

*Maricopa County Sheriff's Office*

*Paul Penzone, Sheriff*

## **COURT IMPLEMENTATION DIVISION**

### **Twenty First Quarterly Compliance Report**



**COVERING THE**  
**2nd Quarter of 2019, April 1, 2019 – June 30, 2019**

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## Section 1: Introduction

This is the 21st Quarterly Report (“Report”) assessing the Maricopa County Sheriff’s Office (“MCSO” or “Office”)’s compliance with the Hon. G. Murray Snow’s October 2, 2013 Supplemental Permanent Injunction/Judgment Order (Doc. 606), as amended (the “First Order”), and the Second Supplemental Permanent Injunction/Judgment Order (Doc. 1765), as amended (the “Second Order”) (collectively, the “Court’s Order”). MCSO submits this Report to comply with Paragraph 11 of the Court’s Order.

The purpose of this Report is to describe and document the steps MCSO has taken to implement the Court’s Order, describe and document MCSO’s plans to correct any problems, and provide responses to concerns raised in the Monitor’s 20th Quarterly Report covering January 1, 2019 – March 31, 2019 and filed with the Court on July 29, 2019 (the “Monitor’s 20th Quarterly Report”).

MCSO has implemented many procedures and created divisions with the goal of implementing the Court’s Order and achieving Full and Effective Compliance. Specific accomplishments for this reporting period have assisted MCSO in achieving an overall compliance rating, combining both the First and Second Orders, of 98% for Phase 1 and 84% for Phase 2.

After review by the Monitor and Parties, the Administrative Services Division Operations Manual was approved and published on June 17, 2019. Included in this Operations Manual is a section for the Open Axes program. The Open Axes program allows the Legal Liaison Section to search and view all Office network drives when searching for records and information based on criteria established by the Document Preservation Notice. Completion of this Operations Manual should allow MCSO to achieve both Phase 1 and Phase 2 compliance with Paragraph 270.

Three inspection methodologies were approved during this quarter. Most notably, the Traffic Stop Annual Report (“TSAR”) was approved after a lengthy review. The approval of the TSAR will allow MCSO to move forward with conducting an analysis of the traffic stop data and address many of the requirements of Section 7 of the Order, Traffic Stop Documentation and Data Collection.

Also approved during this quarter was a Post-Stop Ethnicity Inspection methodology and a Monthly Incident Report Inspection methodology. The Monthly Incident Report Inspection will replace the County Attorney Turnaround Inspection beginning in September. MCSO is confident that this inspection will provide an accurate assessment of MCSO’s compliance with supervisory reviews of arrests and the corrective actions taken to address deficiencies.

Contained within this report, by section, is a listing of each Paragraph that MCSO is “in compliance” for both Phase 1 and Phase 2. Paragraphs that MCSO remains in “full and effective compliance” are detailed with the reasons for the assertions. Also listed in detail are Paragraphs that are rated as “not in compliance” or “deferred” along with plans to correct any problems and responses to concerns.

## Section 2: Compliance Summary

This Report from MCSO includes compliance ratings from the First and Second Orders issued by the Hon. G. Murray Snow. The Monitor rates MCSO compliance 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.”

The Monitor assesses MCSO’s compliance with 99 Paragraphs of the First Order, and 113 Paragraphs of the Second Order, for a total of 212 Paragraphs. Please note the reporting period for this Report covers the second quarter of 2019 (April 1, 2019 –June 30, 2019).

- First Order compliance rating as reported in the Monitor’s 20th Quarterly Report:
  - Phase 1 compliance is 97% - no change from last quarter.
  - Phase 2 compliance is 78% - a 3% increase from last quarter.
- Second Order compliance rating as reported in the Monitor’s 20th Quarterly Report:
  - Phase 1 compliance is 99% - no change from last quarter.
  - Phase 2 compliance is 89% - a decrease of 1%.

MCSO has achieved Full and Effective Compliance with 24 Paragraphs of the First Order. This means that MCSO has been in both Phase 1 and Phase 2 compliance with the requirements of these Paragraphs for at least three consecutive years. In this report, MCSO asserts Full and Effective Compliance with four additional Paragraphs of the First Order, Paragraphs 31, 34, 84, and 106.

According to the Monitor’s 20th Quarterly Report, MCSO is in Phase 1 compliance with 83 of the First Order Paragraphs and 102 of the Second Order Paragraphs. MCSO is in Phase 2 compliance with 77 of the First Order Paragraphs and 101 of the Second Order Paragraphs. Factoring the requirements of both Court Orders, MCSO is in Phase 1 compliance with 185 Paragraphs, a 98% overall rating, and in Phase 2 compliance with 178 Paragraphs, an 84% overall rating.

MCSO continues to work with and receive feedback from several community advisory boards which were created at the direction of Sheriff Penzone to advise the Office on important matters that affect the community as well as be a voice to and for the communities they represent:

- SPEAR – Sheriff Penzone’s Executive Advisory Review. SPEAR is made up of diverse community members from across the County.
- The Hispanic Advisory Board is made up of Dreamers, businesspeople, activists, educators, and community leaders.
- The Sheriff has also formed an African American Advisory Board and an LGBTQ Advisory Board.
- The Community Advisory Board (“CAB”).

On June 3, 2019 the Court denied MCSO’s motion to modify the Paragraph 70 Plan and replace it with a community policing plan (Doc. 2431). MCSO continues to implement the original nine goal plan in conjunction with the Community Advisory Board and the parties, which plan was developed as an institutional bias remediation program to implement Paragraph 70 of the Court’s Order.

MCSO continues to work with the contracted vendor that will be conducting the annual, monthly, and quarterly traffic stop analyses – CNA Analysis & Solutions (“CNA”). MCSO’s Traffic Stop Analysis (“TSAU”), in partnership with CNA, has been developing a refined methodology for the Monthly and Annual Traffic Stop Report processes. After an extensive review with the Monitor Team and Parties, the Traffic Stop Annual Review (“TSAR”) methodology was approved this quarter. Subsequent to that approval, after the end of this quarter, and after preliminary testing by CNA, CNA and the MCSO notified the parties and the Monitor of some adjustments and updates to the approved methodology. The MCSO and CNA continue to work with the parties and the Monitor moving forward regarding calibration of the methodology as it is implemented to produce the annual traffic stop report.

The Bureau of Internal Oversight (“BIO”) continues to assist MCSO in its efforts to maintain and gain compliance by providing timely and professional auditing of MCSO personnel to assure compliance with the Court’s Order. During this quarter, BIO completed several inspections to verify compliance with the Court’s Order requirements and identify any deficiencies. After much discussion and several reviews, a new Monthly Incident Report Inspection methodology was approved by the Monitor. This inspection will begin in September and will replace the County Attorney Turnaround inspection. MCSO believes that the Monthly Incident Report Inspection will provide a more accurate means of assessment as it relates to supervisory and command reviews and corrective actions.

In its ongoing effort to communicate compliance efforts and allow for open dialogue with MCSO employees, the Compliance Bureau continues to conduct Internal Town Halls. The most recent Internal Town Hall was held on May 29, 2019 at the Litchfield Park Library. This was an excellent opportunity to address employees of the MCSO interested in learning more about CNA, the TSAR process, and compliance concerns. Many questions and concerns were addressed. The feedback in reference to increasing communication was positive.

MCSO is dedicated to achieving full and effective compliance with the Court’s Order. Compliance is a top priority for Sheriff Penzone and the leadership he has in place.

## **Section 3: Implementation Unit Creation and Documentation Requests**

### **General Comments regarding CID**

MCSO has taken major steps to implement Section III of the Court’s Order. In October 2013, MCSO formed a division titled the Court Compliance and Implementation Division consistent with Paragraph 9 of the Court’s Order. In February 2015, MCSO changed the name of this division to the CID. CID coordinates site visits and other activities with each of the parties, as the Court’s Order requires.

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’s 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 Maricopa County Attorney’s Office (“MCAO”).

During this quarter, CID responded to the three monthly document requests, the quarterly document requests, and the April site visit document requests. 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 Court’s Order, CID, through MCSO counsel, produced approximately 268,651 documents during the three-month period of April 1, 2019 – June 30, 2019 alone.

CID strives to continue to foster a positive working relationship with the Monitor and Parties. This positive attitude continues to be reflected in MCSO’s ongoing collaboration with the Monitor and Parties.

MCSO remains in “full and effective compliance” with the Paragraphs in Section 3, Implementation Unit Creation and Documentation Requests. These Paragraphs are detailed with the reasons for the assertions.

*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 Full and Effective Compliance with Paragraph 9.***

MCSO remains in full and effective compliance with the requirements for Paragraph 9 in accordance with Paragraph 13. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with this Paragraph on June 30, 2018. In the memorandum dated January 28, 2019 and in reference to the subject of MCSO’s Assertions of Full and Effective Compliance with Various First Order Paragraphs, the Monitoring Team concurred with MCSO’s assertion of full and effective compliance with the requirements for Paragraph 9.

Phase 1 compliance is demonstrated by the Court Implementation Division Operations Manual, most recently revised on August 17, 2018. This manual establishes specific instructions governing

the organization, supervision, and functional operations of CID. The Mission of CID is to act as a liaison between MCSO and the Monitor Team to streamline the process of achieving full compliance with the Court's Orders.

Phase 1 compliance is demonstrated by the Court Implementation Division Operations Manual, most recently revised on August 17, 2018. This manual establishes specific instructions governing the organization, supervision, and functional operations of CID. The Mission of CID is to act as a liaison between MCSO and the Monitor Team to streamline the process of achieving full compliance with the Court's Orders.

Phase 2 compliance is established through the operations and staffing of CID. CID is currently staffed with one captain, one lieutenant, three sergeants, one management assistant, and two administrative assistants. CID is in the process of staffing two additional management analyst positions to assist with document production and compliance reports. CID is committed to its mission to act as a liaison between MCSO and the Monitor Team to streamline the process of achieving full compliance with the Court's Orders. CID is committed to ensuring all compliance activities are produced and implemented in a constitutional, lawful, and bias-free manner. CID continues to provide documents via an Internet-based application to the Monitoring Team in accordance with the requirements of this paragraph. CID is an integral and necessary part of MCSO and will continue to function in its capacity to ensure compliance throughout the Office.

In accordance with Paragraph 134, the Monitor may refrain from conducting an audit or review of the requirements of Paragraph 9 as previous assessments of the requirements have been found to have been fully implemented in practice and the intended outcome has been achieved.

*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 Full and Effective Compliance with Paragraph 10.***

MCSO remains in full and effective compliance with the requirements of Paragraph 10 in accordance with Paragraph 13. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with this Paragraph on June 30, 2018. In the memorandum dated January 28, 2019 and in reference to the subject of MCSO's Assertions of Full and Effective Compliance with Various First Order Paragraphs, the Monitoring Team concurred with MCSO's assertion of full and effective compliance with the requirements for Paragraph 10.

Phase 1 compliance is demonstrated by the Court Implementation Division Operations Manual, most recently revised on August 17, 2018. This manual establishes specific instructions governing the organization, supervision, and functional operations of CID.

Phase 2 compliance is demonstrated through the consistent production of data and records as well as the performance of ongoing quality assurance. CID is committed to acting as a liaison between MCSO and the Monitor Team by collecting and maintaining all data and records necessary to implement this order and documenting implementation of and compliance with this order. CID is responsive to the requests of the Monitoring Team and addresses issues encountered with immediacy. These requirements are delineated in the CID Operations Manual and will continue to be performed to achieve and maintain compliance with the remaining paragraphs.

BIO conducts regular audits of work products that directly affect compliance with this order. These audits will continue to ensure compliance throughout MCSO and its operations.

In accordance with Paragraph 134, the Monitor may refrain from conducting an audit or review of the requirements of Paragraph 10 as previous assessments of the requirements have been found to have been fully implemented in practice and the intended outcome has been achieved.

*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 Full and Effective Compliance with Paragraph 11.***

On June 3, 2019, MCSO filed with the Court its 20th Quarterly Report.

MCSO remains in full and effective compliance with the requirements for Paragraph 11 in accordance with Paragraph 13. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with this paragraph on June 30, 2018. In the memorandum dated January 28, 2019 and in reference to the subject of MCSO's Assertions of Full and Effective Compliance with Various First Order Paragraphs, the Monitoring Team concurred with MCSO's assertion of full and effective compliance with the requirements for Paragraph 11.

Phase 1 compliance is demonstrated by the Court Implementation Division Operations Manual, most recently revised on August 17, 2018. This manual establishes specific instructions governing the organization, supervision, and functional operations of CID.

Phase 2 compliance is established by the consistent production and publication of the quarterly report. CID publishes a quarterly report as required by the Court's Order and the CID Operations Manual. The quarterly reports provide an overview of MCSO's efforts to obtain compliance as well as compliance status for each paragraph and responds to concerns raised in the Monitor's quarterly report. Completion of the quarterly report is a necessary function for CID and the quarterly reports will continue to be published.

In accordance with Paragraph 134, the Monitor may refrain from conducting an audit or review of the requirements of Paragraph 11 as previous assessments of the requirements have been found to have been fully implemented in practice and the intended outcome has been achieved

*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 Full and Effective Compliance with Paragraph 12.***

On September 17, 2018, MCSO filed the 2018 Annual Report which covers the time period from July 01, 2017 to June 30, 2018. MCSO will continue to file the annual comprehensive assessment as required by Paragraphs 12 and 13 in a timely manner.

MCSO remains in full and effective compliance with the requirements for Paragraph 12 in accordance with Paragraph 13. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with the requirements of Paragraph 12 on September 30, 2018. In the memorandum dated January 28, 2019 and in reference to the subject of MCSO's Assertions of Full and Effective Compliance with Various First Order Paragraphs, the Monitoring Team concurred with MCSO's assertion of full and effective compliance with the requirements for Paragraph 12.

Phase 1 compliance is demonstrated by the Court Implementation Division Operations Manual, most recently revised on August 17, 2018. This manual establishes specific instructions governing the organization, supervision, and functional operations of the CID.

Phase 2 compliance is demonstrated by the consistent production and publication of the Annual Report. MCSO submits its Annual Compliance Report on or before September 15 of each year. This comprehensive annual assessment runs according to MCSO's fiscal year cycle, July 1-June 30. Completion of this report is required by the CID Operations Manual. MCSO will continue to file the annual comprehensive assessment as required by Paragraphs 12 and 13 in a timely manner.

In accordance with Paragraph 134, the Monitor may refrain from conducting an audit or review of the requirements of Paragraph 12 as previous assessments of the requirements have been found to have been fully implemented in practice and the intended outcome has been achieved.

*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 Full and Effective Compliance with Paragraph 13.***

On September 17, 2018, MCSO filed the 2018 Annual Report which covers the time period from July 01, 2017 to June 30, 2018. MCSO will continue to file the annual comprehensive assessment as required by Paragraphs 12 and 13 in a timely manner.

MCSO remains in full and effective compliance with the requirements for Paragraph 13. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with this Paragraph on September 30, 2018. In the memorandum dated January 28, 2019 and in reference to the subject of MCSO's Assertions of Full and Effective Compliance with Various First Order Paragraphs, the Monitoring Team concurred with MCSO's assertion of full and effective compliance with the requirements for Paragraph 13.

MCSO submits its Annual Compliance Report on or before September 15 of each year. This comprehensive annual assessment runs according to MCSO's fiscal year cycle, July 1-June 30. Completion of this report is required by the CID Operations Manual. MCSO will continue to file the annual comprehensive assessment as required by Paragraphs 12 and 13 in a timely manner.

In accordance with Paragraph 134, the Monitor may refrain from conducting an audit or review of the requirements of Paragraph 13 as previous assessments of the requirements have been found to have been fully implemented in practice and the intended outcome has been achieved.

## Section 4: 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's Order, MCSO continues to comprehensively review all Patrol Operations Policies and Procedures, consistent with Paragraph 19 of the Court's Order.

In addition to its annual review of all Critical Policies, consistent with Paragraph 34 requirements that MCSO 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's Order, the MCSO Policy Section continues with its annual review of all policies relevant to the Court's Order.

During this reporting period, MCSO published seventeen (17) Policies relevant to the Court's Order:

- CP-5, *Truthfulness (Annual Review)*
- EA-3, *Non-Traffic Contact (Annual Review)*
- EA-11, *Arrest Procedures (Annual Review)*
- EB-2, *Traffic Stop Data Collection (Annual Review)*
- ED-2, *Covert Operations (Annual Review)*
- GB-2, *Command Responsibility (Annual Review)*
- GC-12, *Hiring and Promotional Procedures (Annual Review)*
- GC-16, *Employee Grievance Procedures (Annual Review)*
- GC-17, *Employee Disciplinary Procedures (Annual Review)*
- GD-9, *Litigation Initiation, Document Preservation, and Document Production Notices (Annual Review)*
- GE-4, *Use, Operation, and Assignment of Vehicles (Annual Review)*
- GF-3, *Criminal History Record Information and Public Records (Annual Review)*
- GH-2, *Internal Investigations (Annual Review)*
- GI-1, *Radio and Enforcement Communications Procedures (Annual Review)*
- GI-7, *Processing Bias-Free Tips (Annual Review)*
- GJ-26, *Sheriff's Reserve Deputy Program (Annual Review)*
- GJ-33, *Significant Operations (Annual Review)*

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

- EA-3, *Non-Traffic Contact (Annual Review)*
- EA-11, *Arrest Procedures (Annual Review)*
- EB-1, *Traffic Enforcement, Violator Contacts, and Citation Issuance (Annual Review)*
- EB-2, *Traffic Stop Data Collection (Annual Review)*
- EB-4, *Traffic Records (Annual Review)*
- ED-3, *Review of Cases Declined for Prosecution (Annual Review)*
- GB-2, *Command Responsibility (Annual Review)*
- GC-4, *Employee Performance Appraisals (Annual Review)*
- GC-7, *Transfer of Personnel (Annual Review)*
- GC-12, *Hiring and Promotional Procedures (Annual Review)*

- GC-17, *Employee Disciplinary Procedures (Annual Review)*
- GD-9, *Litigation Initiation, Document Preservation, and Document Production Notices (Annual Review)*
- GE-3, *Property Management and Evidence Control (Annual Review)*
- GE-4, *Use, Operation, and Assignment of Vehicles (Annual Review)*
- GF-5, *Incident Report Guidelines (Annual Review)*
- GG-1, *Peace Officer Training Administration (Annual Review)*
- GG-2, *Detention, Civilian Training Administration (Annual Review)*
- GH-2, *Internal Investigations (Annual Review)*
- GI-7, *Processing Bias-Free Tips (Annual Review)*
- GJ-2, *Critical Incident Investigations (Annual Review)*
- GJ-3, *Search and Seizure (Annual Review)*
- GJ-5, *Crime Scene Management (Annual Review)*
- GJ-26, *Sheriff's Reserve Deputy Program (Annual Review)*
- GJ-27, *Sheriff's Posse Program (Annual Review)*

Policies sent to Community Advisory Board (“CAB”) during the 2018/19 Annual Review period:

- CP-2, *Code of Conduct (Annual Review)*
- CP-8, *Preventing Racial and Other Bias-Based Profiling (Annual Review)*
- CP-11, *Anti-Retaliation (Annual Review)*
- EA-3, *Non-Traffic Contacts (Annual Review)*
- EA-11, *Arrest Procedures (Annual Review)*
- EB-1, *Traffic Enforcement, Violator Contacts, and Citation Issuance (Annual Review)*
- GC-13, *Awards (Annual Review)*
- GH-2, *Internal Investigations (Annual Review)*
- GI-5, *Voice Language Line Services (Annual Review)*
- GI-7, *Processing of Bias-Free Tips (Annual Review)*
- GJ-24, *Community Relations and Youth Programs (Annual Review)*

Policies submitted to the Monitor for review:

- EA-3, *Non-Traffic Contact (Annual Review)*
- EA-11, *Arrest Procedures (Annual Review)*
- GB-2, *Command Responsibility (Annual Review)*
- GC-4, *Employee Performance Appraisals (Annual Review)*
- GC-12, *Hiring and Promotional Procedures (Annual Review)*
- GC-17, *Employee Disciplinary Procedures (Annual Review)*
- GD-9, *Litigation Initiation, Document Preservation, and Document Production Notices (Annual Review)*
- GE-4, *Use, Operation, and Assignment of Vehicles (Annual Review)*
- GF-5, *Incident Report Guidelines (Annual Review)*
- GG-1, *Peace Officer Training Administration (Annual Review)*
- GG-2, *Detention, Civilian Training Administration (Annual Review)*
- GH-2, *Internal Investigation (Annual Review)*
- GI-7, *Processing Bias-Free Tips (Annual Review)*

- GJ-2, *Critical Incident Investigations (Annual Review)*
- GJ-3, *Search and Seizure (Annual Review)*
- GJ-26, *Sheriff's Reserve Deputy Program (Annual Review)*

Pursuant to the Second Order, MCSO Policy Section has submitted twenty-six (26) policies to the Monitor Team. The Monitor Team has approved twenty-five (25) of these policies:

- CP-2, *Code of Conduct (Monitor Approved)*
- CP-3, *Workplace Professionalism: Discrimination and Harassment (Monitor Approved)*
- CP-5, *Truthfulness (Monitor Approved)*
- CP-11, *Anti-Retaliation (Monitor Approved)*
- EA-2, *Patrol Vehicles (Monitor Approved)*
- GA-1, *Development of Written Orders (Monitor Approved)*
- GB-2, *Command Responsibility (Monitor Approved)*
- GC-4, *Employee Performance Appraisals (Monitor Approved)*
- GC-7, *Transfer of Personnel (Monitor Approved)*
- GC-11, *Employee Probationary Periods (Monitor Approved)*
- GC-12, *Hiring and Promotional Procedures (Monitor Approved)*
- GC-16, *Employee Grievance Procedures (Monitor Approved)*
- GC-17, *Employee Disciplinary Procedure (Monitor Approved)*
- GC-22, *Critical Incident Stress Management Program (Monitor Approved)*
- GD-9, *Receipt of Litigation Notice or Subpoena (Monitor Approved)*
- GE-4, *Use, Assignment, and Operation of Vehicles (Monitor Approved)*
- GG-1, *Peace Officer Training Administration (Monitor Approved)*
- GG-2, *Detention/Civilian Training Administration (Monitor Approved)*
- GH-2, *Internal Investigations (Monitor Approved)*
- GH-4, *Bureau of Internal Oversight (Monitor Approved)*
- GH-5, *Early Identification System (EIS) (Monitor Approved)*
- GI-4, *Calls for Service (Monitor Approved)*
- GI-5, *Voice Language Services (Monitor Approved)*
- GJ-24, *Community Relations and Youth Programs (Monitor Approved)*
- GJ-26, *Sheriff's Reserve Deputy Program (Monitor Approved)*
- GJ-27, *Sheriff's Posse Program*

In addition, to expeditiously implement the Court's directives, two (2) MCSO Briefing Boards that referenced Court Order related topics during this reporting period have been published. The Briefing Boards are listed below:

MCSO Briefing Board 19-17, published April 05, 2019 announced an immediate policy change to Office Policy GE-4, *Use, Assignment, and Operation of Vehicles* providing updated procedures for routing vehicle accident reporting in Blue Team.

MCSO Briefing Board 19-29, published June 26, 2019 announced an immediate policy change to Office Policy CP-2, *Code of Conduct* providing updates to prohibited items in secured areas of jail facilities.

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 which has now been transitioned into The HUB effective January 2018. MCSO utilizes the system to distribute and require attestation of all *Briefing Boards* and published policies. The HUB system memorializes and tracks employee compliance with the required reading of MCSO Policy and Procedures, 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 The HUB as a resource for all MCSO personnel.

During the subject three month reporting period, MCSO used The HUB system to distribute and obtain attestation of twenty-four (24) policies. This includes nineteen (19) policies related to the Court Order.

The following is a listing of each Paragraph in Section 4, Policies and Procedures, that MCSO is rated as “in compliance” or “not applicable” for both Phase 1 and Phase 2: 19, 21, 22, 24, 25, and 33.

Paragraphs that MCSO remains in “full and effective compliance” are detailed with the reasons for the assertions. Also listed in detail are Paragraphs that are rated as “not in compliance” or “deferred” along with plans to correct any problems and responses to concerns.

***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 is in Full and Effective Compliance with Paragraph 23.***

MCSO remains in full and effective compliance with the requirements for Paragraph 23 in accordance with Paragraph 13. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with this Paragraph on September 30, 2018. In the memorandum dated January 28, 2019 and in reference to the subject of MCSO’s Assertions of Full and Effective Compliance with Various First Order Paragraphs, the Monitoring Team concurred with MCSO’s assertion of full and effective compliance with the requirements for Paragraph 23.

Phase 1 compliance is demonstrated by MCSO Policy CP-2, Code of Conduct, most recently amended on May 9, 2018. In accordance with this Paragraph, MCSO Policy CP-2, *Code of Conduct*, prohibits MCSO employees from utilizing Office and Maricopa County equipment in a manner that discriminates or denigrates anyone on the basis of race, color, national origin, age, religious beliefs, gender, culture, sexual orientation, veteran status, or disability.

Phase 2 compliance is established through audits and inspections. The BIO Division conducts monthly CAD/Alpha Paging audits, Facility Inspections and Email Inspections to ensure compliance with MCSO Policies such as CP-2, *Code of Conduct*, CP-3 *Workplace Professionalism*, and GM-1 *Electronic Communications and Voicemail*. The BIO Division and the inspections conducted to ensure that MCSO Employees do not utilize 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, will continue as part of MCSO’s operations.

In accordance with Paragraph 134, the Monitor may refrain from conducting an audit or review of the requirements of Paragraph 23 as previous assessments of the requirements have been found to have been fully implemented in practice and the intended outcome has been achieved.

***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 Full and Effective Compliance with Paragraph 26.***

MCSO remains in full and effective compliance with the requirements for Paragraph 26 in accordance with Paragraph 13. Three consecutive years of Phase 1 and Phase 2 compliance was achieved on June 30, 2018. In the memorandum dated January 28, 2019 and in reference to the subject of MCSO's Assertions of Full and Effective Compliance with Various First Order Paragraphs, the Monitoring Team concurred with MCSO's assertion of full and effective compliance with the requirements for Paragraph 26.

Phase 1 compliance is established by MCSO Policies EA-11, *Arrest Procedures*, and EB-1, *Traffic Enforcement, Violator Contacts, and Citation Issuance*. These policies also undergo a yearly review. EA-11, *Arrest Procedures*, was most recently amended on June 14, 2018. EB-1, *Traffic Enforcement, Violator Contacts, and Citation Issuance*, was most recently amended on January 11, 2018.

Phase 2 compliance is demonstrated through the review of arrests and investigations related to this Paragraph. MCSO has provided copies of all immigration-related arrests and investigations, copies of all arrests and investigations related to identity fraud, and copies of arrests and investigations related to lack of identity documents. MCSO has consistently provided the necessary documentation to support its compliance with the requirements of Paragraph 26.

MCSO personnel have also received 4th and 14th Amendment training to reinforce the policies which adopts the requirements of this Paragraph.

In accordance with Paragraph 134, the Monitor may refrain from conducting an audit or review of the requirements of Paragraph 26 as previous assessments of the requirements have been found to have been fully implemented in practice and the intended outcome has been achieved.

***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 is in Full and Effective Compliance with Paragraph 27.***

MCSO is in full and effective compliance with the requirements for Paragraph 27 in accordance with Paragraph 13. Phase 1 and Phase 2 compliance with Paragraph 27 was first achieved on June 30, 2014. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with this Paragraph on June 30, 2017. On April 22, 2019 the Monitoring Team concurred with MCSO's assertion of full and effective compliance with the requirements for Paragraph 27.

MCSO does not have a LEAR policy, which is described as the detaining persons believed to be in the country without authorization but whom they cannot arrest on state charges, in order to summon a supervisor and communicate with federal authorities. The Monitor has verified through document reviews and site visits that MCSO does not have a LEAR policy.

In accordance with Paragraph 134, the Monitor may refrain from conducting an audit or review of the requirements of Paragraph 27 as previous assessments of the requirements have been found to have been fully implemented in practice and the intended outcome has been achieved.

***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 checks 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 is in Full and Effective Compliance with Paragraph 28.***

MCSO remains in full and effective compliance with the requirements for Paragraph 28 in accordance with Paragraph 13. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with the requirements for Paragraph 28 on December 31, 2017. In the memorandum dated January 28, 2019 and in reference to the subject of MCSO's Assertions of Full and Effective Compliance with Various First Order Paragraphs, the Monitoring Team concurred with MCSO's assertion of full and effective compliance with the requirements for Paragraph 28.

Phase 1 compliance is demonstrated by the production and revision of Policies relating to the enforcement of immigration-related laws. The Policies required to be created or revised as required by this paragraph have been produced. These Policies undergo an annual review. CP-8, *Preventing Racial and Other Bias-Based Policing*, was most recently amended on September 26, 2018. EA-11, *Arrest Procedures*, was most recently amended on June 14, 2018. EB-1, *Traffic Enforcement, Violator Contacts, and Citation Issuance*, was most recently amended on January 11, 2018.

Phase 2 compliance is established through the reviews of incidents involving contact with the public, including traffic stops, arrests, and investigative stops. MCSO has provided arrest reports, criminal citations, traffic stops, NTSCF's, and incident reports as documentation of compliance with this Paragraph. Applicable MCSO personnel are trained in the required policies in addition to receiving annual Bias Free policing, and 4th and 14th Amendment training.

In accordance with Paragraph 134, the Monitor may refrain from conducting an audit or review of the requirements of Paragraph 28 as previous assessments of the requirements have been found to have been fully implemented in practice and the intended outcome has been achieved.

***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 is in Full and Effective Compliance with Paragraph 29.***

MCSO remains in full and effective compliance with the requirements for Paragraph 29 in accordance with Paragraph 13. MCSO achieved three consecutive years of Phase 2 compliance with the requirements for Paragraph 29 on December 31, 2017. In the memorandum dated January 28, 2019 and in reference to the subject of MCSO's Assertions of Full and Effective Compliance with Various First Order Paragraphs, the Monitoring Team concurred with MCSO's assertion of full and effective compliance with the requirements for Paragraph 29. MCSO has consistently provided drafts of all Order-related policies and procedures to the Monitor and Parties prior to publication. The finalized drafts have received approval from the Monitoring Team prior to being published.

MCSO delivers law enforcement services consistent with the Constitution, and the laws of the United States and Arizona. The MCSO continually reviews its Office Policies and Procedures to provide guidance and direction to personnel to fulfill their duties and obligations under federal and Arizona law. MCSO is committed to ensuring equal protection under the law and bias-free policing.

MCSO will continue to comprehensively review all Patrol Operations Policies and Procedures as an adopted best practice.

In accordance with Paragraph 134, the Monitor may refrain from conducting an audit or review of the requirements of Paragraph 29 as previous assessments of the requirements have been found to have been fully implemented in practice and the intended outcome has been achieved.

***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.***

***MCSO is in Full and Effective Compliance with Paragraph 30.***

MCSO remains in full and effective compliance with the requirements for Paragraph 30 in accordance with Paragraph 13. Phase 1 compliance with this Paragraph is not applicable. Phase 2 compliance with Paragraph 30 was first achieved on December 31, 2014. MCSO achieved three consecutive years of compliance with this Paragraph on December 31, 2017. In the memorandum dated January 28, 2019 and in reference to the subject of MCSO's Assertions of Full and Effective Compliance with Various First Order Paragraphs, the Monitoring Team concurred with MCSO's assertion of full and effective compliance with the requirements for Paragraph 30.

MCSO has consistently provided drafts of all Order-related policies and procedures to the Monitor and Parties prior to publication. The finalized drafts have received approval from the Monitoring Team prior to being published.

In accordance with Paragraph 134, the Monitor may refrain from conducting an audit or review of the requirements of Paragraph 30 as previous assessments of the requirements have been found to have been fully implemented in practice and the intended outcome has been achieved.

***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 asserts that it has been in compliance with the requirements of Paragraph 31 for at least three consecutive years. Phase 1 and Phase 2 compliance with Paragraph 31 was first achieved on March 31, 2016. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with this Paragraph on March 31, 2019.

Phase 1 compliance is demonstrated by MCSO Policy GA-1, *Development of Written Orders*, which establishes uniform procedures for the development, distribution, acknowledgement, and availability of Office Policy.

Phase 2 compliance is demonstrated by the requirements regarding MCSO personnel's receipt and comprehension of the Policies and Procedures. MCSO implemented the E-Policy system in January 2015 to meet these requirements. In January of 2018, MCSO transitioned to The HUB online system to meet the requirement for employees to review and acknowledge an understanding of the relevant policies.

MCSO asserts full and effective compliance with the requirements for Paragraph 31 in accordance with Paragraph 13.

*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 20th Quarterly Report, MCSO is not in Phase 2 compliance.

PSB continues to review all division level investigations, identify and document investigative and administrative deficiencies, and provide written feedback to division level investigators and their chains of command in order 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. PSB also provides feedback regarding the efficiency and thoroughness with which the divisions undertake and complete administrative investigations. Lastly, the PSB continues to liaise with districts and provide meaningful annual continuing training to supervisors outside of PSB who conduct misconduct investigations.

*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.**

MCSO asserts that it has been in compliance with the requirements of Paragraph 34 for at least three consecutive years. Phase 1 and Phase 2 compliance with Paragraph 34 was first achieved on December 31, 2015. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with this Paragraph on December 30, 2018.

Phase 1 compliance is demonstrated by MCSO Policy GA-1, *Development of Written Orders*, which establishes uniform procedures for the development, distribution, acknowledgement, and availability of Office Policy. All Critical Policies, as well the specific policies related to the Orders are reviewed annually.

Phase 2 compliance is demonstrated by the statements of annual review, copies of published policies which clearly indicate the effective date of the policies, and if applicable, copies of policies reviewed as a result of deficiencies identified during audits or reviews.

MCSO asserts full and effective compliance with the requirements for Paragraph 34 in accordance with Paragraph 13.

## Section 5: Pre-Planned Operations

### General comments regarding Pre-Planned Operations:

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

MCSO is in Phase 1 and Phase 2 compliance with the Paragraphs that pertain to Pre-Planned Operations. MCSO has achieved full and effective compliance with the requirements for Paragraphs 35, 36, 37, 38, and 40. Although MCSO is in compliance with Paragraph 39, MCSO has not yet achieved three consecutive years of compliance. This is due to the Amendments to the Supplemental Permanent Injunction/Judgment Order (“Document 2100”) issued on August 3, 2017 that returned the responsibility for compliance with Paragraph 39 to MCSO.

The requirements of conducting Pre-Planned Operations as outlined in these Paragraphs have been fully adopted by MCSO as evident in Policy GJ-33, the SID Operations Manual, and the CID Operations Manual. MCSO has demonstrated through practice and implementation of Policy and operations manuals that it is committed to conducting significant operations in accordance with these recognized and adopted procedures.

The following is a listing of each Paragraph in Section 5, Pre-Planned Operations, that MCSO is rated as “in compliance” or “not applicable” for both Phase 1 and Phase 2: Paragraph 39.

Paragraphs that MCSO remains in “full and effective compliance” are detailed with the reasons for the assertions.

*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 Full and Effective Compliance with Paragraph 35.**

MCSO remains in full and effective compliance with the requirements for Paragraph 35 in accordance with Paragraph 13. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with the requirements for Paragraph 35 on September 30, 2018. In the memorandum dated January 28, 2019 and in reference to the subject of MCSO’s Assertions of Full and Effective Compliance with Various First Order Paragraphs, the Monitoring Team concurred with MCSO’s assertion of full and effective compliance with the requirements for Paragraph 35.

There are no specialized units within MCSO that enforce Immigration-Related laws. The Special Investigations Division (SID) Operations Manual is required to be reviewed annually and has an effective date of April 1, 2018. The SID organizational chart and the SID Operations Manual support that the Anti-Trafficking Unit no longer exists and that there are no specialized units in MCSO that enforce Immigration-Related Laws. MCSO does not enforce Immigration-Related laws.

In accordance with Paragraph 134, the Monitor may refrain from conducting an audit or review of the requirements of Paragraph 35 as previous assessments of the requirements have been found to have been fully implemented in practice and the intended outcome has been achieved.

*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 Full and Effective Compliance with Paragraph 36.***

MCSO remains in full and effective compliance with the requirements for Paragraph 36 in accordance with Paragraph 13. In the memorandum dated January 28, 2019 and in reference to the subject of MCSO's Assertions of Full and Effective Compliance with Various First Order Paragraphs, the Monitoring Team concurred with MCSO's assertion of full and effective compliance with the requirements for Paragraph 36.

MCSO achieved compliance with the requirements of Paragraph 36 on December 31, 2014 and has remained in compliance since that time. MCSO implemented the requirements for conducting significant operations beginning with the initial publication of GJ-33, Significant Operations, on September 5, 2014. Policy GJ-33 is reviewed annually and was most recently amended on May 10, 2018. In addition to Policy GJ-33, MCSO has a Significant Operations Protocol Template that includes a statement of the operational motivations and objectives, parameters for supporting documentation that shall be collected, and instructions to supervisors, deputies and posse members. Since the requirements for conducting significant operations have been implemented, MCSO has conducted only one significant operation. That one significant operation was "Operation Borderline" and it was conducted in October 2014. MCSO met all requirements for pre-planned operations during "Operation Borderline".

The requirements for pre-planned operations outlined in MCSO Policy GJ-33, Significant Operations, have been adopted as best practice and will continue to be utilized and adhered to by MCSO.

In accordance with Paragraph 134, the Monitor may refrain from conducting an audit or review of the requirements of Paragraph 36 as previous assessments of the requirements have been found to have been fully implemented in practice and the intended outcome has been achieved.

*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 Full and Effective Compliance with Paragraph 37.***

MCSO remains in full and effective compliance with the requirements for Paragraph 37 in accordance with Paragraph 13. In the memorandum dated January 28, 2019 and in reference to the subject of MCSO's Assertions of Full and Effective Compliance with Various First Order Paragraphs, the Monitoring Team concurred with MCSO's assertion of full and effective compliance with the requirements for Paragraph 37.

MCSO achieved compliance with the requirements of paragraph 37 on December 31, 2014 and has remained in compliance since that time. MCSO implemented the requirements for conducting significant operations beginning with the initial publication of GJ-33, Significant Operations, on September 5, 2014. Policy GJ-33 is reviewed annually and was most recently amended on May 10, 2018. In addition to Policy GJ-33, MCSO has a Significant Operations Protocol Template that includes a statement of the operational motivations and objectives,

parameters for supporting documentation that shall be collected, and instructions to supervisors, deputies and posse members. Since the requirements for conducting significant operations have been implemented, MCSO has conducted only one significant operation. That one significant operation was “Operation Borderline” and it was conducted in October 2014. MCSO met all requirements for pre-planned operations during “Operation Borderline”.

The requirements for pre-planned operations outlined in MCSO Policy GJ-33, Significant Operations, have been adopted as best practice and will continue to be utilized and adhered to by MCSO.

In accordance with Paragraph 134, the Monitor may refrain from conducting an audit or review of the requirements of Paragraph 37 as previous assessments of the requirements have been found to have been fully implemented in practice and the intended outcome has been achieved.

**(Note: Amendments to Paragraphs 38 and 39 were ordered on August 03, 2017. See Doc. 2100).**

*Paragraph 38. If the MCSO conducts any Significant Operations or Patrols involving 10 or more MCSO Personnel excluding posse members, it shall create the following documentation and provide it to the Monitor and Plaintiffs within 30 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 Full and Effective Compliance with Paragraph 38.***

MCSO remains in full and effective compliance with the requirements for Paragraph 38 in accordance with Paragraph 13. In the memorandum dated January 28, 2019 and in reference to the subject of MCSO’s Assertions of Full and Effective Compliance with Various First Order Paragraphs, the Monitoring Team concurred with MCSO’s assertion of full and effective compliance with the requirements for Paragraph 38.

MCSO achieved compliance with the requirements of Paragraph 38 on December 31, 2014 and has remained in compliance since that time. Policy GJ-33, Significant Operations, was initially published on September 5, 2014. Since the initial publication of GJ-33, MCSO has conducted only one significant operation. That one significant operation was “Operation Borderline” and it was conducted in October 2014. MCSO met all the requirements of this Paragraph during “Operation Borderline”. MCSO has not conducted any significant operations since.

The requirements and protocols required by Paragraph 38 are fully implemented in MCSO Policy GJ-33. Furthermore, the requirements for notification and production of supporting documentation to the Monitor and Plaintiffs is required and outlined in the Court Implementation Division Operations Manual. Should MCSO conduct any future pre-planned operations that meet the requirements as outlined in this Paragraph, the requirements and protocols established in Policy GJ-33 and the CID Operations Manual will be followed. MCSO is committed to adhering to Policy GJ-33 as a best practice for conducting significant operations.

In accordance with Paragraph 134, the Monitor may refrain from conducting an audit or review of the requirements of Paragraph 38 as previous assessments of the requirements have been found to have been fully implemented in practice and the intended outcome has been achieved.

*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 Full and Effective Compliance with Paragraph 40.***

MCSO remains in full and effective compliance with the requirements for Paragraph 40 in accordance with Paragraph 13. In the memorandum dated January 28, 2019 and in reference to the subject of MCSO’s Assertions of Full and Effective Compliance with Various First Order Paragraphs, the Monitoring Team concurred with MCSO’s assertion of full and effective compliance with the requirements for Paragraph 40.

MCSO achieved compliance with the requirements of Paragraph 40 on December 31, 2014 and has remained in compliance since that time. Since implementing Policy GJ-33 in 2014, MCSO has conducted just one significant operation, “Operation Borderline”, that required compliance with Paragraph 40. “Operation Borderline” met all required notifications and protocols outlined in Paragraph 40. Beginning in November 2015, MCSO has been providing an affirmative statement as a clarification request that no immigration related traffic enforcement activity or Significant Operation involving the arrest of 5 or more people took place. The requirements for pre-planned operations outlined in MCSO Policy GJ-33, *Significant Operations*, have been adopted as best practice and will continue to be utilized and adhered to by MCSO.

In accordance with Paragraph 134, the Monitor may refrain from conducting an audit or review of the requirements of Paragraph 40 as previous assessments of the requirements have been found to have been fully implemented in practice and the intended outcome has been achieved.

## Section 6: Training

The MCSO Training Division continues to strive to develop and offer meaningful training that also meets the requirements of the Court's Order and allows MCSO to achieve full and effective compliance. During this quarter (April 2019 – June 2019) MCSO Training's Court Order Related Training (CORT) Unit has worked on developing 2019 curriculum and updating other CORT lesson plans.

**2019 Annual Combined Training:** MCSO requested from the Parties' suggestions on vendors to teach the Bias Free portion of the 2019 ACT specifically an expert in teaching implicit bias. A name that was provided by the Parties was Dr. Lorie Fridell from Fair and Impartial Policing (FIP). MCSO has been working and negotiating with FIP on providing the Bias-Free portion of the 2019 ACT. FIP has committed to making themselves available to teach and MCSO hopes to receive approval from the Monitor and Parties. The MCSO is currently negotiating with the Monitor and Parties regarding retention of FIP. However, it is now apparent that these negotiations will not be concluded in time for MCSO to retain FIP for 2019. MCSO now hopes to retain FIP for the Bias-Free portion of the 2020 Annual Combined Training. For 2019, MCSO will develop the bias-free training in-house.

MCSO has worked with the Maricopa County Attorney's Office (MCAO) to update the 4th and 14th Amendment portion of the 2019 ACT. This included producing in-house training videos.

**2019 PSB-8 (Internal):** MCSO worked on contracting with the Equal Employment Opportunity Commission (EEOC) to provide PSB Personnel training on handling EEOC type complaints. MCSO projects delivering this Training in July 2019.

**2019 PSB-8 (External):** MCSO developed this year's 8-hour Misconduct Training utilizing a theme of walking students through investigating a complaint from beginning to end. This included MCSO Training producing several in-house training videos. MCSO submitted the first draft of this training during this quarter. MCSO projects starting the delivery of this training in August/September 2019.

**2019 SRELE:** MCSO continues to work on the development of the 2019 Supervisor Responsibilities for Effective Law Enforcement (SRELE). This course also involves the production of several in-house training videos. MCSO Training anticipates submitting a lesson plan for review in August 2019.

**TraCS for Supervisors:** MCSO Training identified a need for a stand-alone course to introduce TraCS functions specific to supervisors. This course would be delivered to all newly promoted supervisors and would be made available to all current supervisors.

MCSO Training continues to work on improving the management of the training cycle. Progress has been made during this quarter. MCSO has worked on researching project management software that should assist with the management of the training cycle. We researched several programs and compared two programs, Microsoft Project and SMARTsheet. MCSO Training found SMARTsheet to be more user friendly and accessible. MCSO Training is now working to procure the SMARTsheet program for use in managing all of the CORT Training related projects. While MCSO Training waits for the purchase of SMARTsheet, plans for individual CORT curriculums have been developed. While it is late in the 2019 training development cycle, we anticipate this proactive step will result in a timelier 2020 training delivery schedule.

The following is a listing of each Paragraph in Section 6, Training, that MCSO is rated as "in compliance" or "not applicable" for Phase 1 and Phase 2: 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, and 53.

## Section 7: Traffic Stop Documentation and Data Collection

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

Between April 1, 2019 and June 30, 2019, BIO conducted three traffic stop related inspections to comply with Paragraph 64 of the Court's Order. The Traffic Stop Data Collection inspection reviews monthly traffic stop data to ensure compliance with Office Policy and Paragraphs 54-57 of the Court's Order. This inspection is based on Paragraph 64 of the Court's Order and is conducted using the traffic stop data sample that is randomly chosen by the Monitor Team. This inspection ensures that MCSO: a) collected all traffic stop data to comply with MCSO Policy, EB-2, Traffic Stop Data Collection; b) accurately completed all forms associated to traffic stops; c) closed and validated all TraCS forms; and d) used the correct CAD codes and sub codes. The first quarter of 2019 had an overall compliance rate of 91%. This was an increase from the previous quarter's rate of 85%. The monthly compliance rates were 94% in April, and 89% for both May and June.

With the implementation of body-worn cameras, the AIU's inspection matrix increased beyond the scope of the Court's Order or Monitor.

The MCSO implemented the TraCS system which enables deputies to electronically record traffic stop data and issue printed contact receipts to vehicle occupants. All marked patrol vehicles, approximately 189, assigned to the Patrol Bureau are equipped with the TraCS system to capture the traffic stop data as required by Paragraph 54.

The following is a listing of each Paragraph in Section 7, Traffic Stop Documentation and Data Collection, that MCSO is rated as "in compliance" or "not applicable" for Phase 1 and Phase 2: 57, 58, 61, 62, and 63.

Paragraphs that MCSO remains in "full and effective compliance" are detailed with the reasons for the assertions. Also listed in detail are Paragraphs that are rated as "not in compliance" or "deferred" along with plans to correct any problems and responses to concerns.

***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 Paragraph 54.** Phase 2 compliance is Deferred.

There are 13 subparagraph requirements for Paragraph 54, a through l. The Monitor rates MCSO “Not in Compliance” for 4 of these subparagraphs, 54.a., g., k., and l. The Monitor’s 20th Quarterly Report notes that the sample size reviewed for 54.g and 54.k is small. The current process has the Monitor select a random sample of 10 incidents that meet these criteria. MCSO is requesting to increase the random sample selection to 35 to provide a more accurate assessment.

Paragraph 54.a requires the name, badge/serial number, and unit of each Deputy and posse member involved be listed on either the VSCF or the Assisting Deputy and Body-Worn Camera Log. MCSO was found to be in compliance with 34 of the 37 incidents that met these criteria, for a rating of 92%. MCSO continues to reinforce this requirement and the need for thorough supervisory reviews.

Paragraph 54.g requires an indication of whether the Deputy otherwise contacted any passengers, the nature of the contact, and the reasons for such contact. MCSO has added a prompt in the TraCS system to remind the deputy to provide a receipt when the passenger contact field of the VSCF is populated.

Paragraph 54.k requires MCSO to document whether any individual was asked to consent to a search (and the response), whether a probable-cause search was performed on any individual, or whether a pat-and-frisk search was performed on any individual. MCSO continues to reinforce this requirement and the need for thorough supervisory reviews.

Paragraph 54.l requires MCSO to document whether any contraband or evidence was seized from any individual, and nature of the contraband or evidence. MCSO was found to be in compliance with 27 of the 31 incidents that met these criteria, for a rating of 87%. MCSO continues to reinforce this requirement and the need for thorough supervisory reviews.

**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 Full and Effective Compliance with Paragraph 55.**

MCSO remains in full and effective compliance with the requirements for Paragraph 55 in accordance with Paragraph 13. In the memorandum dated January 28, 2019 and in reference to the subject of MCSO's Assertions of Full and Effective Compliance with Various First Order Paragraphs, the Monitoring Team concurred with MCSO's assertion of full and effective compliance with the requirements for Paragraph 55.

MCSO has been in compliance with the requirements of Paragraph 55 for at least three consecutive years. Phase 1 and Phase 2 compliance with Paragraph 55 was first achieved on September 30, 2014. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with this Paragraph on September 30, 2017.

Phase 1 compliance is demonstrated by MCSO Policy GI-1, *Radio and Enforcement Communications Procedures*, most recently amended on April 19, 2018 and MCSO Policy EB-2, *Traffic Stop Data Collection*, most recently amended on April 13, 2018.

In support of Phase 2 compliance, MCSO has provided the Vehicle Stop Contact Forms, CAD printouts, I/Viewer documentation, citations, warning forms, and any Incident Report that may have been generated as a result of the traffic stop. The unique identifying number is automatically generated by the CAD software and is sent to the deputy's MDT at the time the deputy advises Communications of the traffic stop. The unique identifier is visible and displayed at the top of the CAD printout and also visible on the Vehicle Stop Contact Form, the Arizona Traffic Citation, and the Warning/Repair Form. The Monitoring Team reviews 105 traffic stop cases each quarter. The unique identification number assigned to each event was listed correctly on all CAD printouts for every stop.

In accordance with Paragraph 134, the Monitor may refrain from conducting an audit or review of the requirements of Paragraph 55 as previous assessments of the requirements have been found to have been fully implemented in practice and the intended outcome has been achieved.

***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 not in Phase 1 or Phase 2 compliance with Paragraph 56.

MCSO is diligently working to complete the Early Intervention Unit ("EIU") Operations Manual which memorializes the agreed upon protocols. After the relevant sections of the EIU Operations Manual are completed and approved, MCSO should achieve compliance with this Paragraph.

***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.***

***MCSO is in Full and Effective Compliance with Paragraph 59.***

MCSO remains in full and effective compliance with the requirements for Paragraph 59 in accordance with Paragraph 13. In the memorandum dated January 28, 2019 and in reference to the subject of MCSO's Assertions of Full and Effective Compliance with Various First Order

Paragraphs, the Monitoring Team concurred with MCSO's assertion of full and effective compliance with the requirements for Paragraph 59.

MCSO has been in compliance with the requirements of Paragraph 59 for at least three consecutive years. Phase 1 compliance with this paragraph is not applicable. Phase 2 compliance with Paragraph 59 was first achieved on June 30, 2014. MCSO achieved three consecutive years of compliance with Paragraph 59 on June 30, 2017.

MCSO has captured traffic stop data electronically since April 1, 2014. All marked patrol vehicles are equipped with the TraCS system. All patrol deputies have been trained in TraCS data entry. BIO provides the traffic stop data to the Monitoring Team on a monthly basis. This traffic stop data includes a spreadsheet of all traffic stops for the reporting period and a listing of event numbers. MCSO has historically provided full access to all available collected electronic and written data for traffic stops.

In accordance with Paragraph 134, the Monitor may refrain from conducting an audit or review of the requirements of Paragraph 59 as previous assessments of the requirements have been found to have been fully implemented in practice and the intended outcome has been achieved.

*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 in Full and Effective Compliance with Paragraph 60.***

MCSO remains in full and effective compliance with the requirements for Paragraph 60 in accordance with Paragraph 13. In the memorandum dated January 28, 2019 and in reference to the subject of MCSO's Assertions of Full and Effective Compliance with Various First Order Paragraphs, the Monitoring Team concurred with MCSO's assertion of full and effective compliance with the requirements for Paragraph 60.

MCSO has been in compliance with the requirements of Paragraph 60 for at least three consecutive years. Phase 1 and Phase 2 compliance with Paragraph 60 was first achieved on September 30, 2015. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with this paragraph on September 30, 2018.

Phase 1 compliance is demonstrated by MCSO Policy EB-1, *Traffic Enforcement, Violator Contacts, and Citation Issuance*, most recently amended on January 11, 2018 and MCSO Policy EB-2, *Traffic Stop Data Collection*, most recently amended on April 13, 2018.

Phase 2 compliance is demonstrated through the use of the TraCS system and the ability for BIO to generate summary reports and analyses, and to conduct searches and queries. All marked patrol vehicles are equipped with the TraCS system and deputies have the ability to input traffic stop data electronically.

In accordance with Paragraph 134, the Monitor may refrain from conducting an audit or review of the requirements of Paragraph 60 as previous assessments of the requirements have been found to have been fully implemented in practice and the intended outcome has been achieved.

***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 20th Quarterly Report, MCSO is not in Phase 1 or Phase 2 Compliance with Paragraph 64.

In order to achieve Phase 1 compliance, the following policies and processes are or will be finalized:

- GH-5, *Early Identification System (EIS)*, amended January 3, 2019.
- EIU Operations Manual, currently under development.

To obtain Phase 1 Compliance of Paragraph 64, the MCSO must receive Monitoring Team approval and publish the EIS Operations Manual. Phase 2 Compliance is obtained when the MCSO demonstrates the ongoing use of the methodologies described in the EIU Operations Manual to identify warning signs or indicia of possible racial profiling or other biased-based conduct on a monthly, quarterly and annual basis. It should be noted that a portion of the EIU Operations Manual includes the monthly, quarterly and annual traffic stop analysis process.

In April of the 2nd Quarter 2019, MCSO submitted the revised Monthly and Annual traffic stop analytical plans to the Monitoring Team and Parties for review and approval. The Annual traffic stop analytical plan was approved by the Monitoring Team during April 2019. The Monthly analytical plan remained under review and was topic of discussion between the MCSO and Parties during this quarter, it is projected the Monthly analytical plan will gain approval early 3rd Quarter of 2019.

MCSO received Operation Manual sections from the Monitoring Team with comments related to the Quarterly Analysis process, traffic stop data verification processes, training, duties and responsibilities specific to the EIU and TSAU, in addition to the Monthly and Annual analytical plans. MCSO addressed said comments and developed or modified processes related to these sections in preparation for resubmittal and final approval. It is anticipated 93%, or 28 of the 30 Operation Manual sections will be approved and finalized early 3rd Quarter of 2019. The remaining two sections, *Section 200. Definitions* and *Section 308. Traffic Stop Monthly Analysis, Reporting, And Responses* remain in development. Section 200 will be submitted in the last submission to ensure that all definitions relative to the EIU and TSAU functions are included. MCSO is currently exploring methods and developing methodologies to address the findings resulting from the Monthly analyses once approved and commenced.

MCSO continues to prioritize and work diligently to achieve 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.*

**MCSO is in Phase 1 compliance with Paragraph 65.** MCSO is not in Phase 2 compliance.

To achieve Phase 2 compliance, the Monitor indicates MCSO must successfully implement monthly, quarterly, and annual analysis of traffic stop data.

The development of the Monthly analytical plan was reinstated in the 4th Quarter of 2018 and continued through the 1<sup>st</sup> Quarter of 2019. New development and revisions were commenced by MCSO during this period. For further information on the monthly, quarterly, and annual analyses, please refer to the summary for Paragraph 64.

**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.*

**MCSO is in Phase 1 compliance with Paragraph 66.** MCSO is not in Phase 2 compliance.

MCSO has completed three agency-wide comprehensive annual evaluations of traffic stop data. The TSAR's consisted of agency-wide comprehensive analyses for years 2014 –2015, 2015 –2016 and 2016–2017.

MCSO developed an improved methodology to the TSAR process in response to the findings in the 3rd Annual Traffic Stop Report and submitted the methodology to the Monitor Team and parties. That submittal, *Section 311. TSAR Process*, was approved and implemented in the 3rd Quarter of 2018. MCSO continues to meet all associated deadlines specific to the 3rd Annual Traffic Stop Report intervention process.

MCSO requested Phase 2 compliance with this Paragraph during the 4th Quarter of 2018 with the belief that MCSO completed comprehensive agency-wide evaluations utilizing the approved methodologies described within *Section 311. TSAR Process*, meeting the requirements of this Paragraph.

Per the Monitoring Team, due to problematic implementation of the previous Annual analytical plan, serious miscoding of the underlying data, and failure to successfully implement the approved methodologies on behalf of previous vendor(s), Phase 2 compliance was not achieved by MCSO.

During the 3rd Quarter of 2018, the MCSO contracted with a new vendor, CNA, to assist with the annual, monthly, and quarterly analysis of traffic stop data. CNA was hired on August 29, 2018 and the relationship with the previous traffic stop vendor concluded.

In the Monitor's First Quarter of 2019, verbiage reads "MCSO will achieve Phase 2 compliance with this Paragraph when it demonstrates an ability to conduct the annual TSAR using the newly approved methodology in a consistent fashion each year. Achieving Phase 2 compliance with this Paragraph will also enhance the Office's credibility with a large segment of the community." MCSO will continue to attain Phase 2 compliance with Paragraph 66.

**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.** Phase 2 compliance is deferred.

MCSO continued to work collaboratively with the traffic stop analysis vendor and the Parties during the 2nd Quarter of 2019 to refine the methodology to address the unworkably high number of monthly Alerts. The Monthly analytical plan remained under review during the 2nd Quarter, it is projected the Monthly analytical plan will gain approval during the 3rd Quarter 2019.

The development of the Monthly analytical plan was reinstated in the 4th Quarter of 2018 and continued through the 2nd Quarter of 2019. New development and revisions to the analytical plan and Traffic Stop Monthly Report (TSMR) Alert Process were commenced by the MCSO during this period. For further information on the monthly, quarterly, and annual analyses, please refer to the summary for Paragraph 64.

MCSO made great progress with the analytical plan for the TSMR during this quarter. The Methodology for the Analytics were nearly approved and there were several valuable communications with the Parties and Monitor Team. MCSO continued working on the development of the Alert response related to Traffic Alerts and documenting that in the EIU Ops Manual.

**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 Full and Effective Compliance with Paragraph 68.**

MCSO remains in full and effective compliance with the requirements for Paragraph 68 in accordance with Paragraph 13. In the memorandum dated January 28, 2019 and in reference to the subject of MCSO's Assertions of Full and Effective Compliance with Various First Order

Paragraphs, the Monitoring Team concurred with MCSO's assertion of full and effective compliance with the requirements for Paragraph 68.

MCSO has been in compliance with the requirements of Paragraph 68 for at least three consecutive years. Phase 1 and Phase 2 compliance with Paragraph 68 was first achieved on September 30, 2014. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with this Paragraph on September 30, 2017.

Phase 1 compliance is demonstrated by MCSO policy GJ-33, *Significant Operations*, most recently amended on May 10, 2018. Phase 2 compliance is confirmed through monthly document requests and site visits.

Since the initial publication of GJ-33, MCSO has conducted only one significant operation. That one significant operation was "Operation Borderline" and it was conducted in October 2014. MCSO met all the requirements of this Paragraph during "Operation Borderline". MCSO has not conducted any significant operations since.

The requirements for notification and production of supporting documentation to the Monitor and Plaintiffs is required and outlined in the Court Implementation Division Operations Manual. Should MCSO conduct any future pre-planned operations that meet the requirements as outlined in this Paragraph, the requirements and protocols established in Policy GJ-33 and the CID Operations Manual will be followed. MCSO is committed to adhering to Policy GJ-33 as a best practice for conducting significant operations.

In accordance with Paragraph 134, the Monitor may refrain from conducting an audit or review of the requirements of Paragraph 68 as previous assessments of the requirements have been found to have been fully implemented in practice and the intended outcome has been achieved.

**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.*

**MCSO is in Phase 1 compliance with Paragraph 69.** MCSO is not in Phase 2 compliance.

It is noted in the Monitor's 20th Quarterly report that MCSO has stable compliance trends for the inspections of supervisory oversight. Once implemented, the Traffic Stop Annual and Monthly reports should provide meaningful information for supervisors regarding their subordinates' activity in comparison to colleagues working patrol. MCSO has not yet proposed the initiation of a quarterly traffic stop report as required by the Order.

**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.*

**MCSO is in Phase 1 compliance with Paragraph 70.** MCSO is not in Phase 2 Compliance.

MCSO's Traffic Stop Analysis ("TSAU"), in partnership with CNA, has been developing a refined methodology for the Monthly and Annual Traffic Stop Report processes. After an extensive review with the Monitor Team and Parties, the Traffic Stop Annual Review ("TSAR") methodology was approved this quarter. Subsequent to that approval, after the end of this quarter, and after preliminary testing by CNA, CNA and the MCSO notified the parties and the Monitor of some adjustments and updates to the approved methodology. The MCSO and CNA continue to work with the parties and the Monitor moving forward regarding calibration of the methodology as it is implemented to produce the annual traffic stop report.

On June 3, 2019 the Court denied MCSO's motion to modify the Paragraph 70 Plan and replace it with a community policing plan (Doc. 2431). MCSO continues to implement the original nine goal plan in conjunction with the Community Advisory Board and the parties, which plan was developed as an institutional bias remediation program to implement Paragraph 70 of the Court's Order.

**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.*

**MCSO is in Full and Effective Compliance with Paragraph 71.**

MCSO remains in full and effective compliance with the requirements for Paragraph 71 in accordance with Paragraph 13. In the memorandum dated January 28, 2019 and in reference to the subject of MCSO's Assertions of Full and Effective Compliance with Various First Order Paragraphs, the Monitoring Team concurred with MCSO's assertion of full and effective compliance with the requirements for Paragraph 71.

MCSO has been in compliance with the requirements of Paragraph 71 for at least three consecutive years. Phase 1 compliance with this Paragraph is not applicable. Phase 2 compliance with Paragraph 71 was first achieved on June 30, 2014. MCSO achieved three consecutive years of compliance with Paragraph 71 on June 30, 2017. MCSO has consistently provided the Monitor and Parties access to the data and reports relevant to this paragraph. The CID Operations Manual requires personnel to collect and disseminate data and/or information as requested by the Monitor Team through the document production request process.

In accordance with Paragraph 134, the Monitor may refrain from conducting an audit or review of the requirements of Paragraph 71 as previous assessments of the requirements have been found to have been fully implemented in practice and the intended outcome has been achieved.

## **Section 8: 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 Court's Order. For the time period of April 1, 2019 through June 30, 2019 BIO completed 48 inspection reports.

The following paragraphs represent compliance rates and brief progress assessments for the inspections during the Second Quarter of 2019.

**Quarterly Incident Reports:** The Second Quarter of 2019 compliance rate was 99%, a 1% decrease from the First Quarter of 2019.

**Facility/Property and Evidence:** The Second Quarter of 2019 overall compliance rate for this inspection was 100%, which was a 2% increase from the First Quarter of 2019. In April, the Judicial Enforcement Division was inspected and had a compliance rate of 100%. In May, the Special Response Team Division was inspected and had a compliance rate of 100%. In June, Patrol District 4 was inspected and resulted in a compliance rate of 100%. These inspections found no evidence that Maricopa County property or equipment was being used in any way that discriminates against or denigrates anyone and the compliance rates have continued to be high.

**County Attorney Dispositions:** The overall compliance rate for the Second Quarter of 2019 was 99%, which was a 1% decrease from the First Quarter of 2019. April and June both had compliance rates of 100% and May had compliance of 96%. This inspection continues to maintain a high compliance rate.

**Supervisory Notes-Civilian:** The overall compliance rate for the Second Quarter of 2019 was 98%. This was a 1% increase from the First Quarter of 2019. April and May both had compliance rates of 97% and June had compliance of 100%.

**Supervisory Notes-Detention:** The overall compliance rate for the Second Quarter of 2019 was 100%. This was a 5% increase from the First Quarter of 2019. The monthly compliance rates were 100% for all three months of the quarter.

**Supervisory Note-Sworn (Patrol):** The overall compliance rate for the Second Quarter of 2019 was 98%. This was a 1% decrease from the First Quarter of 2019. April had a 97% compliance score, May had 98% and June had 99%.

**Traffic Stop Data Collection:** The overall compliance rate for the Second Quarter of 2019 was 91%. This was a 6% increase from the First Quarter of 2019. April had a 94% compliance score, May and June had 89%.

**Employee Email:** The employee email compliance rate for the Second Quarter of 2019 was 99%. This score remained the same as the First Quarter of 2019. April and May both had compliance rates of 100% and June had a compliance rate of 99%. The Employee Email inspection has also maintained a high compliance rate.

**CAD/Alpha Paging:** This inspection had an overall compliance rate of 99% for the Second Quarter of 2019. This was a 1% decrease from the First Quarter of 2019. April had a 99% compliance score while both May and June had compliance rates of 100%. This inspection has also maintained a high compliance score.

**Patrol Shift Rosters:** The overall compliance rate for the Second Quarter of 2019 was 99%. This was the same score as the First Quarter of 2019. The Patrol Shift Rosters compliance rates were 99% for April, 98% for May, and 100% for June. The MCSO has continued to adhere to the proper span of control for deputy-to-sergeant patrol squad ratios and has eliminated acting patrol supervisors.

**Reviewed Traffic Stop Data:** The Second Quarter of 2019 overall compliance rate for the Reviewed Traffic Stop Data inspections was 98%, which was up 2% from the previous quarter. The month of April had a 99% compliance rate, May had 100%, and June's was 96%.

**Discussed Traffic Stop Data:** The overall compliance rate for the Second Quarter of 2019 for the Discussed Traffic Stop Data inspections was 98%, which was a 2% increase from the First Quarter of 2019. The month of April had a 99% compliance rate, May had 94%, and June's was 100%.

**Patrol Activity Logs:** The Second Quarter of 2019 overall compliance rate for Patrol Activity Log inspections was 99%. This was the same score as the First Quarter of 2019. The months of April and June both had compliance rates of 99%, and May had a compliance rate of 98%.

**Misconduct Investigations:** The Second Quarter of 2019 overall compliance rate for Misconduct Investigations inspections was 99%, which was the same as the previous quarter. The month of April had a 97% compliance rate, May had 99%, and June's was 100%.

**Complaint Intake Testing:** The Second Quarter of 2019 overall compliance rate for Complaint Intake Testing inspections was 83%. This was a decrease of 11% from the First Quarter of 2019. April and May both had compliance rates of 100% and June had a compliance rate of 50%.

**EIS Alerts:** The overall compliance rate for the Second Quarter of 2019 was 74%. This was the initial quarter for the EIS Alerts inspection. April had a 67% compliance score, May had 60% and June had 94%.

**Post-Stop Ethnicity:** The overall compliance rate for the Second Quarter of 2019 was 98%. This was the first quarter for the Post-Stop Ethnicity inspection starting with the month of May, which had a compliance rate of 100%; June had compliance of 95%.

The Office is committed to cultivating a professional law enforcement agency and enhancing its enforcement and detention services for our communities and citizens. As MCSO moves forward during this transition, AIU is committed to providing the tools necessary in the improvement of supervision, Policy compliance, and compliance with the Court's Order, all with the goal of achieving accountability and maintaining a level of professionalism our employees are held to. It is vital for all leaders to embrace these opportunities to improve and move our agency forward. Employees of AIU recognize the hard work and challenges that lie ahead, and their efforts will be crucial to future successes and the accomplishment of fulfilling the Office mission.

The following table indicates inspection monthly compliance rates and the overall compliance rates for the Second Quarter of 2019.

Bureau of Internal Oversight - Monthly Inspections Compliance Rate				
2019 INSPECTIONS	April	May	June	Overall Compliance Rate
<b>Quarterly Incident Reports</b>	N/A	N/A	N/A	100%
<b>Facility and Property Inspection</b>	100%	100%	100%	100%
<b>County Attorney Dispositions</b>	100%	96%	100%	99%
<b>Supervisory Notes-Civilian</b>	97%	97%	100%	98%
<b>Supervisory Notes-Detention</b>	100%	100%	100%	100%
<b>Supervisory Notes-Sworn</b>	97%	98%	99%	98%
<b>Traffic Stop Data</b>	94%	89%	89%	91%
<b>Employee Emails</b>	100%	100%	99%	99%
<b>CAD/Alpha Paging</b>	99%	100%	100%	99%
<b>Patrol Shift Rosters</b>	99%	98%	100%	99%
<b>TraCS Review of Traffic Stops</b>	99%	100%	96%	98%
<b>TraCS Discussion of Traffic Stops</b>	99%	94%	100%	98%
<b>Patrol Activity Logs</b>	99%	98%	99%	99%
<b>Misconduct Investigations</b>	97%	99%	100%	99%
<b>Complaint Intake Testing</b>	100%	100%	50%	83%

*Table 1: Monthly Inspections Compliance Rate*

#### **General Comments Regarding EIS**

The Early Identification System continues to operate and evolve in its processes to improve efficiency to achieve MCSO's goals. The EIU maintains the EIS system on a day to day basis and utilizes the full potential of the EIS for the identification of employee behaviors that may require intervention.

During this reporting period, the IAPro system generated 114 alerts. EIU created and forwarded 41 alerts to supervisors for further review and utilizes a review group consisting of members from EIU and TSAU who review and verify the alerts were properly completed.

The following is a listing of each Paragraph in Section 8, Early Identification System (EIS), that MCSO is rated as "in compliance" or "not applicable" for both Phase 1 and Phase 2: 73, 74, 75, 76, 78, and 80.

Paragraphs that MCSO remains in "full and effective compliance" are detailed with the reasons for the assertions. Also listed in detail are Paragraphs that are rated as "not in compliance" or "deferred" along with plans to correct any problems and responses to concerns.

***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.*

**MCSO is in Phase 1 compliance with Paragraph 72.** MCSO is not in Phase 2 compliance.

At the conclusion of this quarter, the EIU has continued efforts to maintain the day-to-day basic functions of the EIS and utilizes the system to its full potential and while continually working to improve the EIS through enhancement and modification. Current projects include update/revision of the EIS supervisor training course, evaluation of current thresholds, implementation of processes for evaluating effectiveness of interventions, and addition of resources to the HUB that will assist supervisors in completing alert reviews. The noted HUB resources are currently pending Training Division approval process while EIS training updates, threshold analysis and alert effectiveness projects remain in the development phase.

Additionally, EIU and TSAU staff continue to work to implement a liaison program to regularly assist supervisors with alerts and other EIS related tasks. This program allows supervisors and employees the opportunity to ask questions, provide feedback and will help to improve communication between employees and the EIU. This in conjunction with the Alert Review Group will allow the EIS to support the effective supervision and management of MCSO employees.

*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.*

**MCSO is in Full and Effective Compliance with Paragraph 77.**

MCSO remains in full and effective compliance for Paragraph 77 in accordance with Paragraph 13. In the memorandum dated January 28, 2019 and in reference to the subject of MCSO's Assertions of Full and Effective Compliance with Various First Order Paragraphs, the Monitoring Team concurred with MCSO's assertion of full and effective compliance with the requirements for Paragraph 77.

MCSO has been in compliance with the requirements of Paragraph 77 for at least three consecutive years. Phase 1 compliance with this Paragraph is not applicable. MCSO achieved three consecutive years of Phase 2 compliance with this Paragraph on December 31, 2017.

MCSO has been responsive to ensuring that deputies and supervisors have access to the necessary equipment, in sufficient amount and in good working order, to meet the requirements of this Paragraph. MCSO commanders and supervisors have ready and secured access to the EIS system.

All marked patrol vehicles are properly equipped with TraCS equipment. Each District office has available computers for any occurrence of system failures with vehicle equipment. MCSO Policy GH-5, *Early Identification System*, delineates the purpose, use, and requirements of the EIS. MCSO has demonstrated its commitment to utilizing the EIS system as a part of necessary operations. The technology and equipment available at MCSO meet the requirements of the Court's Order.

In accordance with Paragraph 134, the Monitor may refrain from conducting an audit or review of the requirements of Paragraph 77 as previous assessments of the requirements have been found to have been fully implemented in practice and the intended outcome has been achieved.

*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.*

**MCSO is in Phase 1 compliance with Paragraph 79.** MCSO is not in Phase 2 compliance.

New development and revisions were commenced by the MCSO during the previous quarter. For further information on the monthly, quarterly, and annual analyses, please refer to the summary for Paragraph 64. EIU continues to work with the Technology Bureau to automate processes such as reports and notifications to ensure the EIS and available resources are being used to the fullest extent possible.

**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.*

**MCSO is in Phase 1 compliance with Paragraph 81.** MCSO is not in Phase 2 compliance.

To achieve Phase 2 compliance, the monthly traffic stop analyses must resume using an approved methodology and be included in the monthly Alert report in addition to producing traffic stop Quarterly reports. For further information on the monthly, quarterly, and annual analyses, please refer to the summary for Paragraph 64.

MCSO continued to work collaboratively with CNA during the 2nd Quarter of 2019 to refine the Monthly analytical plan and methodology to address the unworkably high number of monthly Alerts.

## Section 9: Supervision and Evaluation of Officer Performance

On September 05, 2017, MCSO instituted the Chain of Command program which delineates the reporting structure for every employee in the Office. The program is used to align every employee with their current supervisor so that necessary and/or required documentation is routed/captured by the required systems that currently link into the program. Additionally, the MCSO Training Division continues to deliver training to newly promoted employees to ensure they have the training and skills necessary to be successful.

The following is a listing of each Paragraph in Section 9, Supervision and Evaluation of Officer Performance, that MCSO is rated as “in compliance” or “not applicable” for both Phase 1 and Phase 2: 83, 85, 89, 90, 93, and 99.

Paragraphs that MCSO remains in “full and effective compliance” are detailed with the reasons for the assertions. Also listed in detail are Paragraphs that are rated as “not in compliance” or “deferred” along with plans to correct any problems and responses to concerns.

**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 84.**

MCSO asserts that it has been in compliance with the requirements of Paragraph 84 for at least three consecutive years. Phase 1 and Phase 2 compliance with Paragraph 84 was first achieved on March 31, 2016. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with this Paragraph on March 31, 2019.

Phase 1 compliance is demonstrated by MCSO Policy GB-2, *Command Responsibility*, which establishes that no subordinate shall report to more than one single, consistent, and clearly identified direct supervisor at any given time and that first-line patrol supervisors shall be assigned to supervise no more than a total of eight deputies, reserve deputies, and posse members, but in no event, should a patrol supervisor be responsible for more than a total of ten deputies, reserve deputies, and posse members.

Phase 2 compliance is demonstrated by the monthly rosters, shift rosters, and span of control memos submitted for review that document all patrol deputies are assigned to a single, consistent, clearly identified supervisor and that first-line field Supervisors are assigned to supervise no more than twelve Deputies.

MCSO asserts full and effective compliance with the requirements for Paragraph 34 in accordance with Paragraph 13.

**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 and Phase 2 compliance with 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 87.** MCSO is not in Phase 2 compliance.

MCSO Policy GC-4, *Employee Performance Evaluations*, was published on September 6, 2017. Since the publication of this Policy and the completion of the training, MCSO has been actively reinforcing the expectations and addressing the quality of performance evaluations.

MCSO is also working to revamp the EPA formats and requirements to specifically address quality and effectiveness of supervision and a supervisor's ability to identify and effectively respond to misconduct. MCSO continues to work towards Phase 2 compliance.

**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 Full and Effective Compliance with Paragraph 88.**

MCSO remains in full and effective compliance for Paragraph 88 in accordance with Paragraph 13. In the memorandum dated January 28, 2019 and in reference to the subject of MCSO's Assertions of Full and Effective Compliance with Various First Order Paragraphs, the Monitoring Team concurred with MCSO's assertion of full and effective compliance with the requirements for Paragraph 88.

MCSO has been in Phase 1 and Phase 2 compliance with Paragraph 88 for at least three consecutive years. MCSO first achieved Phase 1 and Phase 2 compliance on September 30, 2015. There are no specialized units within MCSO that enforce Immigration-Related laws. The Special Investigations Division Operations Manual is required to be reviewed annually and has an effective date of April 1, 2018. The SID organizational chart and the SID Operations Manual support that the Anti-Trafficking Unit no longer exists and that there are no specialized units in MCSO whose mission includes the enforcement of human smuggling laws as part of their duties.

In accordance with Paragraph 134, the Monitor may refrain from conducting an audit or review of the requirements of Paragraph 88 as previous assessments of the requirements have been found to have been fully implemented in practice and the intended outcome has been achieved.

**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 is not in Phase 2 compliance.

The Monitor's 20th Quarterly Report states, "Paragraph 91 requires supervisors to identify policy violations, deficiencies, and training issues noted in stops and detentions. Of the sample of 105 stops inspected for this reporting period, there were deficiencies in documentation, or policy violations, in 17 of the stops, that supervisors failed to identify in their reviews. This is a compliance rate of 86%. We note that there continue to be problems related to BWC recordings, and several corrective actions were related to deputies not recording the stops in their entirety."

MCSO has been stressing the importance of a thorough review of traffic related documentation to ensure supervisors are identifying deficiencies. MCSO will continue to work towards Phase 2 compliance with this Paragraph.

**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.*

**MCSO is in Phase 1 compliance with Paragraph 92.** MCSO is not in Phase 2 compliance.

The Monitor's 20th Quarterly Report notes that the BIO Alert Inspection resulted in a 67% compliance rating. The deficiencies were all for failing to complete the action within the required 30 days. The Monitor's report also notes that MCSO does not yet have an audit process for the NTCF. MCSO is in the process of developing a review process for the NTCFs. MCSO continues to work towards Phase 2 compliance for Paragraph 92.

**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 is not in Phase 2 compliance.

The Monitor's 20th Quarterly Report rates MCSO's compliance for this Paragraph at 84% based on a review of the Superior Court Turndown cases. The noted deficiencies are based on a review of the supervisor's Blue Team entries related to the MCAO Turndown Notice Report. MCSO asserts that the requirements of Paragraph 94 do not include or necessitate a review of the MCAO Turndown Notice Report unless it specifically identifies an arrest that is unsupported by probable cause or is otherwise in violation of MCSO policy, or that indicates a need for corrective action or review of agency policy, strategy, tactics, or Training.

As discussed with the Monitoring Team, the current practice of reviewing the County Attorney Turndown Notices to determine if there are 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 is not the most accurate means of assessing MCSO's compliance. MCSO has received approval for a new BIO Monthly Incident Report Inspection. This inspection will begin in September 2019 and will replace the County Attorney Turndown inspection. MCSO believes that the Monthly Incident Report Inspection will provide a more accurate means of assessment as it relates to supervisory and command reviews and corrective actions.

**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.*

**MCSO is in Phase 1 compliance with Paragraph 95.** MCSO is not in Phase 2 compliance.

MCSO has been actively reinforcing the expectations and addressing the quality of performance evaluations.

**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 compliance with Paragraph 96.** MCSO is not in Phase 2 compliance.

The Monitor's 20th Quarterly Report rates MCSO's compliance for this Paragraph at 61%. MCSO has been working with the Monitor to provide appropriate documentation to reflect MCSO's compliance for this Paragraph.

Basing compliance with the requirements of this Paragraph on a command review of the MCAO Turndown Notice not being conducted within 14 days is outside the scope of the requirements of Paragraph 96 and inconsistent with MCSO policy and practice. This Paragraph only requires a Commander's review of the corrective action taken within 14 days if a deficiency has been identified.

As discussed with the Monitoring Team, the current practice of reviewing the County Attorney Turndown Notices to determine if there are 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 is not the most accurate means of assessing MCSO's compliance.

MCSO has received approval for a new BIO Monthly Incident Report Inspection. This inspection will begin in September 2019 and will replace the County Attorney Turndown inspection. MCSO believes that the Monthly Incident Report Inspection will provide a more accurate means of assessment as it relates to supervisory and command reviews and corrective actions. MCSO will continue to work with the Monitor to provide adequate documentation to rate compliance with the requirements of this 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).*

**MCSO is in Phase 1 compliance with Paragraph 97.** MCSO is not in Phase 2 compliance.

The Monitor's 20th Quarterly Report rates MCSO's compliance for the two required EIS reviews per month at 88%. MCSO will continue to emphasize that supervisors meet this requirement.

EIU has developed a methodology for assessing the effectiveness of employee interventions for the EIU Operations Manual. This section of the EIU Operations Manual, Section 302, was reviewed and approved by the Monitor.

**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.*

**MCSO is in Phase 1 compliance with Paragraph 98.** MCSO is not in Phase 2 compliance.

The Monitor's 20th Quarterly Report notes that MCSO is not in compliance with Paragraph 98 as the compliance rating for EPAs reviewed for this quarter and discussed in detail in Paragraph 87 was 65%. Paragraph 98 is specific in the requirement that "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."

MCSO asserts that it is in compliance with the requirements of Paragraph 98. MCSO created a system, in consultation with the Monitor, for regular employee performance evaluations that, among other things, tracks each officer's past performance to determine whether the officer has demonstrated a pattern of behavior prohibited by MCSO policy or this Order. Adherence to Policy and Procedures is a rated category of all completed performance evaluations. MCSO should not be rated out of compliance with the requirements of Paragraph 98 based solely on the Monitor's determination that MCSO is not meeting the requirements of Paragraph 87.

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

**MCSO is in Phase 1 with Paragraph 100.** MCSO is not in Phase 2 compliance.

MCSO is working to revamp the EPA formats and requirements in order to simplify them. The requirements to address the quality and effectiveness of supervision, the supervisors' demonstrated ability to identify and effectively respond to misconduct, and the quality of a supervisor's reviews, will be built into the EPA format. MCSO continues to work towards Phase 2 compliance.

**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 Full and Effective Compliance with Paragraph 101.**

MCSO remains in full and effective compliance for Paragraph 101 in accordance with Paragraph 13. In the memorandum dated January 28, 2019 and in reference to the subject of MCSO's Assertions of Full and Effective Compliance with Various First Order Paragraphs, the Monitoring Team concurred with MCSO's assertion of full and effective compliance with the requirements for Paragraph 101.

MCSO asserts that it has been in Phase 1 and Phase 2 compliance with Paragraph 101 for at least three consecutive years. MCSO first achieved Phase 1 and Phase 2 compliance on September 30, 2015.

There are no specialized units within MCSO that enforce Immigration-Related laws. The Special Investigations Division Operations Manual is required to be reviewed annually and has an effective date of April 1, 2018. The SID organizational chart and the SID Operations Manual support that the Anti-Trafficking Unit no longer exists and that there are no specialized units in MCSO whose mission includes the enforcement of human smuggling laws as part of their duties.

In accordance with Paragraph 134, the Monitor may refrain from conducting an audit or review of the requirements of Paragraph 101 as previous assessments of the requirements have been found to have been fully implemented in practice and the intended outcome has been achieved.

## Section 10: Misconduct and Complaints

### General Comments Regarding Misconduct and Complaints:

PSB continued to classify some external complaints; those that involve inadequate policy, procedure, practice, service level, or legal standard or statute required by the Office, as Service Complaints. PSB initiated a process and tracking system for these complaints that do not involve employee misconduct. The PSB Commander also has the discretion to determine that internal complaints alleging minor policy violations can be documented and addressed without a formal investigation if certain criteria exist. To assure that MCSO's actions comply with the Court's Order and the high standards the Office expects, MCSO continued with a multiple-step approach to address misconduct and complaints.

PSB reviews all division level investigations and provides written feedback to division level investigators and their chains of command in order 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. PSB also provides feedback regarding the efficiency and thoroughness with which the divisions undertake and complete administrative investigations. PSB reviews division cases for quality control prior to final submission to the appointing authority for final findings.

Two sworn sergeants are permanently assigned to PSB to act as liaisons with the other divisions. They are 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 Order, Paragraph 211. PSB continues to monitor and track investigative deficiencies that occur at the division level.

The following is a listing of each Paragraph in Section 10, Misconduct and Complaints, that MCSO is rated as "in compliance" or "not applicable" for both Phase 1 and Phase 2: 102, 104, and 105.

Paragraphs that MCSO remains in "full and effective compliance" are detailed with the reasons for the assertions. Also listed in detail are Paragraphs that are rated as "not in compliance" or "deferred" along with plans to correct any problems and responses to concerns.

***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.

According to the Monitor's 20th Quarterly Report, in order to achieve Phase 1 compliance, the following policies need to be finalized:

- GH-4, *Bureau of Internal Oversight* (most recently amended on October 30, 2018)
- Audits and Inspections Unit Operations Manual (currently under revision)

MCSO is continuing to work on the development of BIO's AIU Operations Manual. Due to the size and scope of that manual, the Monitor Team agreed that it would be advantageous for the unit to submit the Manual in sections with a focus on the integrity testing process. A draft version of this section was submitted to the Monitor Team and Parties which was returned with comments on July 30, 2018. The AIU's new Lieutenant reviewed the previously submitted AIU Operations

Manual and determined that restructuring was required. The sections were restructured, and a development plan was created. AIU will place its primary focus on the relevant section pertaining to targeted integrity checks and submit revised sections as they are completed.

AIU currently conducts random and regular integrity audit checks through monthly and quarterly inspections. Although the unit's Operations Manual is still under development, the Monitor Team credits the organization with meeting the requirements of this paragraph regarding "regular" and "random" inspections through inspections such as Supervisory Note inspections, County Attorney Turnaround inspections, and Employee Email inspections.

Targeted integrity audit checks will be conducted by AIU once the associated section of the Operations Manual is approved by the Monitor Team. Prior to drafting the integrity audit test section of the Operations Manual, AIU personnel discussed potential options for meeting this requirement of the Court's Order and included some of the suggestions the Monitor Team made into the Operations Manual.

The Monitor's 20th Quarterly Report noted, "While the review process of the operations manual is still underway, for this reporting period, BIO again submitted several completed inspections in support of the "regular" and "random" elements of this Paragraph. The inspections examined, for example, Supervisory Notes, Patrol Activity Logs, Traffic Stop Discussions, County Attorney turndown dispositions, Patrol Shift Rosters, and employee email usage. We reviewed these reports and believe that they comport with the Paragraph 103 requirement for "regular" and "random" integrity audit checks."

*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. **MCSO is in Phase 2 compliance with Paragraph 106.**

MCSO asserts that it has been in compliance with the requirements of Paragraph 106 for at least three consecutive years. Phase 1 compliance is not applicable. Phase 2 compliance with Paragraph 106 was first achieved on December 31, 2015. MCSO achieved three consecutive years of Phase 2 compliance with this Paragraph on December 30, 2018.

Phase 2 compliance is demonstrated by MCSO's maintenance of the required records as well as making the required records available to the Monitor, Plaintiffs, and Plaintiff-Intervenors. MCSO distributes documents via a document-sharing website. MCSO has consistently met the requirements of Paragraph 106.

MCSO asserts full and effective compliance with the requirements for Paragraph 106 in accordance with Paragraph 13.

## Section 11: Community Engagement

In furtherance of community engagement activity, MCSO created the Community Outreach Division (“COrD”). COrD has been instrumental with, promoting, and participating in events that unite MCSO personnel with community members and serve to rebuild the community’s trust and confidence in MCSO.

Community policing activities performed by patrol deputies for this quarter registered 134 events with a public attendance of 26,008. During this same period, the Computer Aided Dispatch System recorded 885 community policing engagements. These engagements totaled over 1659 staff hours and are primarily attributed to the community policing activities of patrol deputies.

The Quarterly Community Meeting, which coincides with the Monitor site visit, was held on April 16, 2019 at the Logan Auditorium located at 308 N. Martin Avenue in Gila Bend. This venue is located within the jurisdiction of District 2. Prior to the meeting, members of the Community Outreach Division and the District 2 Commander met with the Town Council, Mayor, and various community leaders in an effort to increase participation and attendance.

The District 2 Commander, Captain Johnson, was in attendance and led the meeting. Sheriff Penzone presented to those in attendance by discussing the history of the *Melendres* litigation and highlighting the policy changes and training efforts of MCSO. A handout was provided with summary compliance information, contact for the Professional Standards Bureau (PSB), and the website for the audits and inspections. Despite significant advertising and outreach efforts, which were discussed with the Monitoring team, the attendance was low.

On June 3, 2019 the Court returned the community meetings to the Monitor’s supervision (Doc. 2431).

The following is a listing of each Paragraph in Section 11, Community Engagement, that MCSO is rated as “in compliance” or “not applicable” for both Phase 1 and Phase 2: 109, 110, 111, 112, 113, 114, 115, 116, 117, and 118.

## Section 12: Misconduct Investigations, Discipline, and Grievances

The following is a listing of each Paragraph in Section 12, Misconduct Investigations, Discipline, and Grievances, that MCSO is rated as “in compliance” or “not applicable” for both Phase 1 and Phase 2: 167, 168, 169, 170, 171, 172, 173, 174, 175, 177, 178, 179, 180, 182, 184, 185, 186, 187, 188, 190, 191, 192, 193, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 212, 213, 214, 215, 216, 217, 218, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258 and 259.

Listed in detail below, are Paragraphs that are rated as “not in compliance” or “deferred” along with plans to correct any problems and responses to concerns.

**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.*

Phase 1 compliance for this Paragraph is not applicable. Phase 2 compliance is deferred. 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 31 policies along with other operations manuals and protocols to the Monitor and Parties related to this Paragraph:

- CP-2, *Code of Conduct* (Re-Published 03/15/2019)
- CP-3, *Workplace Professionalism* (Re-Published 01/24/2019)
- CP-5, *Truthfulness* (Published 10/24/2017)
- CP-8, *Preventing Racial and Other Biased Based Profiling* (Re-Published 09/26/2018)
- CP-11, *Anti-Retaliation* (Re-Published 12/13/2018)
- EA-2, *Patrol Vehicles* (Re-Published 02/20/2019)
- GA-1, *Development of Written Orders* (Re-Published 03/28/2019)
- GB-2, *Command Responsibility* (Re-Published 05/10/2018)
- GC-4, *Employee Performance Appraisals* (Published 09/06/2017)
- GC-7, *Transfer of Personnel* (Re-Published 09/27/2018)
- GC-11, *Employee Probationary Periods* (Re-Published 03/28/2019)
- GC-12, *Hiring and Promotional Procedures* (Re-Published 04/10/2018)
- GC-16, *Employee Grievance Procedures* (Re-Published 04/06/2018)
- GC-17, *Employee Disciplinary Procedure* (Re-Published 04/06/2018)
- GD-9, *Receipt of Litigation and Subpoenas* (Published 11/29/2018)

- GE-4, *Use, Assignment, and Operation of Vehicles* (Re-Published 06/27/2019)
- GG-1, *Peace Officer Training Administration* (Re-Published 05/16/2018)
- GG-2, *Detention/Civilian Training Administration* (Re-Published 05/16/2018)
- GH-2, *Internal Investigations* (Re-Published 07/17/2018)
- GH-4, *Bureau of Internal Oversight* (Published 10/30/2018)
- GH-5, *Early Identification System (EIS)* (Re-Published 01/04/2019)
- GI-5, *Voice Language Line Services* (Re-Published 01/04/2019)
- GJ-24, *Community Relations and Youth Services* (Re-Published 09/07/2018)
- GJ-26, *Sheriff's Reserve Deputy Program* (Published 03/30/2018)
- GJ-27, *Sheriff's Posse Program* (Currently under revision)
- GJ-35, *Body-Worn Cameras* (Published 01/07/2017)
- Audits and Inspections Unit Operations Manual (Currently under revision)
- Body-Worn Camera Operations Manual (Re-Published on 01/17/2017)
- Administrative Services Division Operations Manual (Published 06/17/2019)
- Professional Standards Bureau Operations Manual (Published 12/13/2018)
- Training Division Operations Manual (Approved 09/21/2017)

All outstanding operations manuals and policies are currently in a phase of review or revision. MCSO is actively working on the outstanding operations manuals listed as currently under revision.

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

**MCSO is in Phase 1 compliance with Paragraph 176.** MCSO is not in Phase 2 compliance.

MCSO will continue to provide the Monitor with copies of completed EPAs so that Phase 2 compliance can be assessed. MCSO continues to strive for compliance.

**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 is in Phase 1 with Paragraph 181.** MCSO is not in Phase 2 compliance.

MCSO Training has been working on a resolution to improve reporting on the Complaint Intake Training over the past several quarters. The compliance reporting for Complaint Intake Training was complicated in the past because it required reporting from an old training platform named Skills Manager for established employees and reporting from a new training platform named the HUB for newer employees. MCSO Training was able to work with Maricopa County OET to import training data related to the Complaint Intake Training from the Skills Manager System into the HUB Training System. The Training Division worked to verify the import was successful including running test reports.

MCSO Training is excited to convey the reporting on Complaint Intake Online Training has vastly improved over this quarter. These reports can now include name, hire date (for compensated), date training module was assigned, date of completion, and status.

The Training Division began producing the new reporting format in June 2019.

***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.***

***MCSO is in Phase 1 compliance with Paragraph 194.*** MCSO is not in Phase 2 compliance.

Compliance is determined by the review of completed misconduct investigations conducted by MCSO personnel, the attendance by investigators at required misconduct training, and the disciplinary backgrounds of investigators, and the efforts being made by the PSB Commander to reach compliance. There are many factors that impact the PSB Commander's ability to ensure compliance in all investigations, one of which includes the reliance on district and division command personnel and their supervisors, to conduct investigations; and their failure to identify and correct deficiencies prior to forwarding cases to PSB for review.

PSB continues to review all division level investigations, identify and document investigative and administrative deficiencies, and provide written feedback to division level investigators and their chains of command in order 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. PSB also provides feedback regarding the efficiency and thoroughness with which the divisions undertake and complete administrative investigations. Lastly, the PSB continues to liaise with districts and provide meaningful annual continuing training to supervisors outside of PSB who conduct misconduct investigations.

***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.***

***MCSO is in Phase 1 compliance with Paragraph 195.*** MCSO is not in Phase 2 compliance.

MCSO asserts that the PSB includes sufficient trained personnel to meet the requirements of the Court Order. All investigators assigned to the PSB receive annual training to include the initial 40-hour Misconduct Investigations training; and the 8-hour annual training for conducting misconduct investigations, as specified in Paragraphs 178 and 179.

Twenty-three investigators are assigned to the PSB. This is a sufficient number of investigators to conduct thorough, complete, and non-bias investigations, and meet the requirements of the Court Order. However, with the continuing influx of complaints, and the significant backlog of investigations and division case review, even with additional personnel, the PSB will continue to be understaffed and unable to meet its responsibilities of completing timely investigations as specified in Arizona Revised Statutes, 38-1110. Despite not meeting the statutory requirements of completing an investigation, PSB is in compliance with the requirements of Paragraph 204, which requires that administrative investigations are completed within 60 and 85 calendar days.

PSB is doing the following in attempt to alleviate workload on its investigators:

- Complaints regarding an inadequate level of service due to manpower or resources, or statutory authority required of MCSO; or a complaint that is not an allegation of employee misconduct, is handled as a service compliant, which requires less investigative action than an administrative investigation.

- Creation of Service Complaint short form-Revision to expedite the process for handling service complaints in which it can immediately be identified that the complaint does not involve MCSO employees.
- Increased utilization of the PSB Commander's discretion to determine that internal complaints alleging minor policy violations can be addressed without formal investigation if certain criteria exist.
- Implemented a protocol for situations in which witness interviews may not need to be conducted, for example, when there is convincing evidence, without the need to interview some potential witnesses, that misconduct did nor did not occur.

While the Monitor continues to note that PSB is not adequately staffed, staffing alone, , will be insufficient to address the increased influx of investigations. Given the current number of complaints and subsequent investigations, and as the numbers have continued to increase, it is not humanly possible to keep up with the influx. Despite this, MCSO asserts that the PSB is sufficiently staffed to comply with the requirements of the Court Order. PSB has demonstrated that it conducts fair, impartial, thorough and complete misconduct investigations, and issues fair and equitable discipline when warranted. PSB has sufficient trained personnel to fulfill the requirements of this Order. The overwhelming number of complaint investigations that are initiated to meet the requirements of the Order should not adversely affect MCSO's compliance with this Paragraph.

MCSO requests Phase 2 compliance with Paragraph 195.

*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.*

**MCSO is in Phase 1 compliance with Paragraph 211.** MCSO is not in Phase 2 compliance.

PSB takes a proactive approach and continues 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. PSB also provided feedback regarding the efficiency and thoroughness with which the divisions undertake and complete administrative investigations. Lastly, PSB reviewed division cases for quality control prior to final submission to the appointing authority for final findings. PSB continues to monitor and track investigative deficiencies that occur at the division level. Deficiencies are documented, and the case is returned to the division level. The deficiency documentation is placed with the case file.

MCSO continues to work toward Phase 2 compliance with Paragraph 211.

**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.*

**MCSO is in Phase 1 compliance with Paragraph 260.** MCSO is not in Phase 2 compliance.

MCSO comports to the requirements of this Paragraph.

The Complaint Intake Testing Plan and the Methodology were approved by the Monitor Team on November 9, 2018.

AIU has completed Section 304 of the Operations Manual, which is the section that pertains to Complaint Intake Testing. This section was approved by the Monitor Team and parties on November 13, 2018.

## Section 13: Community Outreach and Community Advisory Board

**Paragraph 261.** *The Community Advisory Board may conduct or retain a consultant to conduct a study to identify barriers to the filing of civilian complaints against MCSO personnel.*

Phase 1 and Phase 2 compliance are not applicable.

**Paragraph 262.** *In addition to the administrative support provided for in the Supplemental Permanent Injunction, (Doc. 670 ¶ 117), the Community Advisory Board shall be provided with annual funding to support its activities, including but not limited to funds for appropriate research, outreach advertising and website maintenance, stipends for intern support, professional interpretation and translation, and out-of-pocket costs of the Community Advisory Board members for transportation related to their official responsibilities. The Community Advisory Board shall submit a proposed annual budget to the Monitor, not to exceed \$15,000, and upon approval of the annual budget, the County shall deposit that amount into an account established by the Community Advisory Board for that purpose. The Community Advisory Board shall be required to keep detailed records of expenditures which are subject to review.*

Phase 1 and Phase 2 compliance are not applicable.

## Section 14: Supervision and Staffing

The following is a listing of each Paragraph in Section 14, Supervision and Staffing, that MCSO is rated as “in compliance” or “not applicable” for both Phase 1 and Phase 2: 264, 266, and 268.

Listed in detail are Paragraphs that are rated as “not in compliance” or “deferred” along with plans to correct any problems and responses to concerns.

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

***MCSO is in Phase 1 compliance with Paragraph 265.*** MCSO is not in Phase 2 compliance.

According to the Monitor’s 20th Quarterly Report, MCSO must attain compliance standards with several requirements covered in other Paragraphs of the Order. The Paragraphs listed by the Monitor are; Paragraphs 83, 85, 89, 90, 91, 93, and 94. MCSO is not in compliance with Paragraphs 91 and 94 in order to achieve Phase 2 compliance with this Paragraph.

In order for MCSO to attain Phase 2 compliance with Paragraph 91, supervisors must improve at noting deficiencies in their reviews of traffic stops.

In reference to Paragraph 94, the Monitor’s 20th Quarterly Report notes that MCAO Turndown Notice Reports and Blue Team entries of the Turndown Notice Reports are reviewed for compliance. The noted deficiencies are based on a review of the supervisor’s Blue Team entries related to the MCAO Turndown Notice Report. MCSO asserts that the requirements of Paragraph 94 do not include or necessitate a review of the MCAO Turndown Notice Report unless it specifically identifies an arrest that is unsupported by probable cause or is otherwise in violation of MCSO policy, or that indicates a need for corrective action or review of agency policy, strategy, tactics, or Training.

As discussed with the Monitoring Team, the current practice of reviewing the County Attorney Turndown Notices to determine if there are 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 is not the most accurate means of assessing MCSO’s compliance. MCSO has received approval for a new BIO Monthly Incident Report Inspection. This inspection will begin in September and will replace the County Attorney Turndown inspection. MCSO believes that the Monthly Incident Report Inspection will provide a more accurate means of assessment as it relates to supervisory and command reviews and corrective actions.

***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.***

***MCSO is in Phase 1 compliance with Paragraph 267.*** MCSO is not in Phase 2 compliance.

According to the Monitor’s 20th Quarterly Report, MCSO must gain Phase 2 compliance with Paragraphs 91 and 96 in order to achieve Phase 2 compliance with this Paragraph.

As stated in the comments for Paragraph 96, the current practice of reviewing the County Attorney Turndown Notices to determine if there are 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 is not the most accurate means of assessing MCSO’s compliance. MCSO has received approval for a new BIO Monthly Incident Report Inspection. This inspection will begin in September and will replace the County Attorney Turndown inspection.

MCSO believes that the Monthly Incident Report Inspection will provide a more accurate means of assessment as it relates to supervisory and command reviews and corrective actions.

## Section 15: Document Preservation and Production

The following is a listing of each Paragraph in Section 15, Document Preservation, that MCSO is rated as “in compliance” or “not applicable” for both Phase 1 and Phase 2: 271 and 272.

Listed in detail are Paragraphs that are rated as “not in compliance” or “deferred” along with plans to correct any problems and responses to concerns.

***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 is in Phase 1 compliance.** MCSO is not in phase 2 compliance with Paragraph 269.

The Monitor’s 20th Quarterly Report explains that although this Paragraph requires MCSO to promptly communicate the hold to the employees, it also requires that MCSO comply with the timeframes set in GD-9. MCSO is not meeting the timeframe requirements for employees responding to the requests. MCSO is proactively reinforcing these timeframes to meet the requirements of this Paragraph and MCSO policy.

***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.*

Based on the Monitor’s 20th Quarterly Report, MCSO is not in Phase 1 compliance and Phase 2 compliance is deferred. In order to achieve Phase 1 compliance, the Open Axes Operations Manual must be published.

The Administrative Services Division Operations Manual was approved and published on June 17, 2019. Included in this Operations Manual is a section for the Open Axes program. The completion and publishing of this Operations Manual should allow MCSO to achieve both Phase 1 and Phase 2 compliance with Paragraph 270. MCSO complies with the requirements of this Paragraph and continues to work towards gaining full compliance.

MCSO requests Phase 1 and Phase 2 compliance for Paragraph 270.

## Section 16: Additional Training

**Paragraph 273.** *Within two months of the entry of this Order, the Sheriff shall ensure that all employees are briefed and presented with the terms of the Order, along with relevant background information about the Court's May 13, 2016 Findings of Fact, (Doc. 1677), upon which this Order is based.*

Phase 1 compliance is not applicable. **MCSO is in Phase 2 compliance with Paragraph 273.**

## Section 17: Complaints and Misconduct Investigations Relating to Members of the Plaintiff Class

The following is a listing of each Paragraph in Section 17, Complaints and Misconduct Investigations Relating to Members of the Plaintiff Class, that MCSO is rated as “in compliance” or “not applicable” for both Phase 1 and Phase 2: 276, 278, 281, 282, 284, 286, 287, 288, 292, 337.

**Paragraph 300.** *The following potential misconduct is not sufficiently related to the rights of the members of the Plaintiff class to justify any independent investigation:*

- a. *Uninvestigated untruthful statements made to the Court under oath by Chief Deputy Sheridan concerning the Montgomery investigation. (Doc. 1677 at ¶ 385).*
- b. *Uninvestigated untruthful statements made to the Court under oath by Chief Deputy Sheridan concerning the existence of the McKessy investigation. (Id. at ¶ 816).*
- c. *Chief Deputy Sheridan’s untruthful statements to Lieutenant Seagraves made during the course of an internal investigation of Detective Mackiewicz to the effect that an investigation into the overtime allegations against Detective Mackiewicz had already been completed. (Id. at ¶ 823).*
- d. *Other uninvestigated acts of misconduct of Chief Deputy Sheridan, Captain Bailey, Sergeant Tennyson, Detective Zebro, Detective Mackiewicz, or others that occurred during the McKessy investigation. (Id. at ¶¶ 766–825).*

Phase 1 compliance is not applicable. Phase 2 compliance with this Paragraph is deferred.

## Section 18: Conclusion

This Report covers the Second Quarter of 2019 (April 1, 2019–June 30, 2019) and attempts to highlight MCSO's compliance efforts and achievements during this specific rating period.

MCSO remained consistent in its compliance efforts for this quarter. Phase 1 compliance for the First Order remained at 97%. Phase 1 compliance with the Second Order remained at 99%. Phase 2 compliance with the First Order showed an increase of 3% from 75% to 78%. Phase 2 compliance with the Second Order decreased by 1% to 89%.

In this report, MCSO asserted Full and Effective Compliance with four additional Paragraphs of the First Order, Paragraphs 31, 34, 84, and 106. Should the Monitor agree with these assertions, MCSO will have achieved Full and Effective Compliance with a total of 28 Paragraphs.

Of the 212 Paragraphs contained in the First and Second Order, there are just 33 Paragraphs that MCSO is not in Phase 1 and Phase 2 compliance with. These compliance achievements demonstrate MCSO's consistency and dedication.

MCSO is continuing with efforts to achieve compliance with the remaining requirements. The approval of the Traffic Stop Annual Report was a long and involved process. The implementation will allow MCSO to begin analyses and gain compliance in many areas related to traffic stop documentation and data collection. Sections of the BIO Operations Manual continue to be submitted and reviewed. As they are approved, MCSO will make further gains in several areas of the Court's Order.

Efforts have also been directed at improving the employee performance appraisal's quality and processes. BIO continues to assist MCSO in its efforts to maintain and gain compliance by providing timely and professional auditing of MCSO personnel to assure compliance with the Court's Order. A monthly Incident Report Inspection was approved and will begin in September 2019. This inspection will provide a more accurate assessment of MCSO supervisor's and commander's reviews of arrests.

MCSO is dedicated to following the best police practices and gaining full and effective compliance with the Orders. The concentrated emphasis on compliance has benefited MCSO and the vast, diverse community it serves.