragraph 59 is not applicable. However, MCSO is in Phase 2***

**compliance with Paragraph 59.** MCSO will continue to provide any documents requested that the Monitor requests to enable the Monitor to assess MCSO's continued compliance with Paragraph 59.

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

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

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

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

**Paragraph 62.** *Deputies shall turn on any video and audio recording equipment as soon the decision to initiate the stop is made and continue recording through the end of the stop. MCSO shall repair or replace all non-functioning video or audio recording equipment, as necessary for reliable functioning. Deputies who fail to activate and to use their recording equipment according to MCSO policy or notify MCSO that their equipment is nonfunctioning within a reasonable time shall be subject to Discipline.*

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

For MCSO to achieve Phase 2 compliance with Paragraph 62, the Monitor has stated in the 9<sup>th</sup> Quarterly Report, "MCSO will not be in compliance with this Paragraph until the body-worn cameras are deployed and used in accordance with policy and the Order."

As of May 16, 2016, all personnel required to utilize a body-worn camera have been issued

cameras and they are in use office wide.

The Monitor report indicates that it reviewed 27 cases after body cameras were fully implemented and 23 of the cases were in compliance. This equates to an 85% compliance rate for the first month where body-cameras were fully implemented. The Monitor's 9<sup>th</sup> Quarterly Report indicated they expected some delay in compliance related to body-cameras by stating the following, "*Initially we expected some difficulty with deputies activating the equipment, as it will take some time for them to become accustomed to this new tool.*"

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

***Paragraph 63.*** *MCSO shall retain traffic stop written data for a minimum of 5 years after it is created, and shall retain in-car camera recordings for a minimum of 3 years unless a case involving the traffic stop remains under investigation by the MCSO or the Monitor, or is the subject of a Notice of Claim, civil litigation or criminal investigation, for a longer period, in which case the MCSO shall maintain such data or recordings for at least one year after the final disposition of the matter, including appeals. MCSO shall develop a formal policy, to be reviewed by the Monitor and the Parties pursuant to the process described in Section IV and subject to the District Court, to govern proper use of the on-person cameras; accountability measures to ensure compliance with the Court's orders, including mandatory activation of video cameras for traffic stops; review of the camera recordings; responses to public records requests in accordance with the Order and governing law; and privacy protections. The MCSO shall submit such proposed policy for review by the Monitor and Plaintiff's counsel within 60 days of the Court's issuance of an order approving the use of on-body cameras as set forth in this stipulation. The MCSO shall submit a request for funding to the Maricopa County Board of Supervisors within 45 days of the approval by the Court or the Monitor of such policy and the equipment and vendor(s) for such on-body cameras.*

Based on the Monitor's 9<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance.

The Monitor's 8<sup>th</sup> Quarterly Report stated, in pertinent part:

*"MCSO will achieve Phase 1 compliance with this Paragraph when the Body-Worn Camera Operational Manual is finalized, approved, and issued." And "Accordingly, MCSO will not be in Phase 2 compliance with this Paragraph until the retention requirements of the written traffic stop data are implemented, the body-worn camera recordings can be verified, and the Body-Worn Camera Operational Manual is approved."*

MCSO submitted the Body-Worn Camera Operational Manual to the Monitor on or about March 7, 2016. The Monitor provided comments to MCSO regarding Body-Worn Camera Operational Manual on April 14, 2016. MCSO incorporated the Monitor's comments into a second draft of the manual and submitted it to the Monitor on or about May 6, 2016. On July 12, 2016, the Monitor advised that the requested comments on the Body-Worn Camera Operation Manual had been adopted by MCSO and it was approved as long as it was not

affected by the updated to Policy GJ-35 (Body Worn Cameras). MCSO determined the operations manual did need to be updated with information from the updated GJ-35 Policy. MCSO resubmitted the Body Worn Camera Manual to the Monitor on July 27, 2016. MCSO received comments back from the Monitor on operations manual on August 23, 2016 and prepared the next draft for submission. MCSO provided the Monitor and parties a revised version of the operations manual on October 12, 2016. MCSO received Monitor approval to publish the Body-Worn Camera Operations Manual on November 06, 2016.

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

Based on the Monitor’s 9<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance with this paragraph.

The 9<sup>th</sup> Quarterly Report stated in pertinent part: *“To achieve Phase 1 compliance with this Paragraph, MCSO must develop a protocol for periodic analyses that is based on transparent, documented methodology to identify racial profiling or other biased-based policing. A protocol required by this Paragraph must also include documentation of thresholds, as well as the means to memorialize changes to them over time. To achieve Phase 2 compliance with this Paragraph, MCSO must use 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 in the monthly, quarterly, and annual analyses required by the Order.”*

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

During April 2016 Monitor Site visit, MCSO asked the Monitor Team to provide recommendations to MCSO regarding how to establish benchmarks and identify methodology for compliance with traffic stop analysis with this Order. MCSO drafted Implementation Plan 1.0 that delineated all eleven (11) benchmarks with projected deliverable timelines for each benchmark and stage. In May 2016, the Monitor provided us the methodology for 6 of the benchmarks for the monthly analysis. MCSO working with ASU began building SPSS Syntax for 6 benchmarks that was defined. During that process, MCSO needed additional clarification from the Monitor for several of the benchmarks.

During the July Monitor Site Visit all the remaining benchmarks and the methodology revolving around them was discussed. MCSO began submitting proposed methodology for each of the

outstanding benchmarks to Monitor Team following the July Monitor Site Visit. As a result of a technical assistance visit from the Monitor in August 2016, MCSO, the Monitor, and ASU formulated appropriate methodology for addressing the remaining benchmarks. As a result of the discussions, the methodology required changes to the SPSS Syntax as well as the way data was collected and defined.

MCSO made formal submissions to the Monitor detailing the proposed changes that were discussed during the technical assistance. The Monitor Team has since approved all of these proposed changes. Moreover, MCSO has been working to implement the modifications so the benchmarks can be appropriately analyzed. As these proposed changes are implemented, MCSO will have a clearly defined rule based system for the benchmarks defined in the Court Order. The proposed changes include defining what a minor and non-minor traffic offense, the difference between an extended and non-extended traffic stop.

Throughout this process, MCSO has begun drafting an operations manual to incorporate documentation of the thresholds and memorialize any changes to them over time. The operations manual remains in draft form pending the finalization of the EIS Policy (GH-5) and the full implementation of the benchmarks.

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

***Paragraph 65.** MCSO shall designate a group with the MCSO Implementation Unit, or other MCSO Personnel working under the supervision of a Lieutenant or higher-ranked officer, to analyze the collected data on a monthly, quarterly and annual basis, and report their findings to the Monitor and the Parties. This review group shall analyze the data to look for possible individual-level, unit-level or systemic problems. Review group members shall not review or analyze collected traffic stop data or collected patrol data relating to their own activities.*

Based on the Monitor's 9<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 compliance or Phase 2 compliance with this paragraph.

The Monitor's 9<sup>th</sup> quarterly report indicates: "*MCSO will achieve Phase 1 compliance with Paragraph 65 once the revised GH-5 policy is approved – and then only after MCSO has trained to this updated policy. MCSO will achieve Phase 2 compliance with this Paragraph after successful implementation of the policy and the sustained organization of EIU.*"

Originally, the EIS Training was to be combined with the Supervisor Training mandated by Paragraphs 52 and 53. The EIS Training has been separated from the Supervisor Training and will be delivered as stand-alone training. MCSO submitted a second version of the EIS Training on or about February 18, 2016. MCSO received the Monitor's comments on the Training on or about March 25, 2016. MCSO, the Monitor, and the Parties participated in a conference call on March 31, 2016 to attempt to resolve any issues arising from the Monitor's comments. MCSO sent the third version of the EIS Training to the Monitor on April 23, 2016. MCSO received comments from the Monitor and Parties on June 13, 2016. MCSO discussed the lesson plan during the Monitor's July 2016 Site Visit along with the expansion of this Training to incorporate instruction to supervisors on the methodology to use when interpreting and analyzing



the new monthly and quarterly traffic stop data. It should be noted that this Training is dependent on the approval and finalization of Policy GH-5 (Early Identification System).

The original MCSO Policy GH-5 (Early Identification System) was approved on August 26, 2015 and published on November 18, 2015. MCSO discussed the revised version of the EIS Policy (GH-5) with the Monitor during site visits and technical visits. It submitted a draft to the Monitor and parties on August 18, 2016. On October 05, 2016, MCSO received the EIS Policy back with combined comments. MCSO participated in a conference call with the Monitor and parties to discuss this version of the EIS Policy on October 27, 2016. MCSO revised the EIS Policy based on the comments received and information discussed during the conference call and submitted it to the Monitor and parties for review on November 30, 2016. MCSO looks forward to receiving approval soon, so it can publish this vital policy.

***Paragraph 66.*** *MCSO shall conduct one agency-wide comprehensive analysis of the data per year, which shall incorporate analytical benchmarks previously reviewed by the Monitor pursuant to the process described in Section IV. The benchmarks may be derived from the EIS or IA-PRO system, subject to Monitor approval. The MCSO may hire or contract with an outside entity to conduct this analysis. The yearly comprehensive analysis shall be made available to the public and at no cost to the Monitor and Plaintiffs.*

***Based on the Monitor's 9<sup>th</sup> Quarterly Report, MCSO is in Phase 1 compliance.***

In July 2016, MCSO began compiling individual deputy reports for the Annual Analysis ASU completes for time period between July 1, 2014 and June 30, 2015. These reports came to be known as the TSAR reports (Traffic Stop Analysis Reports). In an effort to disseminate the analysis results to supervisory staff, with the intent to expeditiously provide the results to supervisors especially to address deputies identified as outliers, these reports were sent out with an instruction guide via the Blue Team Application. The results and responses of these reports by supervisory staff were inadequate and sometimes unacceptable. After discussions with the Monitor Team and parties, a process for readdressing the shortcomings is being developed. At the same time, ASU has since published a draft annual report for the data year July 1, 2015 through June 30, 2016 which has also been provided to the Monitor and parties. MCSO continues to work with the Monitor, ASU, and the parties through the technical assistance process to readdress the first annual report responses and establish protocols for addressing the second annual report results. The second annual report is scheduled to be completed by ASU by December 31, 2016.

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

***Paragraph 67.*** *In this context, warning signs or indicia of possible racial profiling or other misconduct include, but are not limited to:*

- a. racial and ethnic disparities in deputies', units' or the agency's traffic stop patterns, including disparities or increases in stops for minor traffic violations, arrests following a traffic stop, and immigration status inquiries, that cannot be explained by statistical modeling of race neutral factors or characteristics of deputies' duties, or*



- racial or ethnic disparities in traffic stop patterns when compared with data of deputies' peers;*
- b. evidence of extended traffic stops or increased inquiries/investigations where investigations involve a Latino driver or passengers;*
  - c. a citation rate for traffic stops that is an outlier when compared to data of a Deputy's peers, or a low rate of seizure of contraband or arrests following searches and investigations;*
  - d. indications that deputies, units or the agency is not complying with the data collection requirements of this Order; and*
  - e. other indications of racial or ethnic bias in the exercise of official duties.*

**MCSO is in Phase 1 compliance with Paragraph 67.** According to the Monitor's 9<sup>th</sup> Quarterly Report, MCSO is not in phase 2 compliance with Paragraph 67.

The Monitor's 9<sup>th</sup> Quarterly Report indicated: *"To achieve Phase 2 compliance with this Paragraph, MCSO must establish and utilize benchmarks and thresholds that are not arbitrary or static, but instead are statistically based, reflect local area variation in traffic stop behavior, and are subject to Monitor approval pursuant to the process described in Section IV of the Order. Therefore, MCSO is not in Phase 2 compliance with this Paragraph."*

During April 2016 Monitor Site visit, MCSO asked the Monitor Team to provide recommendations to MCSO regarding how to establish benchmarks and identify methodology for compliance with traffic stop analysis with this Order. MCSO drafted Implementation Plan 1.0 that delineated all eleven (11) benchmarks with projected deliverable timelines for each benchmark and stage. In May 2016, the Monitor provided us the methodology for 6 of the benchmarks for the monthly analysis. MCSO working with ASU began building SPSS Syntax for 6 benchmarks that was defined. During that process, MCSO needed additional clarification from the Monitor for several of the benchmarks.

During the July Monitor Site Visit all the remaining benchmarks and the methodology revolving around them was discussed. MCSO began submitting proposed methodology for each of the outstanding benchmarks to Monitor Team following the July Monitor Site Visit. As a result of a technical assistance visit from the Monitor in August 2016, MCSO, the Monitor, and ASU formulated appropriately methodology for addressing the remaining benchmarks. As a result of the discussions, the methodology required changes to the SPSS Syntax as well as the way data was collected and defined. MCSO made formal submissions to the Monitor detailing the proposed changes that were discussed during the technical assistance. All of these changes have since been approved by the Monitor Team, and MCSO has been working to implement the modifications so the benchmarks can be appropriately analyzed. As these proposed changes are implemented, MCSO will have a clearly defined rule based system for the benchmarks defined in the Court Order. The proposed changes include defining what a minor and non-minor traffic offense, the difference between an extended and non-extended traffic stop.

MCSO continues to work towards achieving Phase 2 compliance.

**Paragraph 68.** *When reviewing collected patrol data, MCSO shall examine at least the following:*

- a. *the justification for the Significant Operation, the process for site selection, and the procedures followed during the planning and implementation of the Significant Operation;*
- b. *the effectiveness of the Significant Operation as measured against the specific operational objectives for the Significant Operation, including a review of crime data before and after the operation;*
- c. *the tactics employed during the Significant Operation and whether they yielded the desired results;*
- d. *the number and rate of stops, Investigatory Detentions and arrests, and the documented reasons supporting those stops, detentions and arrests, overall and broken down by Deputy, geographic area, and the actual or perceived race and/or ethnicity and the surname information captured or provided by the persons stopped, detained or arrested;*
- e. *the resource needs and allocation during the Significant Operation;*  
*and*
- f. *any Complaints lodged against MCSO Personnel following a Significant Operation.*

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

**Paragraph 69.** *In addition to the agency-wide analysis of collected traffic stop and patrol data, MCSO Supervisors shall also conduct a review of the collected data for the Deputies under his or her command on a monthly basis to determine whether there are warning signs or indicia of possible racial profiling, unlawful detentions and arrests, or improper enforcement of Immigration-Related Laws by a Deputy. Each Supervisor will also report his or her conclusions based on such review on a monthly basis to a designated commander in the MCSO Implementation Unit.*

Based on the Monitor's 9<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance with this paragraph.

The 9<sup>th</sup> Quarterly Report stated Phase 1 Compliance is dependent on MCSO delivering Training on Policy GH-5 (Early Intervention System). MCSO cannot deliver this training until the Monitor approves Policy GH-5. Please see Paragraph 65 for a complete status on the EIS Policy and Training.

***Paragraph 70.** If any one of the foregoing reviews and analyses of the traffic stop data indicates that a particular Deputy or unit may be engaging in racial profiling, unlawful searches or seizures, or unlawful immigration enforcement, or that there may be systemic problems regarding any of the foregoing, MCSO shall take reasonable steps to investigate and closely monitor the situation. Interventions may include but are not limited to counseling, Training, Supervisor ride-alongs, ordering changes in practice or procedure, changing duty assignments, Discipline, or of other supervised, monitored, and documented action plans and strategies designed to modify activity. If the MCSO or the Monitor concludes that systemic problems of racial profiling, unlawful searches or seizures, or unlawful immigration enforcement exist, the MCSO shall take appropriate steps at the agency level, in addition to initiating corrective and/or disciplinary measures against the appropriate Supervisor(s) or Command Staff. All interventions shall be documented in writing.*

Based on the Monitor's 9<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance with this paragraph.

The 9<sup>th</sup> Quarterly Report stated Phase 1 Compliance is dependent on MCSO delivering Training on Policy GH-5 (Early Intervention System). MCSO cannot deliver this training until the Monitor approves. Please see Paragraph 65 for a complete status on the EIS Policy and Training.

***Paragraph 71.** In addition to the underlying collected data, the Monitor and Plaintiffs' representatives shall have access to the results of all Supervisor and agency level reviews of the traffic stop and patrol data.*

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

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

## Section 7: Early Identification System (EIS)

### **General Comment regarding BIO and Bio Inspections**

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

These general comments represent the Bureau of Internal Oversight (BIO) inspection activities for the time period of July through September 2016. The BIO completed 34 inspection reports broken down as follows:

- Three (3) CAD and Alpha Paging Inspections.
- Three (3) Patrol Shift Roster Inspections.
- Three (3) Traffic Stop Data Collection Inspections.
- Three (3) District/Division Facility/Property and Evidence Inspections.
- Three (3) County Attorney Disposition Inspections.
- Three (3) Employee Email Inspections.
- Nine (9) Supervisory Note Inspections for sworn, detention, and civilian staff.
- Three (3) TraCS Traffic Stop Review Inspections for sworn staff.
- Two (2) TraCS Traffic Stop Discussed Inspections for sworn staff
- Two (2) quarterly Bias Free Reinforcement Inspections.

The following paragraphs represent compliance rates and brief progress assessments for the inspections through the 2nd quarter of 2016.

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

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

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

Traffic Stop Data Collection Inspection: The Monitor team chose a random sample of traffic stops. Between July 01, 2016 and September 30, 2016, the BIO conducted three (3) traffic stop related inspections to comply with Paragraph 64 of the Court's Order. These inspections were for traffic stop data, consistent with Paragraphs 54-57, to ensure that MCSO: a) collected all

traffic stop data to comply with MCSO Policy, EB-2, Traffic Stop Data Collection; b) accurately completed all forms; c) closed and validated all TraCS forms; d) used the correct CAD codes and sub codes; and e) supervisors reviewed and memorialized Incident Reports within guidelines. In the second quarter of 2016, the overall compliance rate for the quarter was 82.33%. During the 3<sup>rd</sup> Quarter of 2016 the overall compliance rate for the quarter was 80.38%. July's compliance rate was 89%, August's compliance rate was 75%, and September's compliance rate was 77.14%. With the implementation of body worn cameras, the AIU's inspection matrix increased beyond the scope of the Melendres Court Order or Court Monitors, giving some explanation for the decrease.

County Attorney Dispositions: The purpose of this inspection is to determine County Attorney turndowns are processed in compliance with Office policy and are in support of the Melendres Order. To achieve this, inspectors utilized "IAPro" to generate all turndowns processed within a specific month. The turndowns were uniformly inspected utilizing the Records Division "FileBound" database and the matrix that BIO developed in accordance with Policies GF-4 and ED-3, and Court Order Paragraph 75. MCSO continued to maintain a high compliance rate for this inspection since the first inspection conducted in January of 2015. ***The average compliance rate for the third quarter of 2016 was 100%. All three months within the quarter resulted in 100% compliance.***

Employee Email Inspection:

The purpose of this inspection is to determine employee email accounts are utilized in compliance with Office Policy and in support of the Melendres Order. To achieve this, inspectors reviewed a random sample of county email accounts for 35 Office employees during the month inspected. The AIU continued to inspect employee email accounts to ensure content was in compliance with Policy. The compliance rates were 99.98% in July, 99.91% in August, and 100% in September. The average compliance rate for the third quarter of 2016 was 99.96%. ***The inspection rates for e-mails have remained consistently high.***

Supervisory Notes Inspection:

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

Supervisory Notes-Detention:

***The average compliance rate for the quarter was 93.33%; 94% in July, 96% in August, and 90% in September of 2016. MCSO detention staff continued to maintain compliance rates averaging in the mid-90th percentile range during the second and third quarter of 2016.***

Supervisory Notes-Civilian:

***The average compliance rate for the quarter was 97.14%; 100% in both July and August, and 91.43% in September. MCSO civilian staff inspections reflected improved compliance rates for the third consecutive quarter in 2016 totaling a 6.54% increase.***

Supervisory Note-Sworn (Patrol):

*The average compliance rate for the quarter was 89.58%; 96% in July, 98.99% in August, and 73.74% in September. MCSO sworn staff inspections reflected a decrease in compliance of 4.08% from the second quarter. Efforts are underway to determine the reason for the decrease in compliance.*

District Operations Inspection:

The purpose of this inspection is to determine MCSO facilities and retained property are managed and maintained in compliance with Office policy and in support of the Melendres Order. To achieve this, inspectors conducted sight visits to randomly selected districts/divisions and utilized the Facility Inspection Checklist, containing 31 points of inspection, to evaluate facility operations and the processing of retained property. An average compliance rate for the quarter was 99.67%; 100% in July (Inmate Medical Services (IMS) Division), 99% in August (District 6), and 100% in September (Estrella Jail). ***An average compliance rate for the quarter was 99.67%.***

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

<b>Table 5</b>				
<b>2016 INSPECTIONS</b>	<b>July</b>	<b>August</b>	<b>September</b>	<b>Overall Compliance Rate</b>
<b>CAD/Alpha Paging</b>	100%	100%	100%	<b>100.00%</b>
<b>Patrol Shift Rosters</b>	100%	99.37%	99.73%	<b>99.70%</b>
<b>Traffic Stop Data Collection</b>	89%	75%	77.14%	<b>80.38%</b>
<b>County Attorney Dispositions</b>	100%	100%	100%	<b>100%</b>
<b>Employee Email</b>	99.98%	99.91%	100%	<b>99.96%</b>
<b>Supervisory Notes-Detention</b>	94%	96%	90%	<b>93.33%</b>
<b>Supervisory Notes-Civilian</b>	100%	100%	91.43%	<b>97.14%</b>
<b>Supervisory Note-Sworn</b>	96%	98.99%	73.74%	<b>89.58%</b>
<b>Facility/Property and Evidence</b>	100%	99%	100%	<b>99.67%</b>
<b>Quarterly Bias Free Reinforcement-Detention</b>	N/A	N/A	91.43%	<b>91.43%</b>
<b>Quarterly Bias Free Reinforcement-Sworn</b>	N/A	N/A	100%	<b>100%</b>



<b>TraCS Traffic Stop Review</b>	84.33%	93.94%	93.76%	<b>90.68%</b>
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### General Comments regarding EIS

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

During this reporting period, the IA Pro system triggered 744 alerts:

The EIU forwarded 201 alerts to supervisors for further review. 194 of these alerts were completed and 6 alerts remain open.

The EIU processed and quality-assured the following:

Award Recipient – 13  
 Briefing Notes – 1,149  
 Commendations – 254  
 County Attorney Actions – 578  
 Critical Incident – 1  
 Employee Reported Activity - 130  
 Firearms Discharge – 2  
 Forced Entry – 4  
 Higher Award Commendation – 9  
 IR Memorialization – 9  
 Line Level Inspection – 516  
 Minor Award Nomination - 6  
 Notices of Claim / Law Suits / Summons – 20  
 Other Tracked Behavior – 1,358  
 Supervisor Notes – 16,700  
 Unscheduled Absence FMLA – 117  
 Unscheduled Absence NON-FMLA – 1,420  
 Use of Force – 116  
 Vehicle Accident – 25

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

Based on the Monitor's 9<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance with this paragraph. To achieve Phase 1 Compliance, MCSO must deliver Training on Policy GH-5, Early Intervention System.

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

The original MCSO Policy GH-5 (Early Identification System) was approved and published on August 26, 2015 and published on November 18, 2015. MCSO discussed the revised version of the EIS Policy (GH-5) with the Monitor during site visits and technical visits. It submitted a draft to the Monitor and parties on August 18, 2016. On October 05, 2016, MCSO received the EIS Policy back with combined comments. MCSO participated in a conference call with the Monitor and parties to discuss this version of the EIS Policy on October 27, 2016. MCSO revised the EIS Policy based on the comments received and information discussed during the conference call and submitted to the Monitor and parties for review on November 30, 2016. MCSO looks forward to receiving approval so it can publish this vital policy.

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

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

***Paragraph 73.*** *Within 180 days of the Effective Date, MCSO shall either create a unit, which shall include at least one full-time-equivalent qualified information technology specialist, or otherwise expand the already existing role of the MCSO information technology specialist to facilitate the development, implementation, and maintenance of the EIS. MCSO shall ensure that there is sufficient additional staff to facilitate EIS data input and provide Training and assistance to EIS users. This unit may be housed within Internal Affairs ("IA").*

Based on the Monitor's 9<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 compliance.

The 9th Quarterly Report stated Phase 1 Compliance is dependent on MCSO delivering Training on Policy GH-5 (Early Intervention System). MCSO cannot deliver this training until the Monitor approves Policy GH-5. Please see Paragraph 72 for a complete status on the EIS Policy and Training.

Phase 2 Compliance with this Paragraph is deferred.

**Paragraph 74.** *MCSO shall develop and implement a protocol setting out the fields for historical data, deadlines for inputting data related to current and new information, and the individuals responsible for capturing and inputting data.*

Based on the Monitor's 9<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance with this paragraph.

The 9th Quarterly Report stated that Phase 1 Compliance is dependent on MCSO delivering Training on Policy GH-5 (Early Intervention System). MCSO cannot deliver this training until the Monitor approves Policy GH-5. Please see Paragraph 72 for a complete status on the EIS Policy and Training.

MCSO is committed to gaining full and effective compliance with this paragraph and continues to accept guidance from the Monitor on items that MCSO must accomplish to gain Phase 2 Compliance with this Paragraph.

**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.*

The 9th Quarterly Report stated that Phase 1 Compliance is dependent on MCSO's delivering training on Policy GH-5 (Early Intervention System). MCSO cannot deliver this training until the Monitor approves Policy GH-. Please see Paragraph 72 for a complete status on the EIS Policy and Training.

MCSO submitted Policy GC-13, Awards to the Monitor on May 25, 2016 in an attempt to gain compliance with subparagraph "L" of this paragraph. Subparagraph "L" states, "All awards and commendations received by employees" must be maintained in the EIS. The Monitor returned the policy to MCSO with comments on June 23, 2016. MCSO and the Monitor further discussed the Policy during the July 2016 site visit and the Monitor gave MCSO approval to publish the Policy. Policy GC-13, Awards was published on August 27, 2016.

On November 08, 2016, the EIPro update was applied making EIPro a searchable "relational database." This update allows supervisors the ability to search the EIS for data pertaining to 7 of the subparagraphs where the data is being manually entered into EIS. This function was communicated to MCSO personnel with the publication of Administrative Broadcast 16-113 on November 07, 2016. MCSO looks forward to demonstrating this functionality of the EIPro update at the next Monitor Site Visit. The five (5) remaining subsections of this paragraph are in

development by MCSO Technology and CI Technologies.

MCSO drafted Implementation Plan 3.0 which delineated all of subparagraph of Paragraph 75 along with target dates of completion. This implementation plan has been provided to the Monitor and parties. MCSO continues to make great strides towards compliance with this paragraph.

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

***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).*

***MCSO is in Phase 1 Compliance.***

According to the Monitor's 9<sup>th</sup> Quarterly report, MCSO is not in Phase 2 compliance with Paragraph 76.

The Monitor's 9<sup>th</sup> Quarterly Report noted the following regarding this Paragraph:

*“This Paragraph outlines the minimum requirements of the database to ensure that bias and profiling do not go unnoticed. The policy modifications proposed adequately reference each of the Subparagraphs. 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.”*

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

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

**Paragraph 77.** *MCSO shall maintain computer hardware, including servers, terminals and other necessary equipment, in sufficient amount and in good working order to permit personnel, including Supervisors and commanders, ready and secure access to the EIS system to permit timely input and review of EIS data as necessary to comply with the requirements of this Order.*

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

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

**Paragraph 78.** *MCSO shall maintain all personally identifiable information about a Deputy included in the EIS for at least five years following the Deputy's separation from the agency. Information necessary for aggregate statistical analysis will be maintained indefinitely in the EIS. On an ongoing basis, MCSO shall enter information into the EIS in a timely, accurate, and complete manner, and shall maintain the data in a secure and confidential manner. No individual within MCSO shall have access to individually identifiable information that is maintained only within EIS and is about a deputy not within that individual's direct command, except as necessary for investigative, technological, or auditing purposes.*

Based on the Monitor's 9<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance.

The 9th Quarterly Report stated that Phase 1 Compliance is dependent on MCSO delivering training on Policy GH-5 (Early Intervention System). MCSO cannot deliver this training until the Monitor approves Policy GH-5. Please see Paragraph 72 for a complete status on the EIS Policy and Training.

The Monitor's 8<sup>th</sup> Quarterly Report stated, "*Finally, until such time as applicable Supervisory Training is delivered, MCSO will not be in compliance with this Paragraph.*" **Although this requirement is missing from the Monitor's 9<sup>th</sup> Quarterly Report, MCSO wishes to point out that as highlighted in Paragraph 52, the Supervisor Training has been delivered.**

**Paragraph 79.** *The EIS computer program and computer hardware will be operational, fully implemented, and be used in accordance with policies and protocols that incorporate the requirements of this Order within one year of the Effective Date. Prior to full implementation of the new EIS, MCSO will continue to use existing databases and resources to the fullest extent possible, to identify patterns of conduct by employees or groups of Deputies.*

Based on the Monitor's 9<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance.

The 9th Quarterly Report stated that Phase 1 Compliance is dependent on MCSO delivering Training on Policy GH-5 (Early Intervention System). MCSO cannot deliver this training until the Monitor approves Policy GH-5. Please see Paragraph 72 for a complete status on the EIS



Policy and Training.

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

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

Based on the Monitor's 9<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance with this paragraph.

In order to achieve Phase 1 Compliance, MCSO must deliver Training on Policy GH-5, Early Intervention System. For details on the status of the EIS Training, please refer to comments with regard to Paragraph 72 of this section.

During the last quarter, supervisors now have the ability to view details on closed internal and external complaints. MCSO continues to work on a solution to allow supervisors to view limited details related to open internal and external complaints. MCSO provided the Monitor and parties proposed methodology to allow supervisors to review limited detail on internal and external complaints on September 26, 2016. The monitor approved the methodology on October 05, 2016. As of November 22, 2016, supervisors can now review limited detail on internal and external complaints.

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

- a. comparative data analysis, including peer group analysis, to identify patterns of activity by individual Deputies and groups of Deputies;
- b. identification of warning signs or other indicia of possible misconduct, including, but not necessarily limited, to:
  - i. failure to follow any of the documentation requirements mandated

*pursuant to this Order;*

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

*incidents in any category of information recorded in the EIS;*

- g. a process for prompt review by MCSO commanders and Supervisors of the EIS records of all Deputies upon transfer to their supervision or command;*
- h. an evaluation of whether MCSO commanders and Supervisors are appropriately using the EIS to enhance effective and ethical policing and reduce risk; and*
- i. mechanisms to ensure monitored and secure access to the EIS to ensure the integrity, proper use, and appropriate confidentiality of the data.*

Based on the Monitor's 9<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance with this paragraph.

In order to achieve Phase 1 Compliance, MCSO must deliver Training on Policy GH-5, Early Intervention System, something it cannot do until the Monitor approves Policy GH-5. For details on the status of the EIS Training, please refer to comments with regard to Paragraph 72 of this section.

During the last quarter, details on closed internal and external complaints are now viewable by supervisors. MCSO continues to work on a solution to allow supervisors to view limited details related to open internal and external complaints. MCSO provided the Monitor and parties proposed methodology to allow supervisors to review limited detail on internal and external complaints on September 26, 2016. The monitor approved the methodology on October 05, 2016. As of November 22, 2016, supervisors can now review limited detail on internal and external complaints.

We will continue to work with the Monitor to gain compliance with this Paragraph.

## Section 8: Supervision and Evaluation of Officer Performance

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

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

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

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

The Monitor indicated in the 9<sup>th</sup> Quarterly Report, "*We also inquired as to the implementation of a radio code to note when a supervisor responds to or actively engages with a community member who has made a complaint. We were advised that such a code is possible but would need to be part of the third phase enhancements due to the high number of projects currently being worked on.*"

Based on the Monitor's request, MCSO has created a code to capture and document instances when a "supervisor responds to or actively engages with a community member who has made a complaint." This code was added to the CAD system and pushed to users on August 23, 2016.

The Monitor Report stated, "*MCSO is also working on providing documentation of supervisory reviews of vehicle crash reports. The solution will include a spreadsheet showing vehicle crash reports by event number, and the date and time when the supervisor reviewed and approved the report.*"

Beginning in the Second Quarter of 2016, MCSO implemented a system for providing documentation of supervisory reviews of vehicle crash reports. Specifically, the monthly productions that started in May of 2016 include a spreadsheet providing documentation of

supervisory reviews of crash reports.

The Monitor's 9<sup>th</sup> Quarter Report indicated, *"MCSO advised us of an apparent communication delay between the Computer Aided Dispatch (CAD) system and the Patrol Activity Logs. We were advised that the communication issue creates discrepancies between CAD and PALs. MCSO is aware of this problem. We also understand that MCSO is working to correct the 24-hour clock glitch that is affecting the Patrol Activity Logs."*

The above documented communication delay is known to MCSO IT and is estimated to cause a maximum of four hour delay in some instances. The PAL program was not intended to be a live feed program as MCSO supervisory personnel have other resources they can access if they need real time information. The PAL is more geared to provide a summary of activities during previous shifts. Since the requirement for review by supervisors is seven (7) days after completion of the shift, the four (4) hour delay should not affect compliance with Paragraph 83. The "communication issues" do not create discrepancies between CAD and PAL; rather, the delay will result in missing the latter portions of the shift, if the supervisor attempts to view the PAL shortly after the deputy completes their shift.

MCSO recognized the 24-hour clock glitch and created programming that it implemented on October 18, 2016. Thus, MCSO considers the 24-hour glitch remedied.

MCSO notes a significant decrease in the need for first line supervisors to routinely come in to work on their days off and on overtime to complete administrative tasks. This appears to be a direct result of the implementation of the "4 - 10 hour day schedule" which resulted in more patrol sergeants assigned to the Patrol Bureau and smaller spans of control.

The Monitor's 9<sup>th</sup> Quarterly Report stated, *"In our discussions on the topic of training, both the Commanding Officer and the lieutenant suggested that it would be beneficial for newly promoted supervisors to have supervision training before they are assigned to the field. We concur. The District 4 commander interviewed also believes that supervisors are on "overload." He also stated that the 4/10 shift configuration has helped relieve some of the work overload. One fact we learned during our site visits is that there are no commanding officers on duty, on weekends during daytime hours. The highest-ranking employees on Saturdays and Sundays, during the day, are sergeants. This is a situation that MCSO may wish to address in the near future."*

MCSO previously implemented training for newly promoted supervisors to have supervision training before they are assigned to the field. In addition to newly promoted supervisors, MCSO has required all supervisors to attend a 20 hour class covering topics related to supervisor duties and leadership. The 2016 supervisor training was completed on July 15, 2016 with the exception of three individuals, two of which are retiring by the end of 2016. The remaining individual completed the Supervisor Training with the class of newly promoted supervisors on October 5, 2016.

MCSO addressed this issue of Sergeants being the highest ranking individuals during the day

on Saturday and Sunday by assigning additional lieutenants to the patrol bureau on September 26, 2016. MCSO now ensures that the Patrol Bureau has a lieutenant on duty seven (7) days a week.

The Monitor has indicated a desire for the patrol deputies to enter more information about their community policing efforts. As a result, MCSO command staff has asked District Captains and Lieutenants to brief their Sergeants and Deputies with the instruction to start providing more information on these call incident types. CID also has discussed this requirement when visiting districts as part of Captain Aldorasi's CID Liaison Program, which is described in more detail in the introduction of this report. MCSO plans to publish an administrative broadcast instructing line level deputies of this requirement directly. MCSO command staff will continue to monitor this issue.

MCSO continues to take community policing and community outreach seriously. Please see the Community Outreach Section for further information on this topic.

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

***Paragraph 84.** Within 120 days of the Effective Date, all patrol Deputies shall be assigned to a single, consistent, clearly identified Supervisor. First-line field Supervisors shall be assigned to supervise no more than twelve Deputies.*

**MCSO is in Phase 1 and Phase 2 compliance with Paragraph 83.**

MCSO provide the Monitor with requested documents related to Paragraph 83 to enable the Monitor to assess MCSO's continued compliance.

MCSO also acknowledges that Paragraph 266 of the Second Supplemental Order modifies the span of control set forth in this paragraph.

***Paragraph 85.** First-line field Supervisors shall be required to discuss individually the stops made by each Deputy they supervise with the respective Deputies no less than one time per month in order to ensure compliance with this Order. This discussion should include, at a minimum, whether the Deputy detained any individuals stopped during the preceding month, the reason for any such detention, and a discussion of any stops that at any point involved any immigration issues.*

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

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



In the 9<sup>th</sup> Quarterly Report, the Monitor wrote the following about this new process in summary for Paragraph 69:

*[MCSO also began using the “Review” and “Discuss” fields in TraCS in June 2016. During our February and April 2016 site visits, we discussed these fields in detail. 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 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. We have begun discussions with BIO regarding the potential development of a monthly audit of these new TraCS fields.]*

MCSO believes that proof of Phase 2 Compliance with this paragraph will become more attainable as patrol supervisors become familiar with the proper use of the “Review” and “Discuss” fields in the TraCS.

**Paragraph 86.** *On-duty field Supervisors shall be available throughout their shift to provide adequate on-scene field supervision to Deputies under their direct command and, as needed, to provide Supervisory assistance to other units. Supervisors shall be assigned to and shall actually work the same days and hours as the Deputies they are assigned to supervise, absent exceptional circumstances.*

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

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

The Monitor’s 9<sup>th</sup> Quarterly Report indicated the following about this Paragraph:

*MCSO instituted the first phase of the roll-out of Patrol Activity Logs (PALs) in June. Patrol Activity Logs will assist us in evaluating compliance with several Paragraphs of this Order. We have requested that MCSO designate a radio code to indicate, on the PAL face sheet, when supervisors make field contacts*

*with deputies. This type of code would partly corroborate on scene supervision, as required by this Paragraph. As noted in our review of Paragraph 84 compliance, there were four days in this quarter where one District did not have a supervisor on duty. In addition, MCSO has not yet implemented a solution to memorialize supervisory reviews of Patrol Activity Logs.*

Based on the Monitor request, MCSO has created a code to capture and document instances when a “supervisor responds to or actively engages with a community member who has made a complaint.” MCSO added this code to the CAD system and provided it to users on August 23, 2016.

MCSO also recognized an issue with the viewing of PAL reports that spanned over 2 calendar days (i.e. Nightshift) which required the sergeant to look at two separate PAL reports to review the activity from one night shift. MCSO Technology fixed this issue on October 18, 2016. MCSO considers what has been described as “the 24-hour glitch” remedied.

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

***Paragraph 87.*** *MCSO shall hold Commanders and Supervisors directly accountable for the quality and effectiveness of their supervision, including whether commanders and Supervisors identify and effectively respond to misconduct, as part of their performance evaluations and through non-disciplinary corrective action, or through the initiation of formal investigation and the disciplinary process, as appropriate.*

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

With the assistance of the Monitor along with contributions from the parties, MCSO continues to move closer to publishing MCSO Policy GC-4 (Employee Performance Appraisals) and deliver Training to supervisors covering the requirements of GC-4.

MCSO sent the first version of Policy GC-4, (Employee Performance Appraisals) to the Monitor for review on or about August 13, 2015. Thereafter, the Monitor and parties made suggestions and revisions. MCSO then sent the second version of Policy GC-4 to the Monitor and parties for review on or about January 26, 2016. As a result, the Monitor and parties made additional suggestions and revisions. MCSO met with the Monitor in February 2016 to discuss suggestions regarding the employee performance appraisal form. MCSO sent the third version of Policy GC-4 to the Monitor and parties for review on or about March 8, 2016. The Monitor and parties again provided further suggestions and revisions. MCSO sent the fourth version of Policy GC-4 to the Monitor and parties for review on or about May 11, 2016. The Monitor returned the Policy with comments. MCSO addressed the comments and returned the Policy GC-4 to the Monitor and parties for review on June 13, 2016. The Monitor returned the policy to MCSO on June 14, 2016 with a few minor changes and advised MCSO if the changes were made the Policy was approved. Prior to the publication of the Policy, Judge Snow’s issued the Second Supplemental Injunction on July 20, 2016. MCSO determined Policy GC-4, Employee Performance Appraisals would need to be modified to incorporate the requirements of the

Order pursuant to Paragraph 165. MCSO made the required modification to Policy GC-4 and resubmitted it to the Monitor and parties on August 18, 2016. The Monitor returned GC-4 to MCSO with combined comments on September 22, 2016. MCSO addressed the comments and returned a revised version of GC-4 to the Monitor and parties on October 14, 2016. **On November 28, 2016 the Monitor approved MCSO Policy GC-4 (Employee Performance Evaluations).**

Prior to the publication of the Policy, Judge Snow's issued the Second Supplemental Injunction on July 20, 2016, the employee performance appraisal training which is based on the draft of Policy GC-4 was provided to the Monitor and Parties for review and approval on July 16, 2016. This revision of the lesson plan was not reviewed since it was determined GC-4 would need to be updated to meet the requirements of the Second Supplemental Order. MCSO submitted an updated version of the EPA lesson plan to the Monitor and parties on October 14, 2016.

MCSO is anxious to have the EPA lesson plan approved so it can deliver the EPA Training and publish Policy GC-4.

***Paragraph 88.*** *To ensure compliance with the terms of this Order, first-line Supervisors in any Specialized Units enforcing Immigration-Related Laws shall directly supervise the law enforcement activities of new members of the unit for one week by accompanying them in the field, and directly supervise the in-the-field-activities of all members of the unit for at least two weeks every year.*

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

***Paragraph 89.*** *A Deputy shall notify a Supervisor before initiating any immigration status investigation, as discussed in Paragraph 28. Deputies shall also notify Supervisors before effectuating an arrest following any immigration-related investigation or for an Immigration Related Crime, or for any crime related to identity fraud or lack of an identity document. The responding Supervisor shall approve or disapprove the Deputy's investigation or arrest recommendation based on the available information and conformance with MCSO policy. The Supervisor shall take appropriate action to address any deficiencies in Deputies' investigation or arrest recommendations, including releasing the subject, recommending non-disciplinary corrective action for the involved Deputy, and/or referring the incident for administrative investigation.*

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

***Paragraph 90.*** *MCSO Deputies shall submit documentation of all stops and Investigatory Detentions conducted to their Supervisors by the end of the shift in which the action occurred. Absent exceptional circumstances, within 72 hours of receiving such documentation, a Supervisor shall independently review the information. Supervisors shall review reports and forms for Boilerplate or conclusory language, inconsistent information, lack of articulation of the legal basis for the action, or other indicia that the information in*

*the reports or forms is not authentic or correct. Appropriate disciplinary action should be taken where Deputies routinely employ Boilerplate or conclusory language.*

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

To achieve Phase 2 compliance under Paragraph 90, MCSO must be able to document the date and time that a deputy submits a vehicle stop contact form (VSCF) and when a supervisor reviews the VSCF.

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

In the 9<sup>th</sup> Quarterly Report, the Monitor wrote the following about this new process in summary for Paragraph 69:

*[MCSO also began using the “Review” and “Discuss” fields in TraCS in June 2016. During our February and April 2016 site visits, we discussed these fields in detail. 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 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. We have begun discussions with BIO regarding the potential development of a monthly audit of these new TraCS fields.]*

MCSO continues to strive to achieve Phase 2 Compliance.

**Paragraph 91.** *As part of the Supervisory review, the Supervisor shall document any Investigatory Stops and detentions that appear unsupported by reasonable suspicion or are otherwise in violation of MCSO policy, or stops or detentions that indicate a need for corrective action or review of agency policy, strategy, tactics, or Training. The Supervisor shall take appropriate action to address all violations or deficiencies in Investigatory Stops or detentions, including recommending non-disciplinary corrective action for the involved Deputy, and/or referring the incident for administrative or criminal investigation.*

**MCSO is in Phase 1 compliance with Paragraph 91.** MCSO, however, is not in Phase 2 compliance with this paragraph, but believes that Phase 2 compliance is close at hand.

Phase 2 compliance should be partially met when MCSO can demonstrate the submission and review of Vehicle Stop Contact Forms (VSCF) within the mandated time table. MCSO summarized its progress on this issue above, in relation to Paragraph 90.

MCSO will continue to work with the Monitor to gain Phase 2 Compliance.

**Paragraph 92.** *Supervisors shall use EIS to track each subordinate's violations or deficiencies in Investigatory Stops or detentions and the corrective actions taken, in order to identify Deputies needing repeated corrective action. Supervisors shall notify IA. The Supervisor shall ensure that each violation or deficiency is documented in the Deputy's performance evaluations. The quality and completeness of these Supervisory reviews shall be taken into account in the Supervisor's own performance evaluations. MCSO shall take appropriate corrective or disciplinary action against Supervisors who fail to conduct complete, thorough, and accurate reviews of Deputies' stops and Investigatory Detentions.*

Based on the Monitor's 9<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance.

According to the Monitor's 9<sup>th</sup> Quarterly Report, to accomplish Phase 1 compliance MCSO must publish Policy GC-4, Employee Performance Appraisals. MCSO must also deliver training related to Policy GC-4. A complete summary of the status on MCSO Policy GC-4 and the corresponding Training is documented in response to Paragraph 87. Please see the Paragraph 87 summary for detailed information.

**Paragraph 93.** *Absent extraordinary circumstances, MCSO Deputies shall complete all incident reports before the end of shift. MCSO field Supervisors shall review incident reports and shall memorialize their review of incident reports within 72 hours of an arrest, absent exceptional circumstances.*

**MCSO is in Phase 1 compliance with Paragraph 93.** MCSO, however, is not in Phase 2 compliance with this paragraph.

The Monitor's 9<sup>th</sup> Quarterly Report highlights that MCSO vehicle crash report contained a supervisor's name indicating the report had been reviewed, but no date indicating when the report was reviewed. The Monitor's report stated, "*MCSO supervisors have not consistently memorialized reviews of vehicle crashes. We still see vehicle crash reports that have the supervisor's name printed, but no signature or date of review.*"

As MCSO has repeatedly explained, the vehicle crash report is an electronic form completed in the TraCS system and ***the lack of a date is due to the fact that the form is controlled by the State of Arizona.*** Despite MCSO's inability to alter the State's form, it provided the Monitor with an alternative to determine the date of review. In May 2016, MCSO began providing the



Monitor a “crash report log” which demonstrates the date and time that the supervisor reviewed the crash report in TraCS. MCSO expects the compliance rate on Crash Reports to be significantly higher next quarter. MCSO believes that this documentation should allow the Monitor to better assess if MCSO is in Phase 2 Compliance in the future.

***Paragraph 94.*** *As part of the Supervisory review, the Supervisor shall document any arrests that are unsupported by probable cause or are otherwise in violation of MCSO policy, or that indicate a need for corrective action or review of agency policy, strategy, tactics, or Training. The Supervisor shall take appropriate action to address violations or deficiencies in making arrests, including notification of prosecuting authorities, recommending non-disciplinary corrective action for the involved Deputy, and/or referring the incident for administrative or criminal investigation.*

***MCSO is in Phase 1 compliance with Paragraph 94.*** MCSO, however, is not in Phase 2 compliance with this paragraph.

The Monitor’s 9<sup>th</sup> Quarterly Report states, “MCSO has improved in the area of supervisory reviews of incidents related to arrests and citations, but for this reporting period, the compliance rate was short of the requirement.”

MCSO appreciates the Monitor’s taking note at the improvement in this area and it will continue to work to gain full and effective compliance with this Paragraph.

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

Based on the Monitor’s 9<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance with Paragraph 95.

MCSO will gain Phase 1 compliance once GC-4, Employee Performance Appraisals is published and training on that policy is delivered. For a detailed description on the status of Policy GC-4, as well as the related Training, please refer to comments regarding Paragraph 87 of the section.

MCSO is anxious to have the EPA lesson plan approved so the EPA Training can be delivered, Policy GC-4 can be published, and MCSO can gain compliance.

***Paragraph 96.*** *A command-level official shall review, in writing, all Supervisory reviews related to arrests that are unsupported by probable cause or are otherwise in violation of MCSO policy, or that indicate a need for corrective action or review of agency policy, strategy, tactics, or Training. The commander’s review shall be completed within 14 days of*



*receiving the document reporting the event. The commander shall evaluate the corrective action and recommendations in the Supervisor's written report and ensure that all appropriate corrective action is taken.*

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

MCSO will continue to provide the Monitor Team with requested documents to enable it to assess MCSO's continued compliance with his paragraph.

***Paragraph 97.*** *MCSO Commanders and Supervisors shall periodically review the EIS reports and information, and initiate, implement, or assess the effectiveness of interventions for individual Deputies, Supervisors, and units based on that review. The obligations of MCSO Commanders and Supervisors in that regard are described above in Paragraphs 81(c)–(h).*

Based on the Monitor's 9<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance with Paragraph 97.

According to the Monitor's 9<sup>th</sup> Quarterly Report, MCSO must deliver EIS Training to achieve Phase 1 compliance with Paragraph 97. For a detailed description on the status of Policy GC-4, as well as the related Training, please refer to comments regarding Paragraph 87 of the section.

MCSO is anxious to have the EPA lesson plan approved so the EPA Training can be delivered and Policy GC-4 can be published.

***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.*

Based on the Monitor's 9<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance with Paragraph 98.

MCSO believes it will gain Phase 1 compliance once it publishes Policy GC-4, Employee Performance Appraisals and delivers training on that policy. For a detailed description on the status of Policy GC-4, as well as the related training, please refer to Paragraph 87 of this section.

MCSO will continue to work with the Monitor to gain full and effective Phase 2 compliance under this paragraph.

***Paragraph 99.*** *The review shall take into consideration all past Complaint investigations; the results of all investigations; Discipline, if any, resulting from the investigation; citizen Complaints and commendation; awards; civil or administrative claims and lawsuits related*

*to MCSO operations; Training history; assignment and rank history; and past Supervisory actions taken pursuant to the early warning protocol.*

MCSO is not in Phase 1 or Phase 2 Compliance.

Based on the Monitor's 9<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance with Paragraph 95.

MCSO will gain Phase 1 compliance once MCSO publishes Policy GC-4, Employee Performance Appraisals and delivers training on that policy. For a detailed description on the status of Policy GC-4, as well as the related training, please refer to comments regarding Paragraph 87 of this section.

MCSO is anxious to have the EPA lesson plan approved so that it can deliver EPA Training and publish Policy GC-4.

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

MCSO is not in Phase 1 or Phase 2 Compliance.

Based on the Monitor's 9<sup>th</sup> Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance with Paragraph 95.

MCSO will gain Phase 1 compliance once MCSO publishes Policy GC-4, Employee Performance Appraisals and delivers training on that policy. For a detailed description on the status of Policy GC-4, as well as the related training, please refer to comments regarding Paragraph 87 of this section.

MCSO is anxious to have the EPA lesson plan approved so that it can deliver EPA Training and publish Policy GC-4.

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

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

## Section 9: Misconduct and Complaints

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

During the Third Quarter of 2016, a sworn captain was transferred to PSB to replace the detention captain. His responsibilities remained the same as the detention captain he replaced: to assist with oversight of administrative investigations occurring within the detention facilities. The sworn captain is a Reid School graduate who completed his detective certification this quarter, and attended an internal affairs certification course in November 2016.

The PSB increased the size of the bureau by adding three sworn sergeants, one sworn lieutenant, one detention sergeant, and five detention lieutenants. The increase in PSB personnel will aid in the completion of investigations within the 180 day time frame, pursuant to MCSO Policy GH-2, Internal Investigations and Arizona Revised Statutes.

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

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

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

Lastly, next quarter, seven (7) members of PSB will attend the Reid Interview and Interrogation training; and twelve (12) members will attend internal affairs training.

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

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

MCSO permanently assigned an additional sworn lieutenant to PSB to act as a liaison with the other divisions. This additional sworn lieutenant is tasked with the primary responsibility of reviewing all division level cases for thoroughness and accuracy, providing investigative feedback to the investigator and his chain of command, and documenting and tracking investigative deficiencies, pursuant to the Second Amended Second Supplemental Injunction/Judgement Order, Paragraph 211. A secondary responsibility of this lieutenant, along with another lieutenant assigned to PSB, is the oversight and investigation of critical incident investigations. These lieutenants and three sworn sergeants attended Force Encounters Video Analysis training. This training will assist with investigating, reconstructing, recalling, and analyzing use of force incidents.

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

The PSB also conducted an inventory of all administrative and criminal investigations, created a tracking mechanism to systemize data collection and improve quality assurance capabilities for a more effective response to the Monitor and the Court Implementation Division, and generated new reporting formats for the Monitor’s monthly document requests. Once the administrative and criminal investigation inventory was complete, PSB began an inventory of all critical incident investigations that were conducted since 2010. PSB completed the critical incident investigation inventory and noted areas in which improvement was needed; subsequently, PSB began the process of revising its critical incident operations manual to become consistent with industry standards. During this quarter, members of the PSB met with executive command to formalize the critical investigative process, and are scheduled to attend Officer Involved Shooting Investigations in December 2016 and Use of Force Investigations training in January 2017.

***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.*

***MCSO is in Phase 1 compliance with this Paragraph 102.***

Based on the Monitor’s 9<sup>th</sup> Quarterly Report, However, MCSO is not in Phase 2 compliance

with Paragraph 102.

In addition to the general comments at the beginning of this section and related to Paragraph 102 of the Court's Order, MCSO mandated that any internal or external misconduct allegations must be reported to the PSB. Whenever misconduct is alleged, the PSB must open an internal investigation and assign an IA case number to it. During this reporting period, the PSB assigned two hundred and twenty four (224) IA case numbers, and completed and closed 195 IA cases. PSB assigned six (6) CIA (criminal) cases and closed six (6) CIA cases. Consistent with Paragraph 102, requiring all personnel to report without delay alleged or apparent misconduct by other MCSO personnel, PSB received one hundred fifty-four (154) internal complaints during this reporting period, demonstrating compliance with the Court's Order. Of the one hundred fifty-four (154) internal complaints received, one hundred fifty-two (152) were administrative investigations and two (2) were criminal investigations.

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

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

However, BIO is already conducting regular audits in areas that satisfy a portion of Paragraph 103.

MCSO anticipates reaching Phase 1 Compliance once Policy GH-2 (Internal Investigations) is approved and published.

Consistent with Paragraph 103, requiring MCSO to conduct regular, targeted, and random integrity audit checks, the PSB developed an operation manual for conducting such investigations and submitted it to the Monitor for review and comment in June 2016. The PSB received the Monitor comments in December 2016 and will continue to work with the Monitor to develop a comprehensive policy and protocol. The Bureau of Internal Oversight will assume responsibility for conducting random integrity checks. The PSB will work with the BIO to identify some of the inspections currently conducted, which may relate to compliance with this paragraph, and will collaborate with the Monitor to determine what types of activity would constitute a "random integrity audit check."

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

***MCSO is in Phase 1 compliance with Paragraph 104.***

Based on the Monitor's 8<sup>th</sup> Quarterly Report MCSO is in Phase 1 Compliance but is not in Phase 2 compliance with Paragraph 104.

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

***Paragraph 105.*** *Investigators shall have access to, and take into account as appropriate, the collected traffic stop and patrol data, Training records, Discipline history, and any past Complaints and performance evaluations of involved officers.*

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

Based on the Monitor's 9<sup>th</sup> Quarterly Report MCSO is in Phase 1 Compliance, but is not in Phase 2 compliance with Paragraph 105.

In addition to the general comments at the beginning of this section and consistent with the Court's Order, Paragraph 105, requiring investigators to take into account collected traffic stop and patrol data, training records, discipline history, performance evaluations, and past complaints, the investigative format also collects the necessary data to track compliance with this paragraph. As of June 1, 2016, the Administrative Investigation Checklist was mandatory for all administrative investigations. MCSO believes this universal documentation should allow the Monitor to fully assess compliance and subsequently find MCSO in Phase 2 Compliance.

***Paragraph 106.*** *Records of Complaints and investigations shall be maintained and made available, un-redacted, to the Monitor and Plaintiffs' representatives upon request. The Monitor and Plaintiffs' representatives shall maintain the confidentiality of any information therein that is not public record. Disclosure of records of pending investigations shall be consistent with state law.*

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

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



## Section 10: Community Engagement

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

MCSO's quarterly register records community policing activities performed by MCSO Patrol Deputies across the County. For the period of July 1, 2016 through September 30, 2016, the Sheriff's Office registered eighty-six (86) events, where public attendance approached seven thousand (7,000). During this same period, MCSO recorded three thousand three hundred and ninety-two (3,392) occasions of community policing utilizing the Computer Aided Dispatch System; those engagements totaled over three thousand eight hundred (3,800) staff hours, and are primarily attributed to the community policing activities of Patrol Deputies. Patrol Deputies accumulated three thousand three hundred seventy-one (3,371) of the community policing occasions.

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

1. Jewish Community Center Summer Camp
2. Children Book Donation to CPLC Parenting Arizona
3. Queen Creek Target Store Child ID Event
4. Golden Gate Community Center Summer Camp
5. Sheriff Arpaio's Camp Summer Stars
6. Animal Crimes Chandler Community Meeting
7. Arizona Animal Welfare League Summer Camp K9 Demo
8. Back to School Supplies Delivery to Aguila Elementary
9. Children's Book Donation to Aguila Public Library
10. State Council Meeting Law Enforcement Torch Run Special Olympics
11. Children's Book Donation to Guadalupe Family Resource Center
12. Spanish Language Citizens Academy
13. Building Community Trust and Justice Forum
14. Children's Book Donation to Guadalupe Public Library
15. Univision Interview on Early Childhood Development
16. Children's Book Donation to Mesa United Way
17. Power Ranch Elementary School Event
18. West Phoenix ACES School Patriot's Day
19. Desert Harbor Elementary School Walk of Honor

20. American Leadership Academy 9/11 Event
21. Chase Field First Responders Event
22. Tempe 9/11 Healing Fields Event
23. Luke Air Force Base Boys & Girls Club Day for Kids
24. Meeting with Mesa MLK PACT Family Members
25. CHAMP 2016 Childhood Cancer Fundraiser
26. Agua Fria High School Event
27. Founders Day Battle of the Badge Queen Creek Event
28. Back to School Donation Delivery Alfred E. Garcia Elementary
29. Back to School Donation Delivery Ignacio Conchos Elementary
30. Back to School Donation Delivery Gila Bend Elementary
31. Maricopa Association of Governments Regional DV trainings & host

Most notable amongst MCSO outreach activities performed during this period are: a) the delivery of a third 2016 Spanish Language Citizens Academy; b) initiation of the Police and Community Together program in collaboration with the Mesa Martin Luther King Committee; c) attendance at the U.S. Department of Justice Community Relations Service Problem Solving and Conflict Resolution forum; and d) continued participation on the Western Maricopa Education Center - Law, Public Safety & Security Advisory Board.

In all of its outreach endeavors, the Maricopa County Sheriff's Office puts forth the effort to build sustainable outreach programs, many of which are listed on the MCSO webpage. Yet, there are programs which benefit community members about which people rarely speak. For instance, MCSO's Liaison Officer to Central American Consulates also oversees the Sheriff's Community Outreach Division; its work has facilitated unprecedented access to the staff of Mexican Consulate to perform official duties and outreach within the Jail System. In this period, consular staff visited forty-three (43) inmates of ninety-five (95) special visits in 2016. The collaborative relationship with the Consulate's staff expanded to include their donation of three hundred and sixty (360) Spanish language books for distribution to Mexican National inmates within the Jail System to promote literacy.

MCSO has distributed in excess of twenty thousand (20,000) books among community based organizations, including Chicanos Por La Causa, Parenting Arizona, Guadalupe Library, Aguila Library, Heart for the City, and Mesa United Way.

The Maricopa County Sheriff's Office excels in using social media platforms to engage the community it serves. Our Facebook page is now the number one followed law enforcement page in the State of Arizona; the MCSO Community page has over sixty-one thousand two hundred (61,200) "likes". MCSO's Twitter profile, @MaricopaSheriff has nearly doubled its followers to seven thousand eight hundred seventeen (7,817).

Additionally, the Chief Deputy, command personnel, and members from the Patrol Bureau, PSB, and CID, at Sheriff Arpaio's direction, attended the Monitor's Community Outreach Meetings throughout the county to further constructively engage with the community and work towards reform, improving community relations, and rebuilding public confidence and trust.

**Section 11: Second Supplemental Permanent Injunction/ Judgment Order (Doc. 1748)****General Note Regarding the Second Supplemental Injunction/Order**

The Monitor will file its first Quarterly Report (10<sup>th</sup> Quarterly Report) from the Monitor to delineate and describe compliance efforts related to the Second Supplemental Injunction/Order after MCSO files this report with the Court. For that reason, at the time of the writing of this quarterly report, MCSO does not know for what paragraphs it will be receiving a Phase 1 and/or a Phase 2 compliance rating. Additionally, MCSO does not know exactly what steps must be taken to gain a compliance rating from the Monitor. CID is already providing the Monitor Monthly Document Requests related multiple paragraphs to the Second Supplemental Order. Immediately upon the issuance of the Second Supplemental Order, MCSO began taking steps and making plans to gain full and effective compliance with the mandates of that Order. In this section of the Report, MCSO will try and summarize some of its efforts and will expound upon them in the next quarterly report.

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

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

- CP-2, *Code of Conduct*
- CP-3, *Workplace Professionalism*
- CP-5, *Truthfulness*
- CP-11, *Anti-Retaliation*
- EA-2, *Patrol Vehicles*
- GA-1, *Development of Written Orders*
- GB-2, *Command Responsibility*
- GC-7, *Transfer of Personnel*
- GC-11, *Employee Probationary Periods*
- GC-12, *Hiring and Promotional Procedures*
- GC-16, *Employee Grievance Procedures*
- GC-17, *Employee Disciplinary Procedure*
- GD-9, *Receipt of Litigation and Subpoenas*

- GC-4, *Employee Performance Appraisals*
- GE-4, *Use, Assignment, and Operation of Vehicles\**
- GG-1, *Peace Officer Training Administration*
- GG-2, *Detention/Civilian Training Administration*
- GH-2, *Internal Investigations\**
- GH-4, *Bureau of Internal Oversight*
- GH-5, *Early Identification System (EIS)*
- GI-5, *Voiance Language Line Services*
- GJ-24, *Community Relations and Youth Services*
- GJ-26, *Sheriff's Reserve Deputy Program*
- GJ-27, *Sheriff's Posse Program*

**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.*

MCSO submitted several policies to the Monitor and parties pursuant to Paragraph 165 that incorporate the requirements of this Paragraph. Phase 1 Compliance should be given to MCSO upon the approval of those policies. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

The MCSO is currently processing a Request for Proposal (RFP) to retain a qualified outside investigator, with the requisite background and level of experience of internal investigators, free of actual or perceived conflicts of interest, to conduct the investigations as required by the Order. Once retained, the PSB shall assign an IA number using the IAPro application to each investigation assigned to the investigator.

**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.*

MCSO submitted several policies to the Monitor and parties pursuant to Paragraph 165 that incorporate the requirements of this Paragraph. Phase 1 Compliance should be given to MCSO upon the approval of those policies. MCSO will provide any documentation needed to the Monitor to determine Phase 2 compliance.

**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.*

MCSO submitted several policies to the Monitor and parties pursuant to Paragraph 165 that incorporate the requirements of this Paragraph. Phase 1 Compliance should be given to MCSO upon the approval of those policies. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

**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.*



MCSO submitted several policies to the Monitor and parties that incorporate the requirements of Paragraph 165. The Monitor should bestow Phase 1 Compliance upon MCSO upon the Monitor's approval of those policies. MCSO will provide any necessary documentation that the Monitor may require to determine Phase 2 compliance.

MCSO already practices the requirements of this Paragraph in that it does complete investigations on complaints of misconduct, including third party and anonymous complaints. Moreover, MCSO does not prohibit employees from filing anonymous complaints.

In accordance with Paragraph 102, MCSO mandated that any internal or external misconduct allegations must be reported to the PSB. Whenever misconduct is alleged, the PSB must assign an IA case number using the IAPro application. During this reporting period, the PSB assigned two hundred twenty-four (224) IA case numbers and completed and closed one hundred ninety-five (195) IA cases. PSB assigned six (6) CIA (criminal) cases and closed six (6) CIA cases.

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

MCSO submitted MCSO Policy GH-2 (Internal Investigations) to the Monitor and parties pursuant to Paragraph 165 that incorporates the requirements of this Paragraph. Phase 1 Compliance should be given to MCSO upon the approval of that policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

MCSO practices the requirements of this Paragraph and does not terminate investigations once they have been initiated.

**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.*

Pursuant to Paragraph 165, MCSO submitted several policies to the Monitor and parties that incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of those policies. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

MCSO practices the requirements of this Paragraph. Employees are required to cooperate with internal investigations and are required to give full, complete, and accurate statements to PSB 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.*

Pursuant to Paragraph 165, MCSO submitted Policy GC-12 (Hiring and Promotional Procedures) to the Monitor and parties that incorporate the requirements set forth in this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of Policy GC-12 policies. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

Historically, PSB has provided discipline history for candidates on the promotional list. MCSO has practiced the requirements of Paragraph 173 for any promotions that have occurred after July 20, 2016, when the Second Supplemental Injunction/Order was issued.

**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.*

Pursuant to Paragraph 165, MCSO submitted several policies to the Monitor and parties that incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of those policies. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

MCSO is practicing the requirements of this Paragraph. MCSO is actively working on developing documentation processes that will allow MCSO to prove compliance and will allow the Monitor to assess compliance in a more efficient manner.

Additionally, MCSO is already providing documents to the Monitor and parties on a monthly basis related to this Paragraph.

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

Pursuant to Paragraph 165, MCSO submitted several policies to the Monitor and parties that incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of those policies. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

It should be noted that MCSO has already begun providing documents to the Monitor on a monthly basis related to this Paragraph. Additionally, on December 07, 2016, MCSO added additional allegations to EIS to capture how commanders review employees transferred to their command. MCSO communicated the requirements and explanation of the new allegations to employees via Administrative Board 16-124 on December 07, 2016.

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

Pursuant to Paragraph 165, MCSO submitted several policies to the Monitor and parties that incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of those policies. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

**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.*

Pursuant to Paragraph 165, MCSO submitted several policies to the Monitor and parties that incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of those policies. MCSO will provide any documentation needed to the Monitor to achieve Phase 2 compliance.

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

- a. investigative skills, including proper interrogation and interview techniques, gathering and objectively analyzing evidence, and data and case management;*
- b. the particular challenges of administrative law enforcement misconduct investigations, including identifying alleged misconduct that is not clearly stated in the complaint, or that becomes apparent during the investigation;*
- c. properly weighing the credibility of civilian witnesses against employees;*
- d. using objective evidence to resolve inconsistent statements;*
- e. the proper application of the appropriate standard of proof;*
- f. report-writing skills;*
- g. requirements related to the confidentiality of witnesses and/or complainants;*
- h. considerations in handling anonymous complaints;*
- i. relevant MCSO rules and policies, including protocols related to administrative investigations of alleged officer misconduct; and*
- j. relevant state and federal law, including Garrity v. New Jersey, and the requirements of this Court's orders.*

Pursuant to Paragraph 165, MCSO submitted several policies to the Monitor and parties that incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of those policies. MCSO will provide any documentation needed to the Monitor to achieve Phase 2 compliance.

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

It should be noted that MCSO has already begun providing documents to the Monitor on a monthly basis related to this Paragraph.

**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.*

Pursuant to Paragraph 165, MCSO submitted several policies to the Monitor and parties that incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of those policies. MCSO will provide any documentation needed to the Monitor to achieve Phase 2 compliance.

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

It should be noted that MCSO has already begun providing documents to the Monitor on a monthly basis related to this Paragraph.

**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.*

Pursuant to Paragraph 165, MCSO submitted several policies to the Monitor and parties that incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of those policies. MCSO will provide any documentation needed to the Monitor to achieve Phase 2 compliance.

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

It should be noted that MCSO has already begun providing documents to the Monitor on a monthly basis related to this Paragraph.

**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.*

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

Pursuant to Paragraph 165, MCSO submitted several policies to the Monitor and parties that incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of those policies. MCSO will provide any documentation needed to the Monitor to achieve Phase 2 compliance.

It should be noted that MCSO has already begun providing documents to the Monitor on a monthly basis related to this Paragraph.

**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.*

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

It should be noted that MCSO has already begun providing documents to the Monitor on a monthly basis related to this Paragraph.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GB-2 (Command Responsibility) to the Monitor and parties which incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

It should be noted that MCSO has already begun providing documents to the Monitor on a monthly basis related to this Paragraph.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) to the Monitor and parties that incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) to the Monitor and parties that incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

**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.*



Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) and the PSB Operations Manual to the Monitor and parties which incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy and manual. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

PSB continues to comply with this Paragraph in practice by issuing a unique IA number for all allegations of misconduct. PSB continues to use IAPro to maintain a centralized electronic numbering and tracking system for all allegations of misconduct, whether internally discovered or based upon a civilian complaint. MCSO requests to be placed in a compliance status with this Paragraph.

**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.*

MCSO submitted policies to the Monitor and parties pursuant to Paragraph 165 that incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of those policies. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

PSB complies with this Paragraph in practice. PSB uses the IAPro application to maintain a complete file of all documents relating to misconduct investigation and discipline.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) to the Monitor and parties which incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

PSB complies with this Paragraph in practice.

**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.*



MCSO submitted policies to the Monitor and parties pursuant to Paragraph 165 that incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of those policies. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

Currently, some allegations of minor misconduct are administratively investigated at the employee's district. MCSO will train all supervisors who investigate misconduct by requiring them to attend the forty (40)-hour Misconduct Training mandated by Paragraph 178.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) to the Monitor and parties that incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

**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.*

Pursuant to Paragraph 165, MCSO submitted the PSB Operations Manual to the Monitor and parties which incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this manual. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

In order to comply with this Paragraph, PSB is hiring a management analyst. PSB conducted interviews of applicants in November 2016 and submitted a candidate list to personnel to begin the hiring process.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GC-17 (Employee Disciplinary Procedure) to the Monitor and parties which incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

PSB complies with this Paragraph in practice.

**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.*

Pursuant to Paragraph 165, MCSO submitted the PSB Operations Manual to the Monitor and parties which incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this manual. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

**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.*

Pursuant to Paragraph 268 of the Second Supplemental Permanent Injunction/ Order, MCSO, with the Monitor's approval, has increased the number of PSB personnel by four (4) Lieutenants and five (5) Sergeants. This increase in personnel will have a positive effect on PSB's ability to process internal investigations.

Additionally, to assist compliance with this Paragraph, PSB is hiring a management analyst. PSB conducted interviews of applicants in November 2016 and submitted a candidate list to personnel to begin the hiring process.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) and the PSB Operations Manual to the Monitor and parties which incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy and manual. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

The MCSO is currently processing a Request for Proposal (RFP) to retain a qualified outside investigator, with the requisite background and level of experience of internal investigators, free of actual or perceived conflicts of interest to conduct the investigations as required under the Order. Once retained, the PSB shall assign an IA number to each investigation.

**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.*

MCSO submitted policy to the Monitor and parties pursuant to Paragraph 165 that incorporate the requirements of this Paragraph. Phase 1 Compliance should be given to MCSO upon the approval of those policies. MCSO will provide any documentation needed to the Monitor to determine Phase 2 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.*

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

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

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

Two months have passed since this visit to the East Court Building. As time passes, MCSO now risks losing this space. The process is at a standstill with no explanation as to why. MCSO has been diligent in its search for PSB's new location. It simply is awaiting word from the Monitor.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) and the PSB Operations Manual to the Monitor and parties which incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy and manual. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

Upon issuance of the Second Supplemental Injunction/Order, the PSB Commander conducted disciplinary checks on all sworn supervisors and all PSB Investigators to ensure their eligibility to conduct misconduct investigations in compliance with this Paragraph.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) and the PSB Operations Manual to the Monitor and parties which incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy and manual. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) and the PSB Operations Manual to the Monitor and parties which incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy and manual. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) to the Monitor and parties that incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) to the Monitor and parties that incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) to the Monitor and parties that incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.



**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.*

Pursuant to Paragraph 165, MCSO submitted the PSB Operations Manual to the Monitor and parties which incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this manual. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

MCSO is in compliance with this Paragraph in practice. PSB utilized that IAPro application to track ongoing misconduct investigations. IAPro is able to send alerts when deadlines are not met.

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

- a. a narrative description of the incident;*
- b. 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;*
- c. documentation of whether employees were interviewed, and a transcript or recording of those interviews;*
- d. the names of all other MCSO employees who witnessed the incident;*
- e. 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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) to the Monitor and parties that incorporates the requirements of this Paragraph. MCSO should receive



Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) to the Monitor and parties that incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) to the Monitor and parties that incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) to the Monitor and parties that incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

MCSO is in compliance with this Paragraph in practice.

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

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) to the Monitor and parties that incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

MCSO is in compliance with this Paragraph in practice.

**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.*

Pursuant to Paragraph 165, MCSO submitted several policies to the Monitor and parties that incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of those policies. MCSO will provide any documentation needed to the Monitor to achieve Phase 2 compliance.

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

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

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GB-2 (Command Responsibility) to the Monitor and parties that incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) to the Monitor and parties that incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

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

An additional sworn lieutenant was permanently assigned to PSB to act as a liaison with the other divisions. This lieutenant has the primary responsibility of reviewing all division level cases for thoroughness and accuracy, providing investigative feedback to the investigator and his chain of command, and documenting and tracking investigative deficiencies, pursuant to the Second Amended Second Supplemental Injunction/Judgement Order, paragraph 211.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) to the Monitor and parties that incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

**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.*

Pursuant to Paragraph 165, MCSO submitted several policies to the Monitor and parties that incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of those policies. MCSO will provide any documentation needed to the Monitor to achieve Phase 2 compliance.

**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.*

Pursuant to Paragraph 165, MCSO submitted several policies to the Monitor and parties that incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of those policies. MCSO will provide any documentation needed to the Monitor to achieve Phase 2 compliance.

**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.*

Division Commanders at MCSO do not issue discipline for minor misconduct. Therefore, PSB cannot conduct this review. MCSO will work with the Monitor to assess how compliance will be determined regarding this Paragraph in the future.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) to the Monitor and parties that incorporates the requirements of this Paragraph. MCSO should receive

Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

PSB complies with this Paragraph in practice. PSB uses the IAPro application to maintain a complete file of all documents relating to misconduct investigation and discipline.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GC-17 (Employee Disciplinary Procedure) to the Monitor and parties which incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GC-17 (Employee Disciplinary Procedure) to the Monitor and parties which incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

**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.*

Pursuant to Paragraph 165, MCSO submitted several policies to the Monitor and parties that incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of those policies. MCSO will provide any documentation needed to the Monitor to achieve Phase 2 compliance.

Since the issuance of the Second Supplemental Order, the PSB Commander has complied with the provisions of this Paragraph.

**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.*

Pursuant to Paragraph 165, MCSO submitted several policies to the Monitor and parties that incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of those policies. MCSO will provide any documentation needed to the Monitor to achieve Phase 2 compliance.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GC-17 (Employee Disciplinary Procedure) to the Monitor and parties which incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance. .

Since the issuance of the Second Supplemental Injunction/Order, MCSO has complied with the requirements of this Paragraph.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GC-17 (Employee Disciplinary Procedure) to the Monitor and parties which incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.



Since the issuance of the Second Supplemental Injunction/Order, MCSO has complied with the requirements of this Paragraph.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GC-17 (Employee Disciplinary Procedure) to the Monitor and parties which incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance. .

Since the issuance of the Second Supplemental Injunction/Order MCSO has complied with the requirements of this Paragraph.

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

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

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GC-17 (Employee Disciplinary Procedure) to the Monitor and parties which incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

**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.*

Pursuant to Paragraph 165, MCSO submitted several policies to the Monitor and parties that incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of those policies. MCSO will provide any documentation needed to the Monitor to achieve Phase 2 compliance.

Since the issuance of the Second Supplemental Injunction/Order, MCSO has complied with the requirements of this Paragraph.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) to the Monitor and parties that incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

It should be noted that MCSO has already begun providing documents to the Monitor on a monthly basis related to this Paragraph.

PSB in practice has complied with the requirements of this Paragraph since the issuance of the Second Supplemental Injunction/Order.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) to the Monitor and parties that incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

MCSO complies with the requirements of this Paragraph in practice.

**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.*

Pursuant to Paragraph 165, MCSO submitted the PSB Operations Manual to the Monitor and parties which incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this manual. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

MCSO complies with the requirements of this Paragraph in practice.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) to the Monitor and parties that incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) and the PSB Operations Manual to the Monitor and parties which incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy and manual. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) to the Monitor and parties that incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

MCSO complies with the requirements of this Paragraph in practice.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) and the PSB Operations Manual to the Monitor and parties which incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy and manual. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) to the Monitor and parties that incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance. PSB complies with this Paragraph in practice. PSB uses the IAPro application to maintain a complete file of all documents relating to misconduct investigation and discipline.

**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.*

MCSO has reached out to the Community Advisory Board (CAB) on multiple occasions requesting a meeting between the CAB and Sheriff (and other command staff if desired). As of the writing of this report, the CAB has refused to meet with MCSO and/or Sheriff Arpaio.

MCSO truly hopes that the CAB reconsiders and establishes a relationship with MCSO that can benefit the community members as a whole as well as members of the plaintiff class.

Nevertheless, Paragraph 237 clearly places the responsibility to develop this program on the Monitor and CAB. MCSO has received no word from the Monitor or CAB regarding their progress.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) to the Monitor and parties that incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

MCSO complies with the requirements of this Paragraph in practice.

**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.*

Pursuant to Paragraph 165, MCSO submitted several policies to the Monitor and parties that incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of those policies. MCSO will provide any documentation needed to the Monitor to achieve Phase 2 compliance.

On October 20, 2016, MCSO submitted the draft of the permanent placards to the Monitor and Parties. MCSO used as much of the language from the complaint form that the Monitor had already approved in the hope that it would reduce the amount of time to approve the placard. MCSO followed the same process with the permanent placards that it did with the complaint form in that it only sent an English version for approval. However, once the English version is approved, MCSO will translate the placard to Spanish and submit it to the Monitor for review and approval. On November 23, 2016, MCSO received the combined comments on the permanent placard from the Monitor. MCSO addressed the comments and resubmitted the permanent placard to the Monitor and parties on December 15, 2016.

**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.*

Pursuant to Paragraph 165, MCSO submitted several policies to the Monitor and parties that incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of those policies. MCSO will provide any documentation needed to the Monitor to achieve Phase 2 compliance.

On August 30, 2016, MCSO submitted the English version of the MCSO complaint form to the Monitor and parties for approval. The plan was to obtain agreement and approval for the English version of the MCSO complaint form and then translate the form to Spanish. On September 19, 2016, MCSO received the combined comments on the complaint form from the Monitor. On September 20, 2016, MCSO addressed the Monitor's comments and submitted a revised version of the complaint form to the Monitor for approval. The Monitor approved the English version of the complaint form on September 21, 2016. MCSO submitted the Spanish version of the MCSO compliant form to the Monitor on September 22, 2016. The Monitor approved the Spanish version of the complaint form on September 27, 2016 with a few minor changes. On October 12, 2016, the English and Spanish complaint form was made available on Maricopa County's Website. On October 27, 2016, the English and Spanish complaint form was made available on MCSO's website.

On October 03, 2016, all MCSO patrol districts were sent the complaint forms with a communication instructing them to place the complaint forms in their respective lobbies and all vehicles being operated by deputies.

After the issuance of the Second Supplemental Order/Injunction, MCSO starting planning to provide all sworn Supervisors with a cellular phone. MCSO ordered cell phones and began assigning them to Supervisors. As of December 19, 2016, 75% of the Supervisor Cellular Phone Deployment Project has been completed. MCSO anticipates having assigned all Supervisors in the near future.

**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.*

The sheriff is ready and willing to satisfy the requirements of Paragraph 241. However, the process of selecting the new location has stagnated through no fault of MCSO.

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



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

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

Two months have passed since this visit to the East Court Building. As time passes, MCSO now risks losing this space. The process is at a standstill with no explanation as to why. MCSO has been diligent in its search for PSB's new location. It simply is awaiting word from the Monitor.

**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.*

Pursuant to Paragraph 165, MCSO submitted several policies to the Monitor and parties that incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of those policies. MCSO will provide any documentation needed to the Monitor to achieve Phase 2 compliance.

MCSO has identified fifty-nine (59) locations throughout Maricopa County to place the complaint forms in both English and Spanish. These locations include Maricopa County facilities, libraries, and community centers. As a condition to place the complaint forms in some facilities, either a table top display or floor display was required. MCSO ordered the displays and received a partial shipment of the displays in December 2016. Thirteen (13) locations including MCSO Headquarters and all Patrol Districts have been stocked with Complaint Forms. MCSO continues to work diligently to place complaint forms in all fifty-nine (59) locations.

**Paragraph 243.** *The Sheriff shall establish a free, 24-hour hotline for members of the public to make complaints.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) to the Monitor and parties that incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

The 24-hour hotline required by this Paragraph was activated on August 22, 2016. The greeting is in English and Spanish. Due to some technical issues, MCSO had to re-record the greeting recently. MCSO is in compliance with the requirements of this Paragraph.

**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.*

For a complete summary regarding the complaint forms, please refer to paragraph 240.

The English and Spanish complaint form was approved by the Monitor on September 27, 2016. Therefore, MCSO requests to be placed in compliance with this paragraph.

**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.*

Pursuant to Paragraph 165, MCSO submitted several policies to the Monitor and parties that incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of those policies. MCSO will provide any documentation needed to the Monitor to achieve Phase 2 compliance. .

For a complete summary regarding the complaint forms, please refer to paragraph 240. On or about October 03, 2016, the compliant forms were made available in Spanish and English at all patrol districts and placed in all vehicles driving by deputies.

**Paragraph 246.** *In the course of investigating a civilian complaint, the Professional Standards Bureau will send periodic written updates to the complainant including:*

- a. 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;*
- b. 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*
- c. in cases where discipline is imposed, the Professional Standards Bureau will notify the complainant of the discipline as soon as is permitted by law.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) to the Monitor and parties that incorporates the requirements of this Paragraph. MCSO should receive

Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

PSB complies with this Paragraph in practice.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) to the Monitor and parties that incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

PSB complies with this Paragraph in practice.

**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.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) and the PSB Operations Manual to the Monitor and parties which incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy and manual. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

It should be noted that MCSO has already begun providing documents to the Monitor on a monthly basis related to this Paragraph.

PSB complies with this Paragraph in practice.

**Paragraph 249.** *The Professional Standards Bureau will track, as a separate category of complaints, allegations of unlawful investigatory stops, searches, seizures, or arrests.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GH-2 (Internal Investigations) and the PSB Operations Manual to the Monitor and parties which incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy and manual. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

It should be noted that MCSO has already begun providing documents to the Monitor on a monthly basis related to this Paragraph.

PSB complies with this Paragraph in practice.

**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.*

Pursuant to Paragraph 165, MCSO submitted several policies to the Monitor and parties that incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of those policies. MCSO will provide any documentation needed to the Monitor to achieve Phase 2 compliance.

It should be noted that MCSO has already begun providing documents to the Monitor on a monthly basis related to this Paragraph.

In order to comply with this Paragraph, PSB is hiring a management analyst. PSB conducted interviews of applicants in November 2016 and submitted a candidate list to personnel to begin the hiring process.

**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:*

- a. 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;*
- b. 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;*
- c. 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;*
- d. 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.*

Pursuant to Paragraph 165, MCSO submitted the PSB Operations Manual to the Monitor and parties which incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this manual. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

In order to assist in compliance with this Paragraph, PSB is hiring a management analyst. PSB conducted interviews of applicants in November 2016 and submitted a candidate list to personnel to begin the hiring process.

**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.*

Pursuant to Paragraph 165, MCSO submitted the PSB Operations Manual to the Monitor and parties which incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this manual. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.



**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.*

Pursuant to Paragraph 165, MCSO submitted the PSB Operations Manual to the Monitor and parties which incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this manual. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

In an effort to gain compliance with this Paragraph, PSB is hiring a management analyst. PSB conducted interviews of applicants in November 2016 and submitted a candidate list to personnel to begin the hiring process.

**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.*



MCSO is in the process of developing the testing program mandated in Paragraph 254 through 260. At this point, no testing has occurred. MCSO will have five (5) testing methods: telephonic testing, mail testing, email testing, website testing, and in-person testing.

MCSO developed the preliminary methodology and provided it to the Monitor on August 08, 2016. MCSO received the combined comments back from the Monitor on September 06, 2016. On September 20, 2016, MCSO submitted to the Monitor and parties a revised methodology addressing the combined comments. MCSO thanks the parties and particularly the Department of Justice (DOJ) for providing general guidance on this project including the names prospective outside vendors the DOJ has utilized in the past. MCSO is in the process of documenting the testing program into an operations manual.

MCSO completed a competitive bid process and selected two vendors to assist with the testing program. MCSO procurement is developing purchase orders for the vendors for future payments for service. MCSO will continue to work with the parties on the development of the testing program as prescribed in Paragraph 254 through 260.

**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.*

For a detailed status on the testing program, please review the summary provided in relation to Paragraph 254.

**Paragraph 256.** *The testing program shall assess complaint intake for complaints made in person at MCSO facilities, complaints made telephonically, by mail, and complaints made electronically by email or through MCSO's website. Testers shall not interfere with deputies taking law enforcement action. Testers shall not attempt to assess complaint intake in the course of traffic stops or other law enforcement action being taken outside of MCSO facilities.*

For a detailed status on the testing program, please review the summary provided in relation to Paragraph 254.

**Paragraph 257.** *The testing program shall include sufficient random and targeted testing to assess the complaint intake process, utilizing surreptitious video and/or audio recording, as permitted by state law, of testers' interactions with MCSO personnel to assess the appropriateness of responses and information provided.*

For a detailed status on the testing program, please review the summary provided in relation to Paragraph 254.

**Paragraph 258.** *The testing program shall also assess whether employees promptly notify the Professional Standards Bureau of civilian complaints and provide accurate and complete information to the Bureau.*

For a detailed status on the testing program, please review the summary provided in relation to Paragraph 254.

**Paragraph 259.** *MCSO shall not permit current or former employees to serve as testers.*

For a detailed status on the testing program, please review the summary provided in relation to Paragraph 254.

**Paragraph 260.** *The MCSO shall produce an annual report on the testing program. This report shall include, at a minimum:*

- a. a description of the testing program, including the testing methodology and the number of tests conducted broken down by type (i.e., in-person, telephonic, mail, and electronic);*
- b. the number and proportion of tests in which employees responded inappropriately to a tester;*
- c. the number and proportion of tests in which employees provided inaccurate information about the complaint process to a tester;*
- d. the number and proportion of tests in which employees failed to promptly notify the Professional Standards Bureau of the civilian complaint;*
- e. the number and proportion of tests in which employees failed to convey accurate information about the complaint to the Professional Standards Bureau;*
- f. an evaluation of the civilian complaint intake based upon the results of the testing program;*
- and*
- g. a description of any steps to be taken to improve civilian complaint intake as a result of the testing program.*

For a detailed status on the testing program, please review the summary provided in relation to Paragraph 254.

**Paragraph 264.** *The Sheriff shall ensure that all patrol deputies shall be assigned to a primary, clearly identified, first-line supervisor.*

MCSO is in full and effective compliance with Paragraph 84 of the First Supplemental Permanent Order/Injunction which states, “*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.*” Therefore, MCSO believes it is in compliance with Paragraph 264 and is requesting an in-compliance rating.

**Paragraph 265.** *First-line patrol supervisors shall be responsible for closely and consistently supervising all deputies under their primary command.*

The requirements of this Paragraph are also covered under Paragraph 83 of the First Supplemental Permanent Order/Injunction. This requirement is also covered under MCSO Policy GB-2 (Command Responsibility). MCSO is requesting an in-compliance rating with this Paragraph. For further information, please see the Paragraph 83 summary.

**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.*

MCSO is currently in full and effective compliance with Paragraph 84 which mandates that field Supervisors supervise no more than twelve (12) deputies. MCSO recently re-adjusted most patrol schedule moving from a 3-13 hour day schedule to a 4-10 hour day schedule. This change resulted in smaller spans of control for many field supervisors. BIO completes a monthly Patrol Shift Roster Inspection to assure compliance with the requirements of this Paragraph.

MCSO will provide all documentation requested to allow the Monitor to assess compliance with this Paragraph.

**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.*

The requirements of this Paragraph are similar in nature to Paragraph 83 for which MCSO has achieved Phase 1 Compliance. A positive step which was accomplished in June of 2016 is the implementation of the Patrol Activity Log which aids Field Supervisor assess deputy activity. MCSO will continue to work with the Monitor to identify steps that need to be taken to gain compliance with this Paragraph.

**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.*

MCSO submitted MCSO Policy GC-7 (Transfer of Personnel) to the Monitor and parties pursuant to Paragraph 165 that incorporates the requirements of this Paragraph.

MCSO currently meets the standard of this Paragraph in practice. Since the issuance of the Second Supplemental Injunction/Order, MCSO has provided the Court, Monitor, and Parties with required documents related to transfers in or out of PSB, BIO, and CID.

MCSO requests an in-compliance rating for this Paragraph.

**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.*

MCSO submitted MCSO Policy GD-9 (Receipt of Litigation Notice or Subpoena) and the Compliance Division Operations Manual to the Monitor and parties pursuant to Paragraph 165, which incorporate the requirements of this Paragraph. MCSO should receive Phase 1 and Phase 2 Compliance upon the Monitor's approval of this policy and manual. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

It should be noted that MCSO has already begun providing documents to the Monitor on a monthly basis related to this Paragraph.

**Paragraph 270.** *The Sheriff shall ensure that when the MCSO receives a request for documents in the course of litigation, it shall:*

- a. promptly communicate the document request to all personnel who might possibly be in possession of responsive documents;*
- b. ensure that all existing electronic files, including email files and data stored on networked drives, are sequestered and preserved through a centralized process; and*
- c. ensure that a thorough and adequate search for documents is conducted, and that each employee who might possibly be in possession of responsive documents conducts a thorough and adequate search of all relevant physical and electronic files.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GD-9 (Receipt of Litigation Notice or Subpoena) and the Compliance Division Operations Manual to the Monitor and parties which incorporate the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of these policies. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

It should be noted that MCSO has already begun providing documents to the Monitor on a monthly basis related to this Paragraph.

**Paragraph 271.** *Within three months of the effective date of this Order, the Sheriff shall ensure that the MCSO Compliance Division promulgates detailed protocols for the preservation and production of documents requested in litigation. Such protocols shall be subject to the approval of the Monitor after a period of comment by the Parties.*

MCSO submitted MCSO the Compliance Division Operations Manual to the Monitor and parties pursuant to Paragraph 165, which incorporate the requirements of this Paragraph. MCSO should receive Phase 1 and Phase 2 Compliance upon the Monitor's approval of this operations manual. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

**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.*

MCSO submitted MCSO Policy GD-9 (Receipt of Litigation Notice or Subpoena) to the Monitor and parties pursuant to Paragraph 165 which incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

**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.*

The Court's recent Order also required MCSO to brief and present terms of the Order, along with relevant background information about the Court's May 13, 2016 Findings of Fact (Doc. 1677), to all MCSO employees within sixty (60) days of the Order. The Monitor approved the summary that MCSO created to accomplish the briefing pursuant to Paragraph 273. All MCSO employees including Sworn, Detention, Reserve, Posse and Civilian who are not on some form of extended leave have read the Monitor approved summary. All posse members who are not compliant have been suspended until they are compliant. As of September 15, 2016, MCSO was 97% compliant. As of November 2, 2016, MCSO was 99.2% compliant. There are four thousand one hundred and fifty (4,150) total MCSO employees and four thousand one hundred twenty (4,120) employees are compliant with this paragraph. While this was a large undertaking with a compressed timeline, MCSO is proud of this accomplishment and requests an in-compliance rating.

**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.*

. Pursuant to Paragraph 165, MCSO submitted the PSB Operations Manual to the Monitor and parties which incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this manual. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

PSB is in compliance with this Paragraph in practice. Upon the issuance of the Second Supplemental Injunction/Order, PSB completed an initial review of all open and notified the Monitor of any potential Class Related Matters (CRM). The Monitor is notified of new potential CRM's as they are received on weekly basis. As of December 15, 2016, PSB has notified the Monitor of sixty-three (63) potential CRMs. Ten (10) of those cases have been determined to be CRM's.

**Paragraph 283.** *The Monitor shall review and approve all disciplinary decisions on Class Remedial Matters.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GC-17 (Employee Disciplinary Procedure) to the Monitor and parties which incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.



**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.*

MCSO will follow the provisions of this Paragraph. MCSO will provide any and all requested documentation to the Monitor to prove compliance with this Paragraph.

**Paragraph 287.** *Any persons receiving discipline for any Class Remedial Matters that have been approved by the Monitor shall maintain any right they may have under Arizona law or MCSO policy to appeal or grieve that decision with the following alterations:*

*a. When minor discipline is imposed, a grievance may be filed with the Sheriff or his designee consistent with existing MCSO procedure. Nevertheless, the Sheriff or his designee shall immediately transmit the grievance to the Monitor who shall have authority to and shall decide the grievance. If, in resolving the grievance, the Monitor changes the disciplinary decision in any respect, he shall explain his decision in writing.*

*b. disciplined MCSO employee maintains his or her right to appeal serious discipline to the Maricopa County Law Enforcement Merit System Council to the extent the employee has such a right. The Council may exercise its normal supervisory authority over discipline imposed by the Monitor.*

MCSO submitted policy to the Monitor and parties pursuant to Paragraph 165 that incorporate the requirements of this Paragraph. Phase 1 Compliance should be given to MCSO upon the approval of these policies. MCSO will provide any documentation needed to the Monitor to determine Phase 2 compliance.

**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.*

Pursuant to Paragraph 165, MCSO submitted the PSB Operations Manual to the Monitor and parties which incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this manual. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

**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.*

PSB reviewed the Finding of Facts, (Doc 1677) in order to determine and identify other acts of potential misconduct by MCSO employees. Additionally, the PSB identified active



administrative investigations that posed potential conflicts of interest and referred three investigations to the Arizona Department of Public Safety for investigation. Lastly, the PSB started processing a Request for Proposal (RFP) to retain a qualified outside investigator to conduct the investigations determined to be conflicts of interest. After the review PSB identified additional acts of misconduct that will be referred to the outside independent investigator once contracted.

**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.*

**MCSO is currently in full and effective compliance with Paragraph 106. Paragraph 106 states,** *“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.”*

MCSO requests an in compliance rating in this Paragraph. MCSO will continue to provide all requested documentation to prove compliance.

**Paragraph 337.** *Nevertheless, when discipline is imposed by the Independent Disciplinary Authority, the employee shall maintain his or her appeal rights following the 1 imposition of administrative discipline as specified by Arizona law and MCSO policy with the following exceptions:*

- a. When minor discipline is imposed, a grievance may be filed with the Sheriff or his designee consistent with existing MCSO procedure. Nevertheless, the Sheriff or his designee shall transmit the grievance to the Monitor who shall have authority to decide the grievance. If in resolving the grievance the Monitor changes the disciplinary decision in any respect, he shall explain his decision in writing.*
- b. A disciplined MCSO employee maintains his or her right to appeal serious discipline to the Maricopa County Law Enforcement Merit System Council to the extent the employee has such a right. The Council may exercise its normal supervisory authority over discipline imposed by the Independent Disciplinary Authority with one caveat. Arizona law allows the Council the discretion to vacate discipline if it finds that the MCSO did not make a good faith effort to investigate and impose the discipline within 180 days of learning of the misconduct. In the case of any of the disciplinary matters considered by the Independent Disciplinary Authority, the MCSO will not have made that effort. The delay, in fact, will have resulted from MCSO’s bad faith effort to avoid the appropriate imposition of discipline on MCSO employees to the detriment of the members of the Plaintiff class. As such, the Council’s determination to vacate discipline because it was not timely imposed would only serve to compound the harms*

*imposed by the Defendants and to deprive the members of the Plaintiff class of the remedies to which they are entitled due to the constitutional violations they have suffered at the hands of the Defendants. As is more fully explained above, such a determination by the Council would constitute an undue impediment to the remedy that the Plaintiff class would have received for the constitutional violations inflicted by the MCSO if the MCSO had complied with its original obligations to this Court. In this rare instance, therefore, the Council may not explicitly or implicitly exercise its discretion to reduce discipline on the basis that the matter was not timely investigated or asserted by the MCSO. If the Plaintiff class believes the Council has done so, it may seek the reversal of such reduction with this Court pursuant to this Order.*

Pursuant to Paragraph 165, MCSO submitted MCSO Policy GC-17 (Employee Disciplinary Procedure) to the Monitor and parties which incorporates the requirements of this Paragraph. MCSO should receive Phase 1 Compliance upon the Monitor's approval of this policy. MCSO will provide any necessary documentation to the Monitor to achieve Phase 2 compliance.

It should be noted that MCSO has already begun providing documents to the Monitor on a monthly basis related to this Paragraph.

## **Section 12: Conclusion**

The Maricopa County Sheriff's Office continues to make advancements toward achieving compliance with the Court's Order.

### **The Increased Pace of and Dedication to Compliance**

MCSO has increased the pace of production pursuant to the requests of the Monitors and the parties, as well as its turnaround of drafts and revisions of policies, operations manuals and training materials. MCSO anticipates that the increase in PSB and CID personnel will increase the pace of compliance as well. The goal of full and effective compliance is of the utmost importance to all members of MCSO; MCSO's desire to attain that goal has resulted in this increased compliance pace.

In an effort to dispel any notion that the concern with compliance with the Court's Orders are only "Headquarter-centric", MCSO has begun to incorporate district commanders in compliance meetings to enlist their sustained attention to and participation and investment in the compliance process. MCSO has also incorporated district commanders in several meetings with the Monitor and parties during the July Monitor Site Visit. Division captains and lieutenants attended, making the compliance process real to them by having this first-hand experience.

To further engage and support its commanders and deputies out in the districts, CID developed a Liaison Program which allows direct compliance communication between CID and patrol districts including line level deputies and field Supervisors. Despite the rhetoric, Sheriff Arpaio, Chief Deputy Sheridan and all MCSO personnel are committed to the goal of achieving full and effective compliance with the Court's Orders and to making the Maricopa County Sheriff's Office the premier sheriff's office in the nation.

### **MCSO Alone does not Control the Pace of Compliance**

As stated in the introduction and throughout this Report, MCSO alone does not control the pace of compliance; rather, the pace of compliance is a combination of the efforts of the Monitor, MCSO, and the Parties. While the review process allows valuable collaboration and input from all the parties, it does increase the timeline of implementing policy and training mandated by the Orders. The purpose of this statement is not to cast blame on any of the three groups involved in the process (MCSO, the Monitor, or the Parties), but rather explain to the reader that while the compliance and reform process may appear to be simplistic, it is a multi-faceted, complex process involving many parties and consuming a great deal of time of all involved.

### **MCSO's Increased Community Outreach Efforts**

In addition, MCSO has increased Community Outreach in an attempt to restore public confidence and trust in MCSO, and in its efforts under Sheriff Arpaio to achieve full and effective compliance under the Court's Orders. The Community Outreach Division has made great progress to rebuild MCSO's relationship with the residents of Maricopa County whom it

serves. Even the Court's Orders do not mandate them, MCSO's community outreach efforts demonstrate MCSO's commitment to the reform process and its investment in the Maricopa County community it exists to protect and serve. Additionally, MCSO strives to enter more detailed information on community policing events completed by deputies on a daily basis.

As indicated above, MCSO has also attempted to reach out to open a dialogue with the Community Advisory Board ("CAB"). Several meetings ago, a CAB member challenged the Sheriff to meet with CAB. The Sheriff and MCSO command staff viewed this challenge as a desired invitation and tried to reach out to CAB. Interestingly, CAB rebuked MCSO and the Sheriff for accepting its invitation to meet. To date, MCSO's efforts to engage CAB in a conversation have been fruitless.

#### Technology Requirements, MCSO's Efforts and Compliance

Compliance under the Court's Orders requires complex technological change and advances. Accordingly, MCSO's Technology Bureau has the burden of developing technology based solutions to fulfill many of the requirements under the Court's Orders. The Technology Bureau juggles several technology projects simultaneously with regard to its efforts to assist MCSO to achieve its goal of full and effective compliance under the Court's Orders. Some of these projects require the retention and assistance of and software development by an outside technology vendor. The addition of entities and individuals usually delays any project. In this regard, MCSO's compliance efforts requiring technological changes and software development are no different. Like other aspects of the compliance process, the parties also participate in and provide their input regarding compliance efforts involving technology.

Nevertheless, during this quarter, the Technology Bureau was able to develop and implement updates and improvements to the daily patrol activity logs. The Technology Bureau also implemented the "discussed with deputy" and "supervisor review" indicators in the TraCS system on the vehicle stop contact form (VSCF). These developments will allow MCSO to demonstrate to the Monitor when a VSCF was reviewed by the supervisor and when the supervisor discussed the stop with the deputy. Also during this quarter, the Technology Bureau developed a spreadsheet report that documents when Supervisors approve Crash Reports as required by Paragraph 83. Incorporating FI Cards and Incident Reports into the TraCS system is another major project on which MCSO is working at this time. The Technology Bureau has many projects on its plate, but it will continue to work simultaneously on them to help MCSO achieve full and effective compliance under the Court's Orders.

#### MCSO's Commitment to Training and Recent Accomplishment

The Court has ordered various and additional training of MCSO personnel as requisite for MCSO compliance. A great deal of training has occurred and will continue to occur.

On June 7, 2016, the Monitor approved the lesson plan for the "Supervisor Responsibilities: Effective Law Enforcement Training" course. As a result, MCSO began to deliver associated supervisor training on June 13, 2016, just six (6) days later. By July 15, 2016, MCSO concluded this training. The speed at which this training occurred once approved demonstrates MCSO's

commitment to achieve compliance. New supervisors will be required to attend this training after they are promoted. The completion of this training is a significant and positive step towards full and effective compliance. As described above, the approval and finalization of training is collaborative effort amongst MCSO, the Monitor, and the Parties. MCSO thanks all the involved parties for the roles that they played in making the Supervisor Training delivery possible during this quarter. MCSO looks forward to such continued collaboration which will enable it to achieve its goal of full and effective compliance with all aspects of the Court's Orders.

#### BIO's Efforts to Achieve Transparency and Deputy Oversight

Furthermore, MCSO's Bureau of Internal Oversight ("BIO") is working hard to increase agency transparency and to provide audits and inspections that will help MCSO prove to the Monitor, parties, Court, and the Community that it is able to monitor itself by identifying and addressing problematic issues within the agency. BIO's Early Intervention Unit ("EIU") is working assiduously with the Monitor and parties to develop an Early Intervention System ("EIS") that will effectively enhance and promote accountability within MCSO, and track deputy behavior to reveal trends in conduct or behaviors that necessitate coaching, counseling, additional training, or discipline.

MCSO's CID appreciates the good working relationship that it enjoys with the Monitor and Parties. As the single point of contact, CID's Captain Aldorasi is devoted to maintaining this relationship, and works closely with the Monitor and Parties to achieve compliance with the Court Orders. To that end, CID is committed to developing strategies and identifying steps necessary to increase the momentum of compliance and ultimately achieve full and effective compliance.

#### MCSO Efforts to Ensure Compliance with the Second Supplemental Order/Injunction

After reviewing this report, Sheriff Arpaio, Chief Deputy Sheridan, and the MCSO command staff hope it is apparent to the reader that immediate steps are being taken to achieve compliance with the Second Amended Second Supplemental Permanent Injunction/Judgment Order. As documented in this report, MCSO asserts it is already in compliance with several Paragraphs in the Order and has made significant progress in relation to other paragraphs. MCSO will continue to commit an incredible amount of resources to the effort to gain full and effective compliance.

Sheriff Arpaio, MCSO command staff, and all other MCSO personnel are committed to achieving compliance with every aspect of the Court's Orders, and will not let up in their efforts until full compliance is achieved.

## Appendix A: MCSO Melendres Court Order Compliance Chart

MCSO Melendres Court Order Compliance Chart										Updated on: October 28, 2016
Paragraph #	Requirement	Phase 1: Development (Policy & Training)				Phase 2: Implementation			Date of Full Compliance	
		In Compliance	Deferred	Not in Compliance	Not Applicable	In Compliance	Deferred	Not in Compliance		
<b>Section III. MCSO Implementation Unit and Internal Agency-wide Assessment</b>										
9	Form a Court Order Implementation Unit	X				X			Apr. 16, 2015	
10	Collection and Maintenance of All Data and Records	X				X			Oct. 16, 2015	
11	MCSO Quarterly Report	X				X			Sep. 18, 2014	
12	MCSO Annual Internal Assessment	X				X			Feb. 9, 2016	
13	MCSO Annual Internal Assessment	X				X			Feb. 9, 2016	
<b>Section V. Policies and Procedures</b>										
19	Conduct Comprehensive Review of All Policies	X						X		
21	Create and Disseminate Policy Regarding Biased-Free Policing	X					X			
22	Reinforce Discriminatory Policing is Unacceptable	X						X		
23	Modify Code of Conduct Policy (CP-2): Prohibited Use of County Property	X				X			Feb. 9, 2016	
24	Ensure Operations are Not Motivated, Initiated, or Based on Race or Ethnicity			X			X			
25	Revise Policies to Ensure Bias-Free Traffic Enforcement	X					X			
26	Revise Policies to Ensure Bias-Free Investigatory Detentions and Arrests	X				X			Oct. 16, 2015	
27	Remove LEAR Policy from Policies and Procedures	X				X			Sep. 18, 2014	
28	Revise Policies Regarding Immigration-Related Law	X				X			Apr. 16, 2015	
29	All Policies and Procedures shall Define Terms Clearly, Comply with Applicable Law and Order Requirements, and Use Professional Standards					X	X		Apr. 16, 2015	
30	Submit All Policies to Monitor within 90 Days of Effective Date; and Have Approval by Monitor Prior to Implementation					X	X		Apr. 16, 2015	
31	Ensure Personnel Receive, Read, and Understand Policy	X				X				
32	All Personnel shall Report Violations of Policy; and Employees shall be Held Accountable for Policy Violations	X						X		
33	Personnel Who Engage in Discriminatory Policing shall be Subject to Discipline	X						X		
34	On Annual Basis, Review Policy and Document It in Writing	X				X			Apr. 16, 2016	



Paragraph #	Requirement	Phase 1: Development (Policy & Training)				Phase 2: Implementation			Date of Full Compliance
		In Compliance	Deferred	Not in Compliance	Not Applicable	In Compliance	Deferred	Not in Compliance	
<b>Section VI. Pre-Planned Operations</b>									
35	Monitor shall Regularly Review Documents of any Specialized Units Enforcing Immigration-Related Laws to Ensure Accordance with Law and Court Order	X				X			Feb. 9, 2016
36	Ensure Significant Ops or Patrols are Race-Neutral in Fashion; Written Protocol shall be Provided to Monitor in Advance of any Significant Op or Patrol	X				X			Apr. 16, 2015
37	Have Standard Template for Op Plans and Standard Instructions for Supervisors, Deputies, and Posse Members	X				X			Apr. 16, 2015
38	Create and Provide Monitor with Approved Documentation of Significant Op within 10 Days After Op	X				X			Apr. 16, 2015
40	Notify Monitor and Plaintiffs within 24 hrs. of any Immigration Related Traffic Enforcement Activity or Significant Op Arrest of 5 or More People	X				X			Apr. 16, 2015
<b>Section VII. Training</b>									
42	Selection and Hiring of Instructors for Supervisor Specific Training			X				X	
43	Training at Least 60% Live Training, 40% On-line Training, and Testing to Ensure Comprehension			X			X		
44	Training Schedule, Keeping Attendance, and Training Records			X			X		
45	Training may Incorporate Role-Playing Scenarios, Interactive Exercises, and Lectures				X	X			Oct. 28, 2016
46	Curriculum, Training Materials, and Proposed Instructors				X	X			Oct. 28, 2016
47	Regularly Update Training (from Feedback and Changes in Law)			X			X		
48	Bias-Free Policing Training Requirements (12 hrs. Initially, then 6 hrs. Annually)				X	X			Apr. 16, 2015
49	Bias-Free Policing Training shall Incorporate Current Developments in Federal and State Law and MCSO Policy				X	X			Apr. 16, 2015
50	Fourth Amendment Training (6 hrs. Initially, then 4 hrs. Annually)				X	X			Apr. 16, 2015
51	Fourth Amendment Training shall Incorporate Current Developments in Federal and State Laws and MCSO Policy				X	X			Apr. 16, 2015
52	Supervisor Responsibilities Training (6 hrs. Initially, then 4 hrs. Annually)				X			X	
53	Supervisor Responsibilities Training Curriculum				X			X	

Paragraph #	Requirement	Phase 1: Development (Policy & Training)				Phase 2: Implementation			Date of Full Compliance
		In Compliance	Deferred	Not in Compliance	Not Applicable	In Compliance	Deferred	Not in Compliance	
Section VIII. Traffic Stop Documentation and Data Collection and Review									
54	Collection of Traffic Stop Data	X						X	
55	Assign Unique ID for Each Incident/Stop, So Other Documentation can Link to Stop	X				X			Dec. 15, 2014
56	Maintaining Integrity and Accuracy of Traffic Stop Data	X				X			Feb. 9, 2016
57	Ensure Recording of Stop Length Time and Providing Signed Receipt for Each Stop	X						X	
58	Ensure all Databases Containing Individual-Specific Data Comply with Federal and State Privacy Standards; Develop Process to Restrict Database Access	X				X			Sep. 18, 2014
59	Providing Monitors and Plaintiffs' Representative Full Access to Collected Data				X	X			Sep. 18, 2014
60	Develop System for Electronic Data Entry by Deputies	X				X			Feb. 9, 2016
61	Installing Functional Video and Audio Recording Equipment (Body-Cameras)	X				X			Oct. 28, 2016
62	Activation and Use of Recording Equipment (Body-Cameras)	X						X	
63	Retaining Traffic Stop Written Data and Camera Recordings			X				X	
64	Protocol for Periodic Analysis of Traffic Stop Data and Data Gathered for Significant Ops			X				X	
65	Designate Group to Analyze Collected Data			X				X	
66	Conduct Annual, Agency-Wide Comprehensive Analysis of Data	X						X	
67	Warning Signs or Indicia of Possible Racial Profiling or Other Misconduct	X						X	
68	Criteria for Analysis of Collected Patrol Data (Significant Ops)	X				X			Dec. 15, 2014
69	Supervisor Review of Collected Data for Deputies under Their Command			X				X	
70	Response to/Interventions for Deputies or Units Involved in Misconduct			X				X	
71	Providing Monitor and Plaintiffs' Representative Full Access to Supervisory and Agency Level Reviews of Collected Data				X	X			Apr. 16, 2015
Section IX. Early Identification System (EIS)									
72	Develop, implement, and maintain a computerized EIS			X				X	
73	Create Unit or Expand Role of MCSO IT to Develop, Implement, and Maintain EIS			X			X		
74	Develop and Implement Protocol for Capturing and Inputting Data			X				X	

Paragraph #	Requirement	Phase 1: Development (Policy & Training)				Phase 2: Implementation			Date of Full Compliance
		In Compliance	Deferred	Not in Compliance	Not Applicable	In Compliance	Deferred	Not in Compliance	
75	EIS shall Include a Computerized Relational Database			X				X	
76	EIS shall Include Appropriate ID Info for Each Deputy			X				X	
77	Maintaining Computer Hardware and Software, All Personnel Have Ready and Secure Access				X	X			Apr. 16, 2015
78	Maintaining All Personally Identifiable Information			X				X	
79	EIS Computer Program and Hardware will be Operational, Fully Implemented, and Use in Accordance of Policies and Protocol			X				X	
80	EIS Education and Training for all Employees			X				X	
81	Develop and Implement Protocol for Using EIS and Information Obtained From It			X				X	
<b>Section X. Supervision and Evaluation of Officer Performance</b>									
83	Provide Effective Supervision of Deputies	X						X	
84	Adequate Number of Supervisors (1 Field Supervisor to 12 Deputies)	X				X			Jan. 12, 2016
85	Supervisors Discuss and Document Traffic Stops with Deputies	X						X	
86	Availability of On-Duty Field Supervisors	X						X	
87	Quality and Effectiveness of Commanders and Supervisors			X				X	
88	Supervisors in Specialized Units (Those Enforcing Immigration-Related Laws) Directly Supervise LE Activities of New Members	X				X			Feb. 9, 2016
89	Deputies Notify a Supervisor Before Initiating any Immigration Status Investigation and/or Arrest	X				X			Oct. 28, 2016
90	Deputies Submit Documentation of All Stops and Investigatory Detentions Conducted to Their Supervisor By End of Shift	X						X	
91	Supervisors Document any Investigatory Stops and Detentions that Appear Unsupported by Reasonable Suspicion or Violate Policy	X						X	
92	Supervisors Use EIS to Track Subordinate's Violations or Deficiencies in Investigatory Stops and Detentions			X				X	
93	Deputies Complete All Incident Reports Before End of Shift. Field Supervisors Review Incident Reports and Memorialize Their Review within 72 hrs. of an Arrest	X						X	

Paragraph #	Requirement	Phase 1: Development (Policy & Training)				Phase 2: Implementation			Date of Full Compliance
		In Compliance	Deferred	Not in Compliance	Not Applicable	In Compliance	Deferred	Not in Compliance	
94	Supervisor Documentation of Any Arrests that are Unsupported by Probable Cause or Violate Policy	X						X	
95	Supervisors Use EIS to Track Subordinate's Violations or Deficiencies in Arrests and the Corrective Actions Taken			X				X	
96	Command Review of All Supervisory Review Related to Arrests that are Unsupported by Probable Cause or Violate Policy	X				X			Oct. 28, 2016
97	Commander and Supervisor Review of EIS Reports			X				X	
98	System for Regular Employee Performance Evaluations			X				X	
99	Review of All Compliant Investigations, Complaints, Discipline, Commendations, Awards, Civil and Admin. Claims and Lawsuits, Training History, Assignment and Rank History, and Past Supervisory Actions			X				X	
100	Quality of Supervisory Reviews Taken into Account in Supervisor's Own Performance Evaluation			X				X	
101	Eligibility Criteria for Assignment to Specialized Units	X				X			Feb. 9, 2016
<b>Section XI. Misconduct and Complaints</b>									
102	Reporting Alleged or Apparent Misconduct	X						X	
103	Audit Check Plan to Detect Deputy Misconduct			X				X	
104	Deputy Cooperation with Administrative Investigations	X						X	
105	Investigator Access to Collected Data, Records, Complaints, and Evaluations	X						X	
106	Disclosure of Records of Complaints and Investigations				X	X			Apr. 16, 2016
<b>Totals:</b>		<b>47</b>	<b>0</b>	<b>28</b>	<b>14</b>	<b>36</b>	<b>2</b>	<b>51</b>	

<b>Legend</b>
Paragraphs 18, 20, 41, & 82 are Introductory Paragraphs; no compliance requirement
Section I. Definitions; no compliance requirement
Section II. Effective Dates, Jurisdiction and Party Representatives; no compliance requirement
Section XII. Community Engagement (Monitor's responsibility); no compliance requirement
Section XIII. Independent Monitor and Other Procedures Regarding Enforcement; no compliance requirement

## **Appendix B: List of MCSO Acronyms**

ATU:	Anti-Trafficking Unit
AIU:	Audits and Inspections Unit
BIO:	Bureau of Internal Oversight
CAD:	Computer Aided Dispatch
CID:	Court Implementation Division
CEU:	Criminal Employment Unit
EIS:	Early Identification System
EIU:	Early Intervention Unit
FMLA:	Family Medical Leave Act
MCAO:	Maricopa County Attorney's Office
PPMU:	Posse Personnel Management Unit
PSB:	Professional Standards Bureau
SID:	Special Investigations Division
SRT:	Special Response Team
TraCS:	Traffic Stop Data Collection System
VSCF:	Vehicle Stop Contact Form

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