

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



Review Period – Second Quarter 2015

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Independent Monitor

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Section 1: Introduction

This is my fifth report issued in my capacity as the Court-appointed Monitor in the case of *Manuel de Jesus Ortega Melendres, et al., v. Joseph M. Arpaio, et al.* (No. CV-07-02513-PHX-GMS), and documents activities occurring during the second quarter of 2015. Subsequent to my appointment, and as a result of further Court proceedings, my duties have been expanded in the areas of community engagement, oversight of internal investigations, and independent investigative authority.

The Maricopa Sheriff's Office (MCSO) made slight gains during this reporting period in its compliance with the provisions of the Supplemental Permanent Injunction/Judgment Order ("Order") issued by the Honorable G. Murray Snow in the above-referenced litigation. During the quarter, the Court Implementation Division (CID) issued an operations manual, reducing to policy its duties with respect to overseeing the Office's compliance with the Order. We found the document to be well written; and its publication moved MCSO into Phase 1, or policy, compliance with several Order requirements. The Office also experienced a slight increase in Phase 2, or operational, compliance.

Although progress has been slower than we would expect, we remain encouraged by the evolution of the Early Identification System (EIS). We note several issues in the EIS Section of this report, and the EIS policy remains under development. MCSO's Bureau of Internal Oversight (BIO) and its Early Intervention Unit (EIU) continue to provide data, conduct audits, and develop an EIS system that incorporates pieces of information from across the organization. Their capacity has been enhanced by entering into a contractual relationship with Arizona State University (ASU). The unit conducts audits of Office activity, and it has identified many of the issues that we are noting in our own reviews. Personnel continue to develop systems and methodologies to perform their mission and assist supervisors in the field. However, the policies guiding their activities remain in development, and many of their protocols have not been memorialized. Too much of their capacity remains at the individual (and undocumented) level, with little redundancy built into their systems.

The development of the next major block of training required by the Order – Supervisor and Command Level Training – remains in disarray. To date, the Monitor and the Plaintiffs' attorneys have been provided with only segments of the proposed training for review. We found several key areas either lacking in substance or missing altogether. In response to many of our concerns, MCSO advised that the issues we raised would be addressed in the sections yet to be provided. This does not lend itself to an assessment of the training in its totality, and the material we continue to receive on a piecemeal basis remains deficient.

We are concerned by some recent personnel changes made by MCSO. We recognize that personnel decisions are solely within the purview of the Sheriff, but for the third time in our relatively short tenure, the commanding officers of both the Court Implementation Division and the Professional Standards Bureau (PSB) have been changed. This instability in organizational components so critical to ensuring compliance with the Order's requirements is troubling. We enjoyed a very good working relationship with the former command of CID, and have found CID to be responsive to our requests and facilitative in our interactions with all organizational components – but continuity is an important element in the road to implementation. We trust that this same rapport will continue with the division's new leadership.

Despite the uncertainty associated with any change in leadership, we are hopeful that new management in the PSB will lead to the resolution of many of the longstanding issues we have observed and previously documented. We review the operations of PSB pursuant to our obligations to monitor Section XI of the Order (Misconduct and Complaints) and our expanded authority regarding investigations pursuant to the Court's Order of November 20, 2014. We continue to find instances of cases not being thoroughly investigated, inappropriate findings, and MCSO's own investigative policies not being followed. To our dismay, in some cases where it appears that MCSO is willing to take a stand and hold personnel accountable, the findings and the proposed penalties have been reversed during the review process. We also note a lack of forthrightness in advising us of cases which the Office knows to be of interest to the Monitoring Team and the Court.

Section 2: Executive Summary

The Order is divided into several main parts, as outlined below, along with a brief description of some of the developments in each area over the review period.

- COURT ORDER III. MCSO IMPLEMENTATION UNIT AND INTERNAL AGENCY-WIDE ASSESSMENT: MCSO's Court Implementation Division (CID) published its Operations Manual during the reporting period, which brought MCSO into Phase 1 compliance with several more Paragraphs. The division published its quarterly report as required by Paragraph 11.
- COURT ORDER V. POLICIES AND PROCEDURES: MCSO has promulgated and trained to the policies identified in this section of the Order. The policies were distributed in conjunction with the agency-wide Fourth and Fourteenth Amendment training, which was completed during this reporting period. During the previous reporting period, we reviewed GA-1 (Development of Written Orders), and suggested changes to bring MCSO into Phase 1 compliance with applicable Order Paragraphs. MCSO has not yet published this policy. MCSO published two new policies relevant to the Court Order during this reporting period: GH-4 (Bureau of Internal Oversight) and GJ-35 (Body Worn Cameras). The Office also reissued a revised version of GM-1 (Electronic Communications and Voicemail.)
- COURT ORDER VI. PRE-PLANNED OPERATIONS: MCSO has achieved Phase 1 compliance with this Section of the Order. MCSO did not report that it conducted any applicable pre-planned operations during this reporting period.
- COURT ORDER VII. TRAINING: During this reporting period, we began a joint review process with the Parties for the 2015 Annual Combined Training of Bias-Free Policing and Fourth Amendment Training. Some progress has been made on the development of the Order-required supervisory training. We received and held initial conversations with the Parties regarding an administrative systems component of the draft "Supervisor Responsibilities: Effective Law Enforcement" lesson plan. The draft did not substantively address leadership, ethics, and integrity; and it did not provide assistance to supervisors to develop interpersonal skills to aid in personnel counseling, coaching, or generational issues. The Plaintiffs' attorneys echoed similar concerns. MCSO advised that a secondary leadership component for this training is under development, with the assistance of an outside contractor. MCSO has developed a new policy, GG-1 (Law Enforcement Training), that is currently under Policy Division review.
- COURT ORDER VIII. TRAFFIC STOP DOCUMENTATION AND DATA COLLECTION AND REVIEW: MCSO continues to provide traffic stop data to us on a monthly basis. Most of the systems used to collect the data have been automated, and for the most part, deputies are complying with the information capture and documentation requirements associated with traffic stops. We also continue to note some of the inadequacies of MCSO practices surrounding the setting of alert thresholds used for ongoing monthly and quarterly data analyses related to these. However, the outside contractual support MCSO is now receiving from Arizona State University should bring a statistically based approach to the setting of thresholds for the benchmarks used in the

monthly, quarterly, and annual analyses of traffic stop data. On October 10, 2014, the Order was amended to allow MCSO to substitute “on-person” recording devices for “fixed mounted” recording devices. MCSO received approval from the Maricopa County Board of Supervisors for the purchase of this equipment on January 29, 2015; and has drafted a policy to cover all aspects of the distribution, operation, and maintenance of the recording devices. We and the Plaintiffs’ attorneys commented on the policy, GJ-35 (Body-Worn Cameras), which was adopted on June 24, 2015. Additionally, we have reviewed evaluations by EIU personnel regarding supervisory oversight of their subordinates; in addition to the Inspection Reports (Supervisory Notes, County Attorney Dispositions, and the like) of BIO; and find that they both show steady improvements in the level of supervisory oversight.

- COURT ORDER IX. EARLY IDENTIFICATION SYSTEM (“EIS”): The policies that describe the EIS remain under development as do the Supervisory Training and TraCS curriculum related to the EIS. MCSO has acquired the EIPro software mentioned in our previous reports, and this has provided greater access to data by first-line supervisors concerning their subordinates. However, they still lack access to their subordinates’ complaint histories and dispositions, which must be rectified. MCSO also deployed EIPro without properly documenting any orientation training to the program. We have made several suggestions regarding the ongoing policy and training development. MCSO has engaged an outside contractor to assist in developing the protocols for alerts generated by the EIS system, as well as for the resulting investigations. We will evaluate these as they come to fruition; however, at this time, MCSO continues to make progress toward meeting requirements of the Order.
- COURT ORDER X. SUPERVISION AND EVALUATIONS OF OFFICER PERFORMANCE: We received drafts of GC-4 (Employee Performance Appraisals), GB-2 (Command Responsibility), and the EIS policy; and we reviewed and returned the drafts to MCSO with comments and suggestions. We continue to note that many supervisors are not adequately documenting their interactions with their deputies or properly memorializing their oversight of deputy activity. MCSO has yet to create a daily activity log or identify alternatives to document deputy activity and supervisory response to scenes. In general, the documentation of interactions between supervisors and subordinates lacks the specificity needed to prove compliance with the Order’s requirements. Similarly, required information is not being captured in deputy and supervisor performance evaluations.
- COURT ORDER XI. MISCONDUCT AND COMPLAINTS: While the quality of MCSO’s investigations at both the Professional Standards Bureau (PSB) and at the district levels remains inconsistent and in many areas lacking, MCSO has taken steps to address these issues. Lieutenants in PSB have been designated as liaisons to the districts and Detention to serve as resources for investigations conducted by those entities. Generally, investigations have shown some improvement, but we continue to have concerns with thorough investigations, justified findings, and disciplinary decisions. MCSO is working on possible revisions of its Internal Affairs policies and a training module for supervisory personnel, and has now conducted one integrity audit.

- COURT ORDER XII. COMMUNITY ENGAGEMENT: During this reporting period, there were four community outreach events scheduled: three Monitor community meetings and one Community Advisory Board (CAB) community forum. Two of the community meetings were postponed due to activities in the ongoing contempt proceedings and will be rescheduled. The two community outreach events that took place were a Monitor's community meeting in Tempe (MCSO Patrol District 1) and a CAB community forum in Phoenix. While the responsibility for Community Engagement has been transferred to the Monitor, key members of the MCSO's leadership, representatives from the Court Implementation Division (CID), and district personnel actively participated in the community meeting in Tempe. The purpose of the CAB community forum was for CAB members to introduce themselves and explain the role and functions of the CAB. The CAB has been proactive in raising community awareness of the existence and function of the CAB. CAB members have also attended some of our site visit meetings with the MCSO to offer their feedback and input.

Compliance Summary:

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

We use four levels of compliance: In compliance; Not in compliance; Deferred; and Not applicable. “In” compliance and “Not” in compliance are self-explanatory. Deferred is used in circumstances in which we are unable to fully determine the compliance status due to a lack of data or information, incomplete data, or other reasons which are explained in the narrative of the report. We will also use Deferred in those situations in which the Office, in practice, is fulfilling the requirements of a Paragraph but has not yet memorialized the requirements in a formal policy. “Not applicable” is only used when describing Phase 1 compliance, and is reserved for those Paragraphs where a policy is not required.

The table below summarizes the compliance status of Paragraphs tracked in this report.¹ During this review period, MCSO’s Phase 1 compliance increased by 11%, while Phase 2 compliance increased by 3%.

Fifth Quarterly Report Summary		
Compliance Status	Phase 1	Phase 2
Not Applicable	12	
Deferred	3	11
Not in Compliance	35	53
In Compliance	39	25
Percent in Compliance	51%	28%

¹ The percent in compliance for Phase 1 is calculated by dividing the number of Order Paragraphs determined to be in compliance by the total number of Paragraphs requiring a corresponding policy or procedure. Paragraphs with the status of Deferred are included in the denominator, while Paragraphs with the status of Not Applicable are not included. Therefore, the number of paragraphs included in the denominator totals 77 for Phase 1. The percent in compliance for Phase 2 is calculated in the same manner. Therefore, the number of paragraphs included in the denominator totals 89 for Phase 2.

Section 3: Implementation Unit Creation and Documentation Requests

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

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

Shortly after the issuance of the Order, MCSO created an Implementation Unit, now identified as the Court Implementation Division (CID). During this reporting period, on June 29, 2015, the Court Implementation Division published its Operations Manual to identify its responsibilities and internal procedures for carrying them out. Accordingly, MCSO is now in Phase 1 compliance with this Paragraph.

At the beginning of our tenure, the division was staffed with a captain, two lieutenants, and two sergeants. The staff has grown significantly, and as of this writing, CID consists of one captain, one lieutenant, four sergeants, one detective, one deputy, and one management analyst. CID's administrative assistant transferred to another division; CID is actively recruiting a replacement. The captain and his staff continue to be responsive to all of our requests. However, at the beginning of September, the captain and lieutenant assigned to the Division were transferred. The captain was assigned to a patrol district, and the lieutenant was promoted to captain and reassigned. While we are concerned about a potential loss of continuity given the reassignment of the two commanding officers in the division, we note that one of the longest tenured and most experienced sergeants in the unit was promoted to lieutenant and remains as the second in command of CID. We look forward to working with the new commanding officer.

The division continues to be supported by MCAO attorneys, who frequently participate in our meetings and telephone calls with division personnel.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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.*

During this reporting period, on June 29, 2015, the Court Implementation Division published its Operations Manual to identify its responsibilities and internal procedures for carrying them out. Accordingly, MCSO is now in Phase 1 compliance with this Paragraph.

As mentioned above, CID has always been responsive to our requests. In many instances, we have asked for material that has not been routinely collected – or even generated – by MCSO. In this respect, our first year served as a learning curve for CID and our Team regarding what information may be available and the best ways to produce it. Our first inquiries focused on policies more than data. As progress on policies moved forward, our requests have become more data-driven. We will continue to work with MCSO – and CID’s new leadership – on what constitutes appropriate compliance assessment data.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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.*

During this reporting period, on June 29, 2015, the Court Implementation Division published its Operations Manual to identify its responsibilities and internal procedures for carrying them out. Accordingly, MCSO is now in Phase 1 compliance with this Paragraph.

MCSO filed its Second Quarter Report for 2015, as required by this Paragraph, on September 11, 2015. MCSO’s report covers the period from April 1, through June 30, 2015.

The report is divided into three major parts. Part I: Background and Overview of MCSO’s Efforts Towards Compliance provides a brief description of a few major compliance activities since the issuance of the Order. The report also includes a table that was developed from information provided in our fourth quarterly report (covering the reporting period of January 1, through March 31, 2015) and then updated by MCSO to reflect what MCSO believes to be its compliance progress.

Part II: Steps Taken By MCSO and Plans to Achieve Compliance With the Order is organized by the major sections of the Order and provides greater detail on MCSO's activities working toward compliance. As in the past, we will draw from this section of the report to inform our future document requests and our discussions during the next Team site visit.

Part III: Response to Concerns Raised in Monitor's Previous Quarterly Report responds directly to some of the concerns we raised in our Third Quarterly Report, published July 14, 2015. The report concludes, "MCSO is currently developing comprehensive and specific metrics and guidelines to measure full and effective compliance and will be seeking feedback and approval from the Monitor Team to ensure that MCSO's measures of success are congruent with the Court's Order." We look forward to discussing and learning more about this effort during our next site visit.

MCSO submitted its status report in a timely manner, and is in compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

***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.*

See Paragraph 13.

Compliance Status:

Phase 1: In compliance

Phase 2: Deferred

***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).

During this reporting period, on June 29, 2015, the Court Implementation Division published its Operations Manual to identify its responsibilities and internal procedures for carrying them out. Accordingly, MCSO is now in Phase 1 compliance with this Paragraph.

MCSO submitted its first internal assessment on April 7, 2014. The 11-page document outlined MCSO's efforts to comply with the Order's requirements, and discussed Patrol Operations, Written Policies and Procedures, Training, Supervisor Review, Intake and Investigation of Civilian Complaints, Discipline of Officers, Community Relations, and Miscellaneous Procedures. We found the document to be informative, and a sufficient summary of the state of play as we were beginning our tenure. All of these areas have been topics of our meetings, discussions, and correspondence with CID personnel and other MCSO staff. MCSO's and the Monitor's responsibilities in some of these areas have been modified by Court Order. MCSO did not assert Full and Effective Compliance with the Order during this review period.

During our December 2014 site visit, we and CID established the schedule for future comprehensive annual assessments as required by these Paragraphs. They will cover MCSO's fiscal year, which runs from July 1 to June 30. Reports are to be submitted on or before September 15.

Compliance Status:

Phase 1: In compliance

Phase 2: Deferred

Section 4: Policies and Procedures

COURT ORDER V. POLICIES AND PROCEDURES

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

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

MCSO policy GA-1 (Development of Written Orders) states that “policies will be reviewed annually or as deemed appropriate, and revised, as necessary, by Policy Development.” We reviewed GA-1 and provided our comments to MCSO. The policy has not yet been finalized. CID’s Operations Manual, published during this reporting period (on June 29, 2015), affixes responsibility for coordinating and submitting this review with the CID Lieutenant. MCSO is not yet in Phase 1 compliance with this Paragraph.

MCSO has taken steps toward a comprehensive review of its Patrol Operations Policies and Procedures in three phases. First, on December 31, 2013, prior to my appointment as Monitor, MCSO filed with the Court all of its policies and procedures, with amendments, that MCSO believed complied with the various Paragraphs of the Order. Second, in the internal assessment referenced above, MCSO discussed its ongoing evaluation of Patrol Operations and its development of policies and procedures. Third, MCSO, in response to our requests, provided all of the policies and procedures it believes are applicable to the Order for our review and that of the Plaintiffs. MCSO received our feedback on these policies, which also included the Plaintiffs’ comments, on August 12, 2014. Based on that feedback, MCSO made adjustments to many of the policies, concentrating first on those policies to be disseminated in Detentions, Arrests, and the Enforcement of Immigration-Related Laws Training; and the Bias Free Policing Training (often referred to as Fourth and Fourteenth Amendment Training) that commenced in early September. We reviewed MCSO’s updated policies and provided our approval for several on August 25, 2014. Many policies unrelated to the training, however, remain in development, and we continue to review them on a case-by-case basis as they are submitted. Additionally, MCSO has not completed a review of *all* Patrol policies and procedures for potential conflicts with the Order’s requirements.

During our December 2014 site visit, we and CID established the schedule for the reviews and assessments as required by the Order. MCSO will review the policies and procedures applicable to the Order on an annual basis, reflecting their fiscal year, which runs from July 1 to June 30. Reports are to be submitted on or before September 15. (See Paragraph 34.)

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

a. Policies and Procedures to Ensure Bias-Free Policing

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

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

MCSO has developed policies and addressed the policy deficiencies previously noted by the Monitoring Team. MCSO has finalized and published policies, including: CP-2 (Code of Conduct), issued September 5, 2014; CP-8 (Preventing Racial and Other Bias-Based Profiling), issued September 5, 2014; EA-5 (Communications), issued September 5, 2014; EA-11 (Arrest Procedures), issued September 5, 2014; EB-1 (Traffic Enforcement, Violators Contacts and Citation Issuance), issued September 22, 2014; EB-2 (Traffic Stop Data), issued September 22, 2014; and GJ-33 (Significant Operations), issued September 5, 2014. Each of these contains the appropriate policy direction related to this Paragraph. These policies have been distributed to Department personnel and specifically trained to during the required Fourth and Fourteenth Amendment training conducted by MCSO in 2014. Specific references to areas of required compliance in this section have been personally observed by a Monitoring Team member during the training.

The Department has achieved Phase 1 compliance with this Paragraph. Implementation of these policies is covered in the other Paragraphs of the Order. Therefore, Phase 2 compliance with this Paragraph is deferred.

Compliance Status:

Phase 1: In compliance

Phase 2: Deferred

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

MCSO policies CP-8 (Preventing Racial and Other Bias-Based Profiling) and EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) have been finalized, approved, distributed and trained to in the MCSO Fourth and Fourteenth Amendment Training for sworn personnel and Posse members. This training was completed in 2014. The Department has achieved Phase 1 compliance with this Paragraph.

During our December 2014 site visit, we met with members of the CID to discuss methods and procedures MCSO could put in place to “consistently reinforce to subordinates that Discriminatory Policing is unacceptable.” This discussion included the review of monthly supervisor notes, facility and vehicle inspections, as well as conducting both email and CAD (Computer Aided Dispatch) audits. During this same site visit, members of our Team visited Districts 1, 4, and 6 to conduct facility inspections.

In November 2014, the Bureau of Internal Oversight conducted its first audit of supervisory notes, and found numerous violations that were addressed with deficiency memorandums or memorandums of concern authored by the BIO and forwarded to the appropriate chain of command. Only one (2%) of the 47 supervisors who were randomly inspected was found to be in compliance. As a result of this inspection, the BIO recommended a review of MCSO policy GB-2 (Command Responsibility), and additional training in the proper use of Blue Team Supervisory Notes with a signature log to verify completion of this training. The BIO also began publishing reports of its inspections on the BIO website at mcsobio.org.

During our December 2014 site visit, we requested that we continue to receive copies of any monthly or quarterly audit reports for supervisory notes, as well as other audits conducted. There were no audits provided for this report indicating that any supervisory notes inspection occurred.

During our April 2015 site visit, we requested the “action request form” sent out by the BIO that, when returned, includes the outcome. This will allow us to document and review outcomes of violations. We also requested that we receive the specific information that is found to be a violation, not just a general statement that a violation had occurred. We confirmed that any concerns found were captured in the EIS system, which was a question brought forward by the Plaintiffs. During this same site visit, we noted that we had observed a significant decrease in CAD and email violations from the first audits conducted in November 2014, compared with those conducted from January through March 2015.

MCSO has made efforts in this area, developed policies, and implemented Blue Team for the reporting of supervisory notes. Individual supervisory personnel have informed Monitoring Team members that they are consistently reinforcing this information; however, there is still no documentation to support these statements. The first supervisory notes inspection conducted by

the BIO in November 2014 demonstrated that there was still much to be done for MCSO supervisory personnel to achieve compliance with this Paragraph. In addition, this Paragraph applies to those personnel supervising both deputies and detention officers. It did not appear that the Detention population was included in the first supervisory notes inspection completed by the BIO. During our December 2014 site visit, we requested that we continue to receive copies of monthly and quarterly inspection reports for supervisory notes as well as other audits.

During this reporting period, MCSO provided supervisory notes audits for patrol personnel on its MCSObio.org website. MCSO reported that in April 2015, 82.41% of the supervisory notes inspected for patrol personnel included “Anti-Racial Profiling Messages.” MCSO also reported that in May and June, 100% of the patrol supervisory notes inspected provided “Anti-Racial Profiling Messages.” Each of the three months audited used a sample of 45 deputies from all patrol districts/divisions.

We found specific supervisor notes for patrol personnel in MCSO’s document submissions for this reporting period. We reviewed the raw data of 75 of the supervisory notes documents provided by MCSO from April through June 2015. We found that in 27 cases, the sergeant specifically reinforced that discriminatory policing is unacceptable during the documented interaction with the deputy. In the majority of the other notes we reviewed, the sergeant wrote that there had been no indication that the deputy had engaged in any discriminatory or bias-based policing incidents – but there was no indication that the sergeant had specifically reinforced that discriminatory policing was unacceptable. Such reinforcement is necessary to show compliance with this Paragraph.

This Paragraph requires that reinforcement against discriminatory policing be provided to detention as well as sworn personnel. On their MCSObio.org website, MCSO reported that it conducted supervisory notes inspections of a randomly selected 10% of detention personnel in April of 2015. MCSO also reported that 45.3% of the notes inspected included entries regarding biased-based policing.

For May 2015, the BIO reported on its website that it had reviewed a random selection of 10% of all detention/civilian employees, and reported that 40.31% included entries regarding bias-based policing.

For June 2015, the BIO reported on its website that it had reviewed a random selection of 10% of all detention employees. This was the first audit that was expanded to include all 11 divisions of MCSO detention. It reported that 42.59% included entries regarding bias-based policing.

While the detention audits reviewed on the MCSOBIO.org website report outcomes, they do not include the raw data. We were not able to determine if the entries on bias-based policing included unequivocal supervisory reinforcement that discriminatory policing is unacceptable, which is necessary to show compliance with this Paragraph.

During this current reporting period, the BIO conducted inspections of both email and CAD messages. The detailed outcomes of these inspections/audits are covered in Paragraph 23.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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.*

On September 5, 2014, MCSO policy CP-2 (Code of Conduct) was published and has since been distributed. It has been specifically trained to as part of the Fourth and Fourteenth Amendment training that was completed by MCSO in 2014. The Department has achieved Phase 1 compliance with this Paragraph.

During prior reporting periods, we discussed with MCSO CID and BIO personnel the importance of conducting random email audits or other inspections to demonstrate compliance with this Paragraph. Since that time, the BIO has conducted audits of emails and CAD/MDC communications for this purpose. During the first audits in November and December 2014, the BIO found multiple violations, which it addressed by forwarding deficiency memorandums or memorandums of concern to the appropriate chain of command. MCSO also began publishing BIO's audits on the BIO website at mcsobio.org.

Between January and March of 2015, the BIO conducted three CAD audits. Using a Generally Accepted Government Auditing Standard (GAGAS), the BIO randomly selected 10 days in January, 10 days in February, and 10 days in March. The BIO reviewed CAD messages in an effort to identify compliance with MCSO policies CP-2 (Code of Conduct), CP-3 (Workplace Professionalism), and GM-1 (Electronic Communications and Voicemail). In its audit report, the BIO also included the specific nature of the discovered violation, which had not consistently been done in the first CAD audit. In the January audit, the BIO identified only one concern and reported a compliance rate of 99.97% for January.

In the February CAD audit, no violations were found, and MCSO reported a 100% compliance rate.

In the March CAD audit, no violations were found, and MCSO reported a 100% compliance rate. These audits showed significant improvement from the first audit conducted in December 2014.

In the April 2015 CAD audit conducted by the BIO, there were, collectively, 3,993 CAD and Alpha Paging Messaging entries. The BIO identified no concerns and reported a 100% compliance rate for April.

In the May 2015 CAD audit conducted by the BIO, there were, collectively 4,501 CAD and ALPHA Paging Messaging entries. The BIO identified no concerns and reported a 100% compliance rate for May.

In the June 2015 CAD audit conducted by the BIO, there were, collectively, 4,930 CAD and Alpha Paging Messaging entries. The BIO identified no concerns and reported a 100% compliance rate for June.

In January, February, and March 2015, MCSO conducted email audits. In the January audit, 34 of the 35 accounts audited had no deficiencies. In February, there were no deficiencies noted in the 35 accounts audited; and in March, 34 of the 35 accounts audited had no deficiencies.

In April 2015, the BIO conducted another email audit. The BIO randomly selected a sample of 35 MCSO employees. These 35 employees' accounts yielded 10,128 emails; however, BIO eliminated 2,509 as MCSO business-related. The employees whose accounts were inspected included personnel from Enforcement, Detention, and Administration. Thirty-three email

accounts (94%) had no deficiencies. Two Outlook accounts (one for an employee in Enforcement and the other for an employee in Detention) were not in compliance with MCSO Policy GM-1, Paragraph 1 (Electronic Communications and Voice Mail). One employee email was not professional in content and appearance, and another employee forwarded two non-business chain emails. It is noted in the report that Deficiency Memorandums were forwarded to the appropriate Division Commanders for review and action. The inspection report provided to us by MCSO was shown as a “redacted” report. It is unknown what information was removed from the report or why that was necessary.

As noted previously in Paragraph 22, during our April 2015 site visit, we requested that MCSO provide the BIO Action Form and the specific potential violation found. MCSO included one BIO Action Form for a Detention employee in its document submission. The form indicates that informal training was provided to this detention officer and his squad, to include a “thorough review of the applicable MCSO policies” and that the information was placed in the supervisor’s supervisory notes.

What is not included in this submission from MCSO is the specific information on the violation as we have requested. It is impossible to determine the nature of a violation, if it is related to compliance with this Paragraph, or to determine the appropriateness of any training or sanctions without knowing the content of the inappropriate email messaging. Our monthly document request specifically states, “For all audits completed, include the details of all specific potential violations, copies of memoranda or other documents generated from or to BIO, investigations conducted and outcomes.” In addition, there was no BIO action report submitted for the other potential violation found during this audit.

The audit report did recommend that supervisors continue to provide informal training to employees and review MCSO policies, specifically emphasizing the prohibitions of employees from using property, such as email, in any manner that discriminates against or denigrates anyone on the basis of race, color, national origin, age, religious beliefs, gender, culture, sexual orientation, veteran status, or disability. The BIO also recommended in its report that MCSO employees should continue to be encouraged to report any violations of relevant policies to a supervisor. Finally, BIO recommended that MCSO provide informal training to employees on how to better manage their email accounts, specifically in the areas of archiving/saving emails and emptying “Deleted Items” and “Junk Email” folders.

The BIO also conducted an email audit in June 2015. For this audit, the BIO randomly selected 35 email accounts for inspection. Additionally, an auditor reviewed 12 email accounts that had been found deficient in the November 2014 inspection as a follow-up. The 47 email accounts yielded 13,191 emails; however, only 6,898 emails were reviewed due to the elimination of regular MCSO business-related emails. The June 2015 inspection and follow-up from November 2014 determined that MCSO had a 100% compliance rate, showing a 23% increase in compliance from the November inspection. The employees whose accounts were inspected included personnel from Enforcement, Detention, Administration, and Operations. The BIO report continued to recommend the informal training, noted above, in the April audit.

These most recent email inspections, along with the inspections conducted in December 2014 and January, February, and March 2015 compare favorably to the first email audit conducted in November 2014, where of the 35 randomly selected employees, there were 57 issues noted from 12 different employees. At that time, only 77% were in compliance.

As a result of its inspections, the BIO is authoring and forwarding deficiency memorandums to Division Commanders and memorandums of concern to Professional Standards Bureau for review. In addition, the BIO has continued to recommend additional training to employees on the requirements of GM-1 (Electronic Communications and Voice Mail). A BIO Follow-up Action Form is required to be completed and returned within 30 days in any instance where discrepancies were noted. The documentation provided continues to state that the BIO would conduct a follow-up inspection within the following 30 days.

MCSO has made appreciable efforts to inspect and identify any deficiencies to meet the requirements of this Paragraph by conducting these audits. The reduction in violations from the first audits underscores the value of conducting these audits on an ongoing basis.

While the audits conducted by MCSO on both CAD and email are now at least 94% compliant and we previously found MCSO in Phase 2 compliance with this Paragraph, we have concerns with MCSO's decision to send us a redacted audit report without any explanation, and also its failure to provide specific documentation on potential violations as we have requested. This does not allow us to determine if the violations it has found are relevant to compliance with this Paragraph. Until we receive un-redacted reports and are provided with details regarding specific violations, compliance is deferred.

Compliance Status:

Phase 1: In compliance

Phase 2: Deferred

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

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

During our April site visit, we met with members of the MCSO Court Implementation Division and members of the Special Investigations Division to determine what current methods they employ to receive information from the public regarding criminal activity. During that meeting, we were informed that the Special Investigations Division has three hotlines: two for narcotics information and the third for animal crimes. When the hotlines receive tips, the Special Investigations Division conducts an initial review on any information received before moving forward with an investigation. If, based on the initial review, it decides to proceed with an investigation, the Special Investigations Division generates a Department report and completes

what is referred to as a “run sheet.” MCSO agreed to provide us with the run sheets in the future for our review.

CID personnel informed us that MCSO had other hotlines as well, including hotlines for child support, dog fighting, techno cops, financial crimes, and ATF (Alcohol Tobacco and Firearms). CID personnel were uncertain at the time if all of these hotlines were still active. There is also a MCSO email address for receiving complaints from citizens. An employee conducts intake on any emails received, and forwards the complaints to the appropriate Division Commander for follow-up. CID personnel agreed to explore the possibility of developing a form to capture incoming complaints for all of the different intake methods so that the information can be provided to us easily. CID also agreed to research which hotlines are still active and provide us with that list. We committed to reviewing the active hotlines and “run sheets” as part of determining Phase 2 compliance with this Paragraph.

During that same meeting, we discussed with CID personnel the need to receive any Operations Plans it develops to review the information received and the action taken – not just those that meet the criteria of a ‘Significant Operation’ as defined by the Order. The Paragraph prohibits MCSO from relying on “...any information received from the public, including through any hotline, by mail, email, phone or in person, unless the information contains evidence of a crime that is independently corroborated by the MCSO, such independent corroboration is documented in writing, and reliance on the information is consistent with all MCSO policies” when deciding to take any law enforcement action. This standard is not reserved solely for Significant Operations.

To generate information on hotlines and how MCSO responds to complaints of criminal activity to include any specific operations, CID sent a document request to the divisions requesting the following information:

- “Documentation of all hotlines or other methods used by MCSO to receive complaints from community members regarding potential criminal activity. (One time.)”
- “Documentation of MCSO’s response to these complaints, any specific operations conducted as a result, and the outcome of these operations. (Monthly going forward.)”

MCSO has provided us with the information it has received based on the information request.

The Judicial Enforcement Division reported that it maintains one tip-line and one team website, both of which are dedicated to the Sheriff’s Office Deadbeat Parent Program. This program is focused on civil arrest warrants for failure to pay child support, and arresting authority is limited by statute. This tip-line is monitored by a deputy and a sergeant on a weekly basis. A major portion of the requests or concerns received are questions about the program and how to get a warrant issued against someone. MCSO completes basic intelligence and makes a follow-up call. If a civil warrant is found, it is assigned to a deputy who will attempt to locate the wanted subject.

During April, the Sheriff’s Office Deadbeat Parent Program received numerous emails and telephone calls. During May 2015, 10 emails and 35 telephone calls were received. Of the total information received in May, only three were deemed to be actionable, and none of the wanted subjects were located at the addresses provided. No other actions were taken. A review of the log and emails provided by MCSO supports the information on this hotline as reported by the

Judicial Enforcement Division. The majority of contacts are from persons wanting to know how to get someone on the Deadbeat Parent List, or who want to provide information on someone who is failing to pay child support.

Enforcement Support reported that the tips it receives are not all tracked or recorded. From the information submitted, it appears that the information received is related to arrest warrants. A Posse member tracks the tips that are distributed on a spreadsheet. During April, Enforcement Support distributed tips on 38 individuals. Sixteen individuals were arrested, clearing numerous felony and misdemeanor warrants. In May 2015, Enforcement Support received 134 online tips, and reported it did not conduct any MCSO operations as a result of these tips. It did not provide any logs, nor other documentation regarding the content of the tips received in May. It is unclear, based on the information provided, exactly what specific hotline information is handled by Enforcement Support.

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

For the Animal Abuse Hotline, there is an initial complaint form that documents the receipt of the complaint. If the complaint pertains to criminal activity under the jurisdiction of MCSO, a call sheet is generated and the complaint moves to stage 2, "administrative entry." The administrative entry staff generates an Animal Cruelty Investigation Form, and the form is forwarded to the detective/investigator responsible for the geographic area where the incident transpired. Once the investigator receives the form, s/he evaluates the information and takes any appropriate investigative action. MCSO maintains weekly and monthly statistics for each electronic folder.

The Major Crimes Division provided attachments with the complaints for the months of April and May, and also wrote that it is currently reviewing and evaluating a more efficient method to track and document the hotline complaints. We received over 200 pages of complaints and investigative information that was received on this hotline and by email during May alone for our review. The complaints included a variety of animal abuse and neglect concerns. Some were noted as being referred to another agency, and some had call sheets and investigations generated.

Special Investigations reported the use of the Drug Line Report. This report contains information provided by callers regarding possible drug activity. The form includes a call number, call time, category of possible offense, reported details, and a field for a disposition. Some of the tips are assigned for follow-up, while others are shown as unfounded or exceptionally cleared. Some provide follow-up information, while others do not. SID provided the tips reported from January through May 2015.

Each district in the Patrol Division provided a separate response regarding how it responds to complaints from citizens and how operations are conducted as a result:

- District 1 responded, "All calls of this nature would be directed to MCSO Communications to dispatch a Deputy to respond and take a report. Any call regarding drug activity would be directed to MCSO Drug Hotline which is administrated by MCSO Special Investigations Division. District 1 has no such mechanism outside of these

systems that would allow a citizen to call in and report a crime. If by chance the citizen calls the District they are directed to MCSO communications.”

- District 2 responded that it did not have any dedicated hotline or tip-line telephone numbers or other such methods specifically to capture or receive complaints from community members regarding potential criminal activity. In general, the district has a main telephone number for any calls incoming to the district. For the months of January through March 2015, the reporting lieutenant wrote that he checked his emails, spoke to staff, and asked district detectives if they recalled any tips coming in to the district. A district detective did speak to a citizen who stopped by the district to report possible drug activity, and the detective forwarded the information to the Special Investigations Unit. For the month of May 2015, the district reported no incoming information related to this document request.
- District 3 responded that it accepts complaints from community members regarding potential criminal activity through mail, email, telephone, and walk-up traffic. It does not track actions taken regarding these complaints, but reported that they are generally assigned to the supervisor most able to respond to the complaint. From January through May 2015, they have not conducted any operations resulting from these citizen complaints.
- District 4 responded that it does not currently have a hotline designated to receive complaints from citizens within its jurisdiction. It reported that they receive complaints from community members in the following ways: walk-up traffic; telephone calls; emails; and notifications from complaints through mcsso.org (forwarded to the captain from Headquarters). For January through March 2015, District 4 provided numerous emails/documentation of communications with citizens regarding a variety of general concerns. District 4 also provided numerous emails/documentation that had been received during May 2015. These emails included a variety of community concerns including suspicious activity, lost property, outlaw motorcycle gangs, and neighborhood disputes. All were responded to, forwarded for information, or forwarded with a request that some follow-up be conducted. In all cases, the actions appeared to be appropriate given the citizen’s concern, and would be the kinds of community contacts we would expect to see.
- District 6 responded that it serves the town of Queen Creek pursuant to a law enforcement contract. As Queen Creek’s primary law enforcement organization, it is responsible to police town ordinances/codes as well as applicable state law. District 6 reported that it has a web-based application that is used to report local issues related to town services. From January through March 2015, it responded to five requests through the system. All were related to ATV activity. District 6 deployed two ATV operators for a six-to-eight-hour time period on two occasions in an attempt to interdict the problem. During May, it responded to two concerns from this same site: kids throwing rocks at the bus stop and an ATV traveling in the wash system.
- District 7 responded that it uses a Request for Enforcement Services/Community Service Form, which citizens complete for specific enforcement for patrols such as speed enforcement or extra patrols because of potentially reoccurring problems such as criminal

damage or vandalism. These forms are given to the patrol sergeants to assign to deputies. District 7 reported that it does not track or have any documentation as to what follow-up is completed, but it is working on a remedy for that situation. District 7 also reported that it participates in "Text-A-Tip" in Fountain Hills. Tips generated in this program are completely anonymous. District 7 investigates the tips if possible, but report that the tips are not always entered into the website; staff are also working on a solution for this issue. District 7 provided the Request for Enforcement Services/Community Services forms it received between January, and June 1, 2015. The forms included a variety of complaints, including speeding vehicles, stop sign violations, suspicious activity, suspicious vehicles, and loud parties. As reported by District 7, there was no indication of what follow-up was conducted. As with the types of citizen concerns noted by District 4, these are the kinds of complaints we would expect to be generated from a community.

- Lake Patrol reported that it "does not have any established email addresses or hotlines which community members can utilize to report potential criminal activity. All information relating to potential activity comes to us through the MCSO Communications Division. Our division has not conducted any operations in any response to suspected criminal activity because we have not received any information."

CID obviously made an effort to obtain information from within MCSO regarding hotlines and other ways community members may report potential criminal activity and how MCSO responds to those reports. None of the forms or logs we reviewed contained any information on any suspected criminal activity that would be perceived as racially biased. What is obvious, however, is that MCSO does not have a consistent methodology or tracking system for its tip-lines or other community complaints of potential criminal activity. Divisions may or may not use a form, forms are different from division to division, and there is no documented follow-up in some cases. While Districts 3, 4, and 7 do not have any consistent method for recording or documenting contacts, the reports are what we would expect to be in community contacts.

We inquired if MCSO had any existing policies that would cover hotlines or other methods to receive information so that it can achieve Phase 1 compliance with this Paragraph. In response, MCSO provided a memorandum on June 29, 2015 indicating that it does not have any existing policies that would cover the hotlines or other methods of receiving information.

To attain Phase 1 compliance with this Paragraph, MCSO must develop some type of guiding policy on how it handles community reports of potential criminal activity and develop some type of consistent documentation methodology for its hotlines. Phase 2 compliance can then be addressed.

Phase 1: Not in compliance

Phase 2: Not in compliance

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

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

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

MCSO has developed several policies that, in concert, incorporate the requirements of this Paragraph. These include: EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), dated September 22, 2014; EB-2 (Traffic Stop Data Collection), dated September 22, 2014; EA-5 (Enforcement Communications), dated September 5, 2014; and CP-8 (Preventing Racial and other Bias-Based Policing), dated September 5, 2014. In our feedback to the Department, we required that the definition of racial profiling be consistent throughout all policies where it is included, and that it mirror the definition provided in the Order. MCSO made the requested policy changes in each of the affected documents, which were then reviewed and approved. The policies were disseminated and trained to during the Fourth and Fourteenth

Amendment training, which was completed in December 2014. MCSO is in Phase 1 compliance with this Paragraph.

During the finalization of the Fourth and Fourteenth Amendment training curricula required by the Order, the Parties agreed to a list and/or description of forms of identification deemed acceptable for drivers and passengers, as required by this Paragraph. The data required for verification to ensure compliance with these policies is captured in Paragraph 54 by the TraCS system. The system documents the requirements of the Order and MCSO policies. MCSO has been making changes to the TraCS system to ensure that the mandatory fields on the forms utilized to collect the data must be completed by the deputies in order to capture the required information. TraCS is a robust system that allows the user agency to make technical changes to improve how required information is captured. Since implementation, MCSO has made technical changes; the most recent which allows deputies to input "Hispanic" on the Arizona Traffic Ticket and Complaint, was implemented during this reporting period. In its previous form, the traffic citation did not recognize Hispanic as a race or ethnicity.

In order to capture the information for this Paragraph, we review MCSO's Vehicle Stop Contact Form, Vehicle Stop Contact Form Supplemental Sheet, Incidental Contact Sheet, Written Warning/Repair Form, Arizona Traffic Ticket and Complaint Form, Internet I/Viewer Event Form, Justice Web Interface Form, CAD printout, and any Incident Report generated by the traffic stop. MCSO created many of these forms to capture the requirements of the Order for Paragraphs 25 and 54.

Paragraph 25.a. prohibits racial profiling in the enforcement of traffic laws, including the selection of which vehicles to stop based to any degree on race or ethnicity, even where an officer has reasonable suspicion or probable cause to believe a violation is being or has been committed. The selection of the sample size and the sampling methodology employed for drawing the sample is detailed in Section 7: Traffic Stop Documentation and Data Collection. Our review of a sample of 105 traffic stops (out of 8,430 total traffic stops that occurred during this reporting period) indicated that MCSO was following protocol, and we did not determine that the stops were in violation of the Order or internal policies. This review is a sample of the traffic stops that occurred during the quarter. Paragraphs 66 and 67 require an annual comprehensive analysis of all traffic stop data, which will more accurately determine if the requirements of this Paragraph are being met. MCSO is currently compliant with this Subparagraph.

Paragraph 25.b. requires MCSO to provide deputies with guidance on effective traffic enforcement, including the prioritization of traffic enforcement resources to promote public safety. MCSO policy EB-1.A-E addresses these concerns. The policy specifies that driving under the influence and speeding are the main causes of accidents, and should be the focus of traffic enforcement. We found that the majority of violations cited (65%) were for speeding and address the policy requirements. In the remaining cases, the stops were for reasons such as failure to obey official traffic control devices; failure to possess valid registrations, licenses, or tags; or equipment violations. In our review, we break down the specific traffic violation for each stop and utilize each traffic stop form completed by MCSO during the stop to make a determination if the stop is justified and fulfills the requirements of the Paragraph. When we review the 105 sample traffic stops from across all districts during the reporting period, we make

note of the locations of the stops contained on the Vehicle Stop Contact Form, which we review for every stop. Our review of the data indicates MCSO is compliant with this Subparagraph.

Paragraph 25.c. requires MCSO to prohibit the selection of particular communities, locations, or geographic areas for targeted traffic enforcement based to any degree on the racial or ethnic composition of the community. Our review of the sample data did not indicate MCSO was in violation of this Subparagraph.

Paragraph 25.d. requires MCSO to prohibit the selection of which motor vehicle occupants to question or investigate based to any degree on race or ethnicity. During this review of the traffic stop data, we noted three instances where passengers (one white male, one white female, and one Black male) were contacted; and it does not appear that deputies based their traffic stops, to any degree, on race or ethnicity. In our experience reviewing traffic stop data, questioning or investigating passengers occurs infrequently. We reviewed the demographic data of Maricopa County, and found that the ratio of the ethnicity of the violators and passengers in the population was in range with the ethnicity of the individuals stopped. (See Paragraph 54.e.) MCSO is compliant with this Subparagraph.

Paragraph 25.e. requires MCSO to prohibit the use of particular tactics or procedures on a traffic stop based on race or ethnicity. (See Paragraph 54.e.) We reviewed a sample of 30 CAD audio recordings of traffic stops and 75 CAD printouts where the dispatcher enters the reason for the stop when advised by the deputy in the field. The methodology that we employed to select the samples is described in detail in Section 7. Prior to making the stop, the deputies advised dispatch of the stop with location, tag/state, and reason for the stop. None of the stops in the sample involved the use of traffic checkpoints. All stops appeared to comport with policy. We conducted a ride-along with a deputy to determine how traffic stops are conducted, and observed a stop where the violation was for speeding and the driver was issued a warning. As in many cases, at the time of the stop, we could not determine the ethnicity or gender of the driver until the vehicle was approached. The stop was routine and the deputy's actions followed policy. Our review of the sample data indicated that traffic stops were not based on race or ethnicity and reflected the general makeup of the population of the County; therefore, MCSO is in compliance with this Subparagraph.

Paragraph 25.f. requires deputies at the beginning of each stop, before making contact with the vehicle, to contact dispatch and state the reason for the stop unless exigent circumstances make it unsafe for the deputy to contact dispatch. In 29 of the 30 CAD audio recordings we reviewed, the deputy did advise dispatch of the reason for the stop, prior to making contact with the vehicle occupants. In the one exception, the deputy failed to advise the dispatcher of the reason for the stop, but the dispatcher prompted the deputy immediately for a response. In the 75 other cases that were part of the sample, we reviewed the CAD printout to ensure that deputies were properly advising dispatch of the reason for the stop prior to making contact with the violator. Our review indicates that MCSO is compliant with this Subparagraph. (See Paragraph 54e.)

Paragraph 25.g. prohibits deputies from extending the duration of any traffic stop longer than the time that is necessary to address the original purpose for the stop and/or to resolve any apparent criminal violation for which the deputy has or acquires reasonable suspicion or probable cause to believe has been committed or is being committed. In our review of 105 traffic stops, we determined that three stops may have lasted for a longer duration than necessary. There were 10 other stops that were extended and justified due to the nature of the circumstances, such as an

arrest or the vehicle being towed, which required the deputy to be on the scene for a longer duration. Since greater than 94% of the cases complied, MCSO is in compliance with this Subparagraph. (See Paragraph 54.i.)

Paragraph 25.h. requires the duration of each traffic stop to be recorded. In our review, we determined that the duration was recorded accurately in 102 of the 105 traffic stops. In the remaining three cases, there was a difference of five or more minutes in the start or end time of the stop, when comparing the Vehicle Stop Contact Form and the dispatch CAD printout. The supervisor is required to review all activity by deputies within 72 hours and should catch any discrepancies and provide appropriate counseling to those subordinates. Proper and timely supervision should correct the deficiencies. (See Paragraphs 54.b. and 54.i.) MCSO is compliant with this Subparagraph with a 97% compliance rating.

Paragraph 25.i. requires that MCSO provide deputies with a list and/or description of forms of identification deemed acceptable for drivers and passengers (in circumstances where identification is required of them) who are unable to present a driver license or other state-issued identification. The Plaintiffs' attorneys and MCSO have agreed on acceptable forms of identification, and this information has been included in the Fourth and Fourteenth Amendment training conducted by outside consultants. Only driver licenses, with one exception (Social Security number listed on Arizona Traffic Ticket), were presented to deputies in each of the cases provided in our sample. MCSO is in compliance with this Subparagraph.

Paragraph 25.j. requires MCSO to instruct deputies that they are not to ask for the Social Security number or card of any motorist who has provided a valid form of identification, unless it is needed to complete a citation or report. EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) prohibits deputies from asking for the Social Security number of any motorist who has provided a valid form of identification. We did review one traffic stop by an MCSO deputy this reporting period that contained the Social Security number of the driver listed on the Arizona Traffic Complaint. This one instance did violate the provision of Paragraph 25j but there was no evidence during the sample review that indicated there were other violations. Since the operator was not cited for a failure to have a valid driver's license, there was no need to ask or place the Social Security number of the driver's license on the citation. MCSO policy prohibits the asking of a Social Security number (card) by any deputy conducting traffic stops. When MCSO begins employing body worn cameras, we will review a sample of traffic stops to review the video/audio of the citizen interactions and determine if deputies are abiding by the requirements of the Order. The forms (Vehicle Stop Contact Form and Warning/Repair Form) completed by deputies on a traffic stop do not contain boxes to capture this information. MCSO is compliant with this Subparagraph.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

- 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).*

The MCSO has finalized and published policies EB-1 (Traffic Enforcement, Violator Contacts and Citation Issuance), on September 22, 2014; and EA-11 (Arrest Procedures), on September 5, 2014. Both contain the appropriate policy direction and have been specifically trained to during the required Fourth and Fourteenth Amendment training completed by MCSO in 2014. The Monitoring Team observed specific references to areas of required compliance in this section during the training. The Department has achieved Phase 1 compliance with this Paragraph.

During this reporting period, MCSO reports that there were no arrests made for any immigration-related investigation or for any immigration-related crime. There was one criminal violation arrest made for identify theft. MCSO provided the investigative report which documented a suspicious person call. Once contacted, the subject was found to have an outstanding warrant and then presented identification that did not belong to him. This subject was arrested and booked.

There were no arrests of vehicle passengers for lack of an identity document during this reporting period. There were six incidents where vehicle drivers had charges pertaining to lack of an identity document. All stops were made with articulated Title 28 violations precipitating the stop.

In three of the cases, the vehicle drivers were Hispanic males. One stop was for excessive speed; a supervisor was notified and the subject was cited and released. In the second case, the driver was stopped for driving a vehicle with an expired tag. The driver had no identification, no insurance and no registration for the vehicle. There were two possible warrants issued to the name he provided to the deputies. He was arrested and booked after a supervisor was notified.

The third driver was stopped for driving a vehicle with an invalid license plate. He had no driver's license in his possession and was cited and released.

One of the drivers stopped was a white male. He was stopped for excessive speeding in a park, had a suspended driver's license, and was armed with an illegal firearm. He was arrested and booked.

The last incident involved a vehicular accident. Neither driver of the vehicles involved had a valid driver's license. One was a white female, the other a Hispanic female. Both were cited and released. There was a supervisor on scene.

A review of the documentation provided by the arresting deputies showed articulated and appropriate reasons for each of the stops. Based on the reports reviewed, the actions of the deputies at each scene appear appropriate and consistent with law enforcement practices.

During this review period, MCSO Special Investigations Division Anti-Trafficking Unit (ATU) arrested a total of 48 persons. In April, five subjects were arrested. Four were arrested based on transportation of marijuana charges originated by the Border Patrol, and the fifth was arrested on a street level drug charge. In May, 36 persons were arrested by the ATU. Twenty-nine were arrested for drug charges originated by Border Patrol. The remaining seven were arrested as a result of street level drug investigations. The arrests in April and May took place prior to clarification regarding our request to review the investigative reports.

In June 2015, the ATU arrested five persons and the investigative report information was included. In one incident, a Hispanic male and a white male were arrested for possession of marijuana for sale while detectives with the ATU were investigating a neighborhood complaint of drug activity. The remaining four arrests were of white males, all charged with possession of narcotics for sale based on drug investigations conducted by the ATU. A review of the associated reports supports the arrests and appears consistent with appropriate law enforcement practices.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

MCSO has provided the finalized policy for EA-11 (Arrest Procedures), the Investigations Division Operations Manual, and the former HSU (Human Smuggling Unit) Operations Manual. The only reference to a LEAR (Law Enforcement Agency Response) Policy is in the former HSU Operations Manual where references are made to a U.S. Immigration and Customs Enforcement (ICE) LEAR Policy. We reviewed the relevant policies and find no reference to an MCSO LEAR Policy. We have met with MCSO staff, and have been advised that MCSO has never had a LEAR Policy of its own, though ICE does have one that was referenced in former policies and draft memorandums. These draft memorandums and policy references to the ICE

LEAR policy may have contributed to the belief by many MCSO personnel that MCSO did, in fact, have a LEAR policy. MCSO needs to ensure that any future references to policies or procedures of other agencies are clearly defined and explained to MCSO personnel.

MCSO is in Phase 1 and Phase 2 compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

- g. prohibit Deputies from transporting or delivering an individual to ICE/CBP custody from a traffic stop unless a request to do so has been voluntarily made by the individual;*
- h. Require that, before any questioning as to alienage or immigration status or any contact with ICE/CBP is initiated, an officer check with a Supervisor to ensure that the circumstances justify such an action under MCSO policy and receive approval to proceed. Officers must also document, in every such case, (a) the reason(s) for making the immigration-status inquiry or contacting ICE/CBP, (b) the time approval was received, (c) when ICE/CBP was contacted, (d) the time it took to receive a response from ICE/CBP, if applicable, and (e) whether the individual was then transferred to ICE/CBP custody.*

On September 5, 2014, MCSO finalized policies CP-8, Preventing Racial and Other Bias-Based Profiling; and EA-11 Arrest Procedures. EB-1 Traffic Enforcement, Violator Contacts and Citation Issuance, was finalized on September 22, 2014. These policies have been approved, distributed, and trained to during the mandatory Fourth and Fourteenth Amendment training completed during 2014. The Monitoring Team observed specific references to areas of required compliance in this section during the training. The Department has achieved Phase 1 compliance with this Paragraph.

At our request, the document request related to contacts and transportation to “ICE” has been modified to include contacts, transportation to “ICE/Border Patrol.” MCSO has provided written documentation for this reporting period that there were no instances of any subject being transported to ICE/Border Patrol, no instances of deputies having contacts with ICE/Border Patrol for the purpose of making an immigration status inquiry, and that there were no arrests made following any immigration-related investigation or for any immigration-related crime during this time period.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

e. Policies and Procedures Generally

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

See Paragraph 30.

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

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

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

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's draft policy GA-1 (Development of Written Orders) indicates that Office personnel will be notified of new policies and changes to existing policies via Briefing Boards and through a newly acquired software program, E-Policy.

The draft policy defines a Briefing Board as an "official publication produced by the Policy Section, which provides information regarding Office policy. Prior to some policies being revised, time-sensitive changes are often announced in a Briefing Board until the entire policy can be revised and finalized. The information in a Briefing Board has the force and effect of policy." We recognize the authority of Briefing Boards and understand their utility in publishing critical policy changes quickly, but we have advised MCSO that we will generally not grant Phase 1 compliance for an Order requirement until such time as the requirement is memorialized in a more formal policy.

Since GA-1 remains in draft form, MCSO is not in Phase 1 compliance with the Paragraph.

Thus far, the only Order-related policies that have been approved and disseminated to the rank and file have been in conjunction with the required Fourth and Fourteenth Amendment training. Therefore, there has been appropriate records kept of receipt of the policies, and their contents were covered in the course of the training.

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

We have advised MCSO that in those cases where formal training is required by the Order, the E-Policy questions – which test comprehension of a policy – cannot serve as a substitute for the training.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Deferred

***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.*

The following MCSO policies were originally offered in response to this Paragraph: CP-2 (Code of Conduct); CP-8 (Preventing Racial and other Bias-Based Profiling); GC-17 (Employee Disciplinary Procedure); and GH-2 (Internal Investigations). After some necessary revisions, these policies were approved effective September 5, 2014. The requirements of this Paragraph are incorporated in these policies, which were disseminated and trained to during the Fourth and Fourteenth Amendment Training that was completed during the previous reporting period.

For this reporting period, we received a list of all allegations of criminal and administrative misconduct made against MCSO personnel during May and June 2015,. There were 14 criminal cases submitted, seven of which involved sworn members of MCSO. Only one of the seven cases involving sworn personnel resulted in criminal charges. The remaining six were forwarded for administrative investigation after no criminal conduct could be determined. There were approximately 150 new administrative cases and 142 closed cases for this time period. Of the closed administrative cases, 42 involved allegations against sworn personnel. These numbers are approximate, as there were some files submitted that were “empty.”

None of the cases reviewed for this reporting period had been returned to the investigating supervisor for investigative deficiencies. In general, we have observed some improvement in the completions of internal investigations. There is more structure and consistency in format; and in many cases, proper forms are included (though they are not always signed by all appropriate parties), as is information on any prior discipline. Investigations completed by administrative

investigators in PSB are generally more detailed and thorough than those conducted in the field, but we have noted improvement in the field investigations.

We continue to have a number of concerns with the quality of investigations, their thoroughness, and the justification for findings. Some examples are noted below.

In one case, MCSO found a complaint not sustained after three involved citizens gave consistent stories that conflicted with the statement of the single deputy present. In another case, when two deputies' stories conflicted with the statement of a single citizen, MCSO exonerated the complaint. Neither case appeared to involve any other evidence beyond the statements that were made. Without any other evidence, if MCSO is basing findings solely on statements of those at the scene, it should be consistent in doing so. Without some articulated cause to *not* do so, the findings should be based on the consistency of the statements, regardless of whether the statements are made by citizens or members of MCSO.

In several cases, MCSO investigators failed to interview all persons who might be able to provide information. In one case, it was alleged that a deputy was speeding and weaving in and out of traffic. All involved MCSO personnel were not interviewed, and the dash cam video provided by the complainant was not included in the submission we received from MCSO so it could not be reviewed. In another cases, MCSO failed to interview several people who were reported to have been present in a meeting where alleged misconduct occurred and may have been able to provide important information.

In one case we reviewed, MCSO changed course on the findings and penalties several times, moving from potential termination to not sustaining the allegations. This is concerning, given what appears to be a pattern of poor decision-making on the part of this employee.

In several cases reviewed, the complete investigation was not provided, so we were unable to complete any review. In six cases, the IA file submitted for review was empty, so no assessment could be completed. We also noted that MCSO seems to take an inordinate amount of time to conduct some investigations. In some cases, complaints are not investigated for a month or more after the incident occurs; and after the investigation is completed, sometimes months later, it still takes additional months to complete the review process and be finalized. This occurs even in cases that do not appear to be lengthy or complicated. We recommend that MCSO improve the tracking and timeliness of its investigative process and review.

While many of the investigations reviewed were adequate, addressed the allegations, contained justified findings, and included all of the necessary documents and reviews, MCSO will not be in Phase 2 compliance with this Paragraph until it addresses the issues we continue to find in our reviews. During our next site visit, we will discuss with PSB our concerns with some of the specific cases we reviewed.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

MCSO offered policies CP-8 (Preventing Racial and other Bias-Based Profiling) and GC-17 (Employee Disciplinary Procedure) as proofs of compliance with this Paragraph. The requirements of this Paragraph are incorporated in the combination of these policies. MCSO considers acts of discriminatory policing as Category 6 violations under its Disciplinary Matrix, and the penalties range from a 40-hour suspension to dismissal for a first offense. Penalties for a second offense range from an 80-hour suspension to dismissal, and dismissal is the mandatory penalty for a third offense.

CP-8 and GC-17 were revised and re-issued effective September 5, 2014. These policies were distributed to all attendees at the Bias-Free Policing and Fourth Amendment training described later in this report.

For the first time, during this reporting period, MCSO began providing the complete investigation of any alleged racial profiling or discriminatory policing complaint. In the past, it had only provided a list. During this reporting period, MCSO provided five completed internal investigations where discriminatory policing or racial profiling had been alleged against patrol personnel during this reporting period.

In the first case, the complainant alleged that he had been racially profiled during a traffic stop made by a deputy. The internal investigation was conducted by PSB. The complainant, a Black male, was stopped for a traffic violation during a DUI Task Force Operation and was issued a citation for unsafe lane change. The PSB investigator interviewed the complainant, as well as the involved deputy and two Posse members who were at the scene of the stop. During his interview, the deputy stated that he could not tell who was in the vehicle prior to the stop, due to the vehicle window tint, and denied racial profiling or touching the complainant as was alleged. The two Posse members present stated that they never saw the deputy put his hands on the complainant or make any statement that could be construed in any manner as inappropriate or racially motivated. The investigation was thorough and supported the finding that the deputy had not committed any policy violation. The deputy was exonerated.

In the second incident, a deputy responded to a residential burglary alarm. Upon arrival, he observed a Hispanic female on the sidewalk directly in front of the residence where the alarm was going off. He appropriately contacted this subject. Contacting the female was appropriate under the circumstances; and after interviewing the involved deputies, the case was appropriately closed as unfounded.

In the third case, a deputy responded to a residence on a complaint of a fire in a backyard. According to three persons on the scene, the deputy made inappropriate comments. Given the consistency of the statements of the complainant and others in the yard, the Not Sustained finding is questionable without additional supportive information.

In the fourth incident, a deputy responded to a loud party call. The complainant alleged that the call was not handled appropriately because the deputy and the offending neighbor were both Hispanic. The responding deputy was white, and it was determined that he handled the call appropriately. He made contact at the residence where the party was occurring, and the

occupants turned the music down. MCSO considered this a “procedural” complaint, and found the action of the deputy to be appropriate; we concur.

The fifth incident involves a non-injury accident. One driver, a Hispanic female, alleged that the responding deputy was more interested in the other driver’s version of events. The other driver was a juvenile white female, supported by her father who was also at the scene. The deputy disputed that, and said that he was attempting to get them all to resolve the issue. The case was investigated by PSB, appropriately documented, and the Not Sustained finding was supported by the investigation.

Given that this is the first time we have reviewed completed investigations, and we received the small number of investigations, we will defer a compliance determination with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: Deferred

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 draft policy GA-1 (Development of Written Orders) states that “policies will be reviewed annually or as deemed appropriate, and revised, as necessary, by Policy Development.” As mentioned above, throughout the first several months of our tenure, MCSO has been reviewing its policies in response to Order requirements and our document requests. Many of the policies have been adjusted based on our feedback and that of the Plaintiffs’ attorneys. Several have been issued to sworn personnel and posse members in conjunction with the ongoing Fourth and Fourteenth Amendment Training.

During our December 2014 site visit, we established a schedule for the annual reviews required by the Order. We agreed that the cycle for this review requirement would be MCSO’s fiscal year, which runs from July 1 to June 30. Documentation of the first annual review will be submitted on or before September 15, 2015.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Deferred

Section 5: Pre-Planned Operations

MCSO was advised to notify the Monitor, as well as the two Deputy Monitors, of any upcoming Significant Operation via email, and by a telephone call, to ensure a prompt response by Monitoring Team personnel. MCSO was asked to provide the Monitor with a submitted plan, as well as the name and contact information of the on-scene commanding officer of any scheduled operation.

The following Paragraph responses provide more detail with regard to particular aspects of the Court Order for Pre-Planned or Significant Operations.

COURT ORDER VI. PRE-PLANNED OPERATIONS

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

MCSO has taken the position that the Department no longer has Specialized Units that enforce immigration laws. The Special Investigations Division (SID) Operational Manual identifies 11 different units, none of which appear to be directly involved in enforcing immigration laws. During discussions with the Compliance and Implementation Division (CID) and attorneys from the Maricopa County Attorney's Office (MCAO), we suggested that applicable immigration laws and immigration-related crimes, as those terms are defined in the Order, be identified. From there, a determination could be made as to which units, if any, enforce these laws as one of their core missions.

During our December 2014 site visit, we met with the MCSO Special Investigations Division. We were advised that the CEU (Criminal Employment Unit) would be disbanded in January or February 2015 and removed from the agency organizational chart. Any information regarding the kinds of violations previously investigated by MCSO CEU that came to the unit's attention would be forwarded to a federal agency for review and any action. We were also advised that MCSO would be returning any unused grant funds dedicated to these types of investigations. MCSO informed us that it is not conducting any human smuggling investigations, and that the Human Smuggling Unit's name has been changed to the Anti-Trafficking Unit (ATU). MCSO advised that there is no unit within MCSO whose core function is the investigation of immigration-related crimes. Those crimes that may in some cases have immigration status as an element of the crime (misconduct with weapons, forgery) would be investigated by district detectives, as would be the case for those same crimes without the element of immigration status.

During the last reporting period, MCSO provided numerous documents to support its statements that the CEU had been disbanded. Included in this submission were: a letter to the Department of Administration for the State of Arizona indicating that MCSO would be returning grant funds as they were ceasing their enforcement of statutes as they relate to identify theft for the purposes of obtaining or continuing employment; a memorandum dated December 15, 2014 indicating that the CEU would be disbanded in January or February after their last case was concluded; an SID organizational chart that does not list the CEU as a Unit; and a memorandum dated January 6, 2015 stating that SID had been directed to immediately cease any future and/or active/pending

investigations related to the relevant codes that had been enforced by CEU. This January 6 memorandum included direction to immediately disband and reassign deputies that were currently assigned to CEU, remove any such identifiers within their agency that indicated the existence of such a unit, and assign the detectives to various other assignments. Other documents, including Briefing Boards and Administrative Broadcasts, were also included to support the disbanding of CEU.

A memo dated February 23, 2015 to CID from the Special Investigations Division reinforces previous statements that MCSO does not have any units with primary responsibility for the enforcement of crimes that are potentially immigration-related.

MCSO has submitted the new Organizational Chart for SID, and the CEU is no longer listed as a unit. The former Human Smuggling Unit is now listed as the Anti-Trafficking Unit on the organizational chart.

During our review of the arrests made by the Special Investigations Division Anti-Trafficking Unit for the reporting period of March 1, through May 30, 2015, we did not note any arrests for human smuggling violations. All cases submitted by MCSO and reviewed were for narcotics trafficking offenses.

MCSO has submitted its revised Operations Manual, which still includes “human smuggling” as a function of the ATU. During our July 2015 site visit, we questioned the inclusion of human smuggling. MCSO told us that it erroneously left the information in the SOP; it was essentially a typographical error. We anticipate that this will be addressed during the next reporting period. Until such time, we continue to defer our Phase 1 and Phase 2 compliance assessments of this Paragraph .

We continue to urge MCSO to address this matter expeditiously.

Compliance Status:

Phase 1: Deferred

Phase 2: Deferred

***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.*

As of September 5, 2014, MCSO had finalized and distributed the Significant Operations policy GJ-33. The Protocols, Planning Checklist, and Supervisor Daily Checklists have also been finalized and distributed. The policy (GJ-33) has been specifically trained to during the Fourth and Fourteenth Amendment training for sworn personnel and Posse members. We have found the policies and protocols to accurately reflect the requirements of the Order. The Department has achieved Phase 1 compliance with this Paragraph.

During the first two reporting periods, MCSO did not conduct any significant operations that would invoke the requirements of this Paragraph.

During the last reporting period, MCSO conducted a significant operation meeting the requirements of this Paragraph. "Operation Borderline" was conducted from October 20, through October 27, 2014, to interdict the flow of illegal narcotics into Maricopa. MCSO met all the requirements for this Paragraph during this operation.

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

During the current reporting period, MCSO reported that neither SID nor any of the patrol districts conducted any significant operations in March 2015. District 1 also reported that it had not conducted any significant operations in May or June 2015. We were not notified of any significant operations for this reporting period.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

***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.*

As of September 5, 2014 MCSO finalized and distributed the Significant Operations policy, GJ-33. The Protocols, Planning Checklist, and Supervisor Daily Checklists have also been finalized. The policy (GJ-33) was specifically trained to during the Fourth and Fourteenth Amendment training conducted by MCSO during 2014. The Department has achieved Phase 1 compliance with this Paragraph.

MCSO did not conduct any Significant Operations or Patrols that required notification to the Monitor during the first two reporting periods.

MCSO conducted a significant operation during the last reporting period, and it complied with the requirements of this Paragraph.

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

During this reporting period, MCSO did not report that it conducted any significant operations or patrols that would invoke the requirements of this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

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

On September 5, 2014 MCSO finalized and distributed the Significant Operations policy, GJ-33. The Protocols, Planning Checklist, and Supervisor Daily Checklists have also been finalized. The policy (GJ-33) was specifically trained to during the Fourth and Fourteenth Amendment training completed by MCSO is 2014. The Department has achieved Phase 1 compliance with this Paragraph.

During the first two reporting periods, MCSO did not conduct any Significant Operations or Patrols that required notification to the Monitor.

MCSO conducted a significant operation during the last reporting period, and it complied with the requirements of this Paragraph.

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

During this reporting period MCSO did not report that it conducted any significant operations or patrols that would invoke the requirements of this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

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

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

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

MCSO developed The Significant Operations Protocol as required, and modified it to include Section 7 that requires notification to the Plaintiffs. The Department has achieved Phase 1 compliance with this Paragraph.

MCSO did not conduct any significant operations during the first two reporting periods that required notification under this Paragraph.

MCSO conducted a Significant Operation during the last reporting period, and it complied with the requirements of this Paragraph.

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

During this reporting period, MCSO did not report that it conducted any significant operations or immigration-related traffic enforcement activity that would invoke the requirements of this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

Section 6: Training

COURT ORDER VII. TRAINING

a. General Provisions

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

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

MCSO previously developed a single policy, GG-2 (Training Administration, adopted January 24, 2014), that was intended to provide policy guidance for all training programs. In its current form, GG-2 failed to establish any instructor criteria, such as legal requirements for the Order-mandated areas of Bias-Free Policing, Fourth Amendment, and Supervisor and Command Level Training.

Instructor criteria was previously utilized to generate the proposed list of instructors agreed upon by the attorneys for the Defendants and the attorneys for the Plaintiffs to determine that they possessed qualifications that were compliant with the requirements of Paragraph 42. The final joint selection of qualified instructors to deliver the 2014 Bias-Free Policing and Detentions, Arrests, and Immigration-Related Laws training was completed in August 2014.

During our July 2015 site visit, MCSO informed us that it had created a new training policy, GG-1 (Law Enforcement Training) to serve as a companion policy to GG-2 (Training Administration), which is currently under revision. MCAO advised us that new elements to be institutionalized in this new policy are: instructor selection criteria; establishment of a training cycle; and a master Court-ordered training calendar. MCSO officials previously expressed a desire to create a revised training policy that accurately identifies and incorporates current MCSO practice. This new policy was not available for review during our site visit. The policy, as of July 16, 2015, is currently under review by the Policy Division; MCAO anticipates that it will be disseminated to the Parties before September 30, 2015. We will review and comment on the proposed changes to policy GG-2 (Training Administration), and new policy GG-1 (Law Enforcement Training) prior to MCSO acceptance and implementation. As newly developed training is delivered, it is critical for all training policies to accurately portray MCSO's training processes.

Previously, the process to select instructors for the 2014 training on Bias-Free Policing, and Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws was cooperative and successful. The identification and selection of instructors for the 2015 Annual Combined Training (a single, combined lesson plan that includes both the Bias-Free Policing and Fourth Amendment training) has not occurred.

The selection and hiring of instructors to provide Supervisor Specific Training also has not occurred during this review period.

Instructors for any other Order-related training have not been identified during this period.

Instructor selection for 2015 Order-related training did not occur during this monitoring period.

MCAO informed us during our last site visit that the new policy GG-1 (Law Enforcement Training) would address the instructor selection requirements of Paragraph 42. The policy was not provided for review during the reporting period. We have previously provided recommendations, recently reinforced, that instructor selection should include a review of the individual educational background, the achievement of any Arizona POST Instructor Certifications, as well as any specialty certifications that would indicate an enhanced ability to provide specific training. Additionally, PSB reviews should be conducted to ensure that selected instructors conform to the requirements of the Order. MCSO advised us during our last site visit that the Training Division was currently attempting to develop individual instructor folders, but that it had not completed them prior to our site visit.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

MCSO has developed a single policy, GG-2 (Training Administration), adopted January 24, 2014, that was intended to incorporate the requirements of this Paragraph. The existing policy fails to make the distinction between the requirements of a live training delivery and an online training delivery. Additionally, it fails to establish mandated testing criteria and administration.

During our July 2015 site visit, MCSO informed us that testing processes and criteria and evaluation assessment methodology would be included in a new training policy, GG-1 (Law Enforcement Training). MCAO indicated that our previous recommendations were best practice for the Training Division to adopt and implement. This new policy was not available for review during our site visit. The policy, as of July 16, 2015 is currently under review by the Policy Division; MCAO anticipates that it will be disseminated to the Parties before September 30, 2015. We will review and comment on the proposed changes to policy GG-2 (Training Administration), and new policy GG-1 (Law Enforcement Training) prior to MCSO acceptance and implementation. As newly developed training is delivered, it is critical for all training policies to accurately portray MCSO's training processes.

We reviewed and commented on the first segment of the EIS "Blue Team Entry System for IAPro" training initially delivered during both the last and current reporting periods. Due to its complexity and interrelatedness with several Paragraphs of the Order, our Team has not approved EIS training as a whole. We recognize that Paragraph 80 is specific to the training on the EIS; however, the development and delivery of these Order-mandated trainings are addressed within the Paragraphs of Section VII, Training – more specifically, Paragraphs 42 through 47. We believe that many issues will be resolved with the development of new policy GG-1 (Law Enforcement Training) and revisions to GG-2 (Training Administration).

On April 30, 2015, and June 24, 2015, EIU continued to deliver the Order-mandated "Blue Team Entry System for IPro" training, utilizing a live instructor. These training classes appeared on the Master Training Calendar that was provided July 7, 2015. During this reporting period, as in the last monitoring period, we did not observe this training because we were not advised of it until after the training had occurred; and as a result, we were unable to advise the Plaintiffs' attorneys of the scheduled training. Supervisors and subordinate personnel were self-assigned to the training, and were required to sign in and out of the training sessions. Testing criteria consisted of a three-question test with multiple opportunities to achieve success. Post-training documentation was provided for the "Blue Team Entry System for IPro." The "Blue Team – ELS Sworn" document for April indicates that 32 sworn personnel completed the training with successful testing. However, the sign-in sheets provided indicate that only 29 personnel actually attended the class. The Training Division advised us that three members had previously taken the class but had not completed the testing process. MCSO would improve accountability if testing were accomplished immediately upon the end of instruction. One individual failed the testing process and will be rescheduled to take a remediation class. The June 24, 2015 class was presented to detention officers, who are not sworn personnel.

The Training Division has finalized a TraCS lesson plan, and a corresponding PowerPoint presentation to be delivered as a train-the-trainer course. The projected delivery date is September 16, 2015. The training documents are currently under review by the Parties. MCSO has indicated that instructor selection is anticipated to be consistent with the AZ POST General Instructor certification in addition to Field Training Officers certification. The live training class is estimated to be approximately six hours in duration, and will be required to follow all current documentation practices of the MCSO for training attended.

As of June 30, 2015, the lesson plan and testing criteria for Supervisor Responsibilities: Effective Law Enforcement had not been developed. The Monitoring Team and the Plaintiffs' attorneys received what appeared to be an administrative systems component of the lesson plan "Supervisor Responsibilities: Effective Law Enforcement" on July 9, 2015. On July 13, 2015, a conference call was held with the Parties regarding the draft lesson plan "Supervisor Responsibilities: Effective Law Enforcement." Our general impression was that the draft lacked substantive training on leadership, ethics, or integrity. There were no components to assist supervisors with interpersonal skills to aid in personnel counseling, coaching, or generational issues. The Plaintiffs' attorneys echoed our concerns in their comments. It was during this telephone call that Defense counsel advised us that there is a secondary leadership component for this training that has not been developed, a more robust section on the EIS, as well as a PowerPoint presentation that also has not been developed. The inclusion of these sections was previously unknown to us. Defense counsel advised us during our site visit, that a private contractor was retained by MCSO to provide the agency with "raw leadership data" that will be compiled and formulated into a lesson plan by the Training Division. Defense counsel anticipates that this second component will receive a review by July 31, 2015. We advised Defense counsel that the justification for the initial bi-furcation of the Supervisory Training no longer applies and that a combined multi-day training schedule may be more appropriate for this training session. We have not yet approved this training program.

On June 26, 2015, we received the Body Worn Camera Lesson Plan and PowerPoint presentation. Anticipated test questions were not provided to the Parties and were not included in our monthly document request. The Plaintiffs' attorneys provided comments to MCSO on

July 13, 2015. We provided commentary on July 22, 2015. The cameras have been purchased and are onsite for 719 personnel. MCAO indicated that it is developing a protocol for the security of the body worn cameras, but discussions on significant content are ongoing and have not been resolved. We and the Plaintiffs' attorneys share concerns regarding the number of supervisory reviews to be conducted monthly on each assigned deputy. We have not yet approved this training program.

The Training Division Chief had previously advised us that MCSO was reviewing its post-training testing requirement that was utilized for the 2014 training on Bias-Free Policing, and Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws. That requirement mandated that each deputy must attain a minimum passing score of 100% in order to receive credit for the 2014 Order-mandated training. However, each deputy was allowed up to five attempts to achieve this score. This training was delivered in a classroom setting with a live instructor.

We revisited this discussion with MCSO during our April 2015 site visit, and at that time MCSO indicated its desire to move away from what was considered to be an unrealistic passing score requirement of 100%. MCSO proposed reducing the admissible passing score to 75% and allowing up to three testing opportunities. Representatives for the Plaintiffs who were in attendance telephonically were amenable to the new testing option with specific requests. We requested that the testing be accomplished immediately after training delivery, and that test evaluations be performed on the first test taken by deputies. MCAO did not voice an objection at that time.

On April 22 and 23, 2015, MCSO delivered the 2014 Detention Arrests and Immigration Related Laws, and Bias Free Policing training to a class of 28 new deputies, one retired Reserve deputy, two Posse members, and one sworn deputy who had returned from leave, utilizing this new test criteria. Testing results were provided. At that time, MCSO discovered an important issue. Training Division personnel alerted us to a systemic issue with the E-Learning system that created the basis for MCSO to offer the multiple attempts at testing. Previously, individuals were not required to immediately access testing after training attendance. As a result, many persons would attempt to log in into the system from remote locations. For unknown reasons while actively engaged in test taking, the system would terminate the session prior to test completion, and oftentimes in mid-test. This would require the student to re-access the E-Learning system and begin test-taking anew. This new test would now be counted as a second attempt for the student, even though s/he may have been successful up to the point of termination. Rather than address the systemic issues, MCSO chose to allow the additional testing opportunities, previously up to five attempts, and currently up to three. Multiple test attempts present an opportunity for the test taker to exhaust the question pool and ultimately pass successfully without actual knowledge retention. MCSO would be better served to either address the systemic issues of the E-Learning testing component, or abandon the testing component altogether and require immediate post-class testing with an alternate testing tool.

TraCS training was not delivered during this reporting period.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

MCSO has developed a single policy, GG-2 (Training Administration), adopted January 24, 2014, that was intended to incorporate the requirements of this Paragraph. The policy, in its current form, fails to identify the establishment and adherence to the development and maintenance of the Order-mandated Master Training Calendar. On July 22, 2015, during our most recent site visit, MCSO stated that a Master Court Ordered Training Calendar and the use of standardized sign in sheets will be included in a new training policy, GG-1 (Law Enforcement Training). On July 22, 2015, we received a "Court Ordered Master Training Calendar" covering the period of January 1, through July 7, 2015 that included only Order-mandated training. This document was not provided, as requested by the Monitor, for review prior to the start of the reporting period or prior to the delivery of 2014 Detention Arrests and Immigration-Related Laws and Bias-Free Policing on April 22 and 23, 2015 to a class of new deputies. Blue Team Entry System for IAPro was scheduled for April 30, 2015 and July 8, 2015, and an additional 2014 Detention Arrests and Immigration-Related Laws and Bias-Free Policing training session scheduled for July 7, 2015. A tentative TraCS (train-the-trainer) course is scheduled for September 16, 2015. No other projected training appears on this calendar for the remainder of the calendar year.

The Sworn Training Compliance – May (Required Training) Report indicates that as of May 31, 2015, a total of 703 sworn (compensated) personnel were required to receive the Order-mandated 2014 Training on Bias-Free Policing, and Fourth Amendment, Detentions, Arrests, the Enforcement of Immigration-Related Laws, Blue Team Entry System for IAPro ELS, and Blue Team Entry System for IAPro. The report indicates that 694 had completed it. Nine deputies have not completed the mandatory training due to leave issues.

The Blue Team – ELS Sworn document for April indicates that 32 sworn personnel completed the training with successful testing. However, the sign in sheets provided indicate that only 29 personnel actually attended the class. The Training Division advised us that three members had previously taken the class but had not completed the testing process.

The Reserve Training Compliance – May (Required Training) Report indicates that as of May 31, 2015 a total of 35 Reserve personnel were required to receive the Order-mandated 2014 Training on Bias-Free Policing, and Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws; and 34 had completed the mandatory training.

The Retired Reserve Training Compliance – May (Required Training) Report indicates that as of May 31, 2015 a total of 36 retired Reserve personnel were required to receive the Order-

mandated 2014 Training on Bias-Free Policing, and Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws; and 36 had completed the mandatory training.

The Posse Training Compliance – May (Required Training) report indicates that as of May 31, 2015 a total of 1065 Posse personnel were required to receive the Order mandated 2014 Training on Bias-Free Policing, and Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws and 1063 have successfully completed the training.

The “Civilian Training Compliance – May (Required Training)” report indicated that 11 civilians had received the training on Bias-Free Policing, and Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws, and all 11 had completed testing. This “civilian” classification will no longer be utilized.

On July 22, 2015, we received the Required Training Compliance (All) aggregated report. This new, combined report includes sworn, Reserves, retired Reserves, and Posse personnel. The report is specific only to the Order-mandated 2014 Training on Bias-Free Policing, and Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws. As of June 30, 2015, 1,787 total sworn, Reserves, retired Reserves, and Posse personnel were required to receive all Order mandated training. A total of 1,770 sworn, Reserves, retired Reserves and Posse personnel had successfully completed the training. Seventeen individuals remain non-compliant.

The Training Division did not issue a Quarterly Training Report during the reporting period.

Mandatory Supervisory Training has yet to be scheduled.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

We are currently involved in a collaborative review with attorneys for the Plaintiffs and attorneys for the Defendants on the initial Supervisor Responsibilities: Effective Law Enforcement curricula. It is anticipated that the final approved curriculum will incorporate adult-learning methods and include PowerPoint presentations, interactive learning exercises, and lecture. The lesson plan for Supervisory Responsibilities: Effective Law Enforcement was not reviewed during this compliance period.

In September 2014, MCSO had requested that it be able to provide the Supervisor Training in two phases, so as to not unnecessarily delay training that it has the capability to deliver in the near future. We and the Plaintiffs’ attorneys agreed with this approach in order to keep training ongoing and consistent with new systems as they come online and into practice.

During our April 2015 site visit, we were advised by MCAO that MCSO intended to develop Supervisory Training in two parts. The first part will include Paragraph 53: §a, d, f, h, i, j, and l.

The second part will include Paragraph 53: §b, c, e, g, and k; and an EIS segment. As of June 30, 2015, the lesson plan, testing criteria, and PowerPoint presentation for Supervisor Responsibilities: Effective Law Enforcement had not been developed. On July 9, 2015, we and the Plaintiffs' attorneys received what appeared to be an administrative systems component of the lesson plan "Supervisor Responsibilities: Effective Law Enforcement." On July 13, 2015, the Parties held a conference call regarding the draft lesson plan "Supervisor Responsibilities: Effective Law Enforcement." Our general impression of this document was that it completely lacked any substantive training on leadership, ethics, or integrity. There were no components to assist supervisors with interpersonal skills to aid in personnel counseling, coaching, or generational issues. The Plaintiffs' attorneys echoed our concerns in their comments. The lesson plan needs to include roleplaying scenarios, interactive exercises, and traditional lecture formats in conformance with the requirements of the Order. During this conference call, Defense counsel advised us that there is a secondary leadership component for this training that has not been developed, a more robust section on the EIS, as well as a PowerPoint presentation that also has not been developed. The inclusion of these sections was previously unknown to us.

During our July 2015 site visit, Defense counsel advised us that a private contractor was retained by MCSO to provide the agency with "raw leadership data" that will be compiled and formulated into a lesson plan by the Training Division. Defense counsel anticipates that this second component will receive a review by July 31, 2015. We advised Defense counsel that the justification for the initial bi-furcation of the Supervisory Training no longer applies and that a combined multi-day training schedule may be more appropriate for this training session. We have not approved this training program.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not applicable

Phase 2: Not in compliance

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

As of June 30, 2015, MCSO had not completed the Order mandated 2015 Training on Bias-Free Policing, and Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws, currently titled 2015 Annual Combined Training, in accordance with Paragraphs 48 and 50. On July 3, 2015, we received the 2015 Annual Combined Training Lesson Plan. The Parties currently are jointly reviewing this document, and the Defendants' attorneys have been very receptive to the input from the Plaintiffs' attorneys and the Monitoring Team. We were not provided with a proposed list of qualified instructors.

During this reporting period, MCSO advised us that training entitled "Blue Team Entry System for IAPro" had been delivered to sworn personnel on April 30, 2015. The delivery of this training did not appear on the Court-Ordered Master Training Calendar in accordance with

Paragraph 44 until July 22, 2015; and as a result, once again, we were not afforded the ability to observe this training segment nor to advise the Plaintiffs' attorneys of this training program. Due to the complexity of the EIS training, and a need for segmented training, which has not been currently developed, all EIS training has not been approved by the Monitor. The Blue Team ELS - Sworn (May) report indicates that 23 personnel received the training, and 23 personnel successfully completed the training.

Previously, the EIU lieutenant had indicated that EIS training development and delivery to date has not been coordinated with the Training Division. During our July 2015 site visit, both the EIU Lieutenant and the Training Division advised us that all future lesson plans and scheduling of classes will be coordinated through the Training Division. MCAO is currently working with the EIU to develop the new "lesson plans." It appears that the Training Division is beginning to understand and take responsibility for its oversight responsibility and to assure the standardization of training development and documentation of training processes such as a standardized format for lesson plans, sign-in requirements, and testing requirements. The previous confusion as exhibited by the Training Division Chief and the EIU lieutenant appears to be abating by better communication and collaboration on critical training issues. It is believed that the failure of the current policy to dictate procedures to be followed for providing training will be addressed with the adoption of the newly developed policy GG-1 (Law Enforcement Training).

The Training Division is also addressing the previously identified similar situation that existed with the Order-mandated TraCS training. As of June 30, 2015, we had not received the new TraCS lesson plan. On July 23, 2015, we received the TraCS lesson plan and scenarios. During our July 2015 site visit, we and the Plaintiffs' attorneys provided commentary on the lesson plan. This lesson plan is currently under review. We have not yet approved the lesson plan.

During this reporting period, once again, there was essentially no progress in the development of Supervisory Training, despite the Parties' agreement on an approach that was predicated on speeding up the development and delivery of this training to the agency's supervisors.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not applicable

Phase 2: Not in compliance

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

On July 22, 2015, during our most recent site visit, MCSO stated that it had created a new training policy, GG-1 (Law Enforcement Training) to serve as a companion policy to GG-2 (Training Administration), which is currently under revision. We are optimistic that during this annual review, each lesson plan will be updated by new developments in law, participant feedback and comments, and training evaluations. MCSO previously stated its desire to create a revised training policy that accurately identifies and incorporates current MCSO practice. This new policy was not available for review during our site visit. The policy, as of July 16, 2015, is

under review by the Policy Division. MCAO anticipates that the policy will be disseminated to the Parties before September 30, 2015. We will review and comment on the proposed changes to policy GG-2 (Training Administration), and new policy GG-1 (Law Enforcement Training) prior to MCSO acceptance and implementation. As newly developed training is delivered, it is critical for all training policies to accurately portray MCSO's training processes.

Compliance will be determined based upon whether or not MCSO's new policy GG-1 (Law Enforcement Training) and revised policy GG-2 (Training Administration) comport with the requirements of this Paragraph and are followed in practice. The intended purpose of these policies should be to delineate the procedures and clearly establish the duties and responsibilities of all contributors to the MCSO training process. Adequate development and adoption of policy oversight will enable the Training Division to oversee and assure the quality of *all* training provided by, or under the direction of, the MCSO.

We were not provided with course evaluations from the Blue Team Entry System for IAPro that occurred during the reporting period in accordance with our document request. MCSO can reasonably expect that members of the Monitoring Team shall attend training for the purposes of rendering assessments to the Parties and the Court.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

b. Bias-Free Policing Training

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

Previously, we conducted a curriculum review over several weeks with all Parties participating together in every meeting either in-person or by teleconference with document-viewing capabilities. The process included a line-by-line scrutiny of the entire 2014 Bias-Free Policing; Detentions lesson plans until consensus was reached among the attorneys for the Plaintiffs and the attorneys for the Defendants, with the approval of the Monitoring Team, that the content and wording were factual, legally accurate, and fully compliant with the requirements set forth in Paragraph 49 of the Order. We will continue to review any additional associated training materials as they are developed, and also observe training as it progresses to verify that the instructors are adhering to the approved lesson plans.

Training with the 2014 Bias-Free Policing lesson plan was conducted on April 22 and 23, 2015.

The 2014 Required Training Passed Sworn (April 2015) Report indicated that 28 personnel received the Order-mandated 2014 Training on Bias-Free Policing during this reporting period.

The Reserve Training Roster (June) Report indicates that as of June 30, 2015, a total of 39 Reserve personnel were required to receive the Order-mandated training on 2014 Bias Free Policing; and 35 had completed the mandatory training.

The Retired Reserve Roster (June) Report indicates that as of June 30, 2015, a total of 35 Reserve personnel were required to receive the Order-mandated training on 2014 Bias-Free Policing; and 35 had completed the mandatory training.

The Posse Roster (June) indicates that a total of 994 individuals have received the 2014 Training on Bias-Free Policing.

The Required Training Compliance (All) Quarterly Training Report accounting for the sworn personnel, Reserve personnel, retired Reserve personnel, Posse personnel, and civilians who received any mandatory training indicated that a total of 1,787 all classifications personnel that were required to receive the 2014 Training on Bias-Free Policing, and 1,770 all classifications personnel have received the training.

As noted above, the Parties have previously worked collaboratively to finalize the curriculum for the 2014 Bias-Free Policing. MCSO is currently utilizing this process for the 2015 Order-mandated newly developed annual refresher training entitled 2015 Annual Combined Training. The annual in-service refresher training lesson plan was delivered to us on July 3, 2015. We have begun the review process. We have not yet approved this training.

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

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

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

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

We are currently conducting a curriculum review with all Parties participating. The Plaintiffs' attorneys and we have provided written comments, met together during our most recent site visit, and participated by teleconference for the 2015 Annual Combined Training review process. We will continue to review any additional associated training materials as they are developed, and observe training as it progresses to verify that the instructors are adhering to the approved lesson plans. The 2015 Annual Combined Training was the only developed curriculum provided to the Parties for review during this reporting period.

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

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

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

Training on the 2014 Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws was conducted on April 22 and 23, 2015.

The 2014 Required Training Passed Sworn (April 2015) Report indicated that 28 personnel received the Order-mandated training on 2014 Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws during this reporting period.

The Reserve Training Roster (June) Report indicates that as of June 30, 2015, a total of 39 Reserve personnel were required to receive the Order-mandated training on 2014 Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws; and 35 had completed the mandatory training.

The Retired Reserve Roster (June) Report indicates that as of June 30, 2015, a total of 35 Reserve personnel were required to receive the Order-mandated training on 2014 Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws; and 35 had completed the mandatory training.

The Posse Roster (June) indicates that a total of 994 individuals have received the Order-mandated 2014 Training on Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws.

The Required Training Compliance (All) Quarterly Training Report accounting for the sworn personnel, Reserve personnel, retired Reserve personnel, Posse personnel, and civilians who received any mandatory training indicated that a total of 1,787 personnel were required to receive the 2014 Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws, and 1,770 personnel have received the training.

As noted above, the Parties have previously worked collaboratively to finalize the curriculum for 2014 Bias-Free Policing and the 2014 Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws. MCSO is currently utilizing this process for the 2015 Order-mandated newly developed annual refresher training entitled Annual Combined Training. The annual in-service refresher training lesson plan was delivered to us on July 3, 2015. We have begun the review process, but have not yet approved this training.

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

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

- a. *an explanation of the difference between various police contacts according to the level of police intrusion and the requisite level of suspicion; the difference between reasonable suspicion and mere speculation; and the difference between voluntary consent and mere acquiescence to police authority;*
- b. *guidance on the facts and circumstances that should be considered in initiating, expanding or terminating an Investigatory Stop or detention;*
- c. *guidance on the circumstances under which an Investigatory Detention can become an arrest requiring probable cause;*
- d. *constitutional and other legal requirements related to stops, detentions and arrests, and the enforcement of Immigration-Related Laws, including the requirements of this Order;*
- e. *MCSO policies related to stops, detentions and arrests, and the enforcement of Immigration-Related Laws, and the extent to which past instructions to personnel on these topics were incorrect, a correction of any misconceptions about the law or MCSO policies;*
- f. *the circumstances under which a passenger may be questioned or asked for identification;*
- g. *the forms of identification that will be deemed acceptable if a driver or passenger (in circumstances where identification is required of them) is unable to present an Arizona driver's license;*
- h. *the circumstances under which an officer may initiate a vehicle stop in order to investigate a load vehicle;*
- i. *the circumstances under which a Deputy may question any individual as to his/her alienage or immigration status, investigate an individual's identity or search the individual in order to develop evidence of unlawful status, contact ICE/CBP, await a response from ICE/CBP and/or deliver an individual to ICE/CBP custody;*
- j. *a discussion of the factors that may properly be considered in establishing reasonable suspicion or probable cause to believe that a vehicle or an individual is involved in an immigration-related state crime, such as a violation of the Arizona Human Smuggling Statute, as drawn from legal precedent and updated as necessary; the factors shall not include actual or apparent race or ethnicity, speaking Spanish, speaking English with an accent, or appearance as a Hispanic day laborer;*
- k. *a discussion of the factors that may properly be considered in establishing reasonable suspicion or probable cause that an individual is in the country unlawfully, as drawn from legal precedent and updated as necessary; the factors shall not include actual or apparent race or ethnicity, speaking Spanish, speaking English with an accent, or appearance as a day laborer;*
- l. *an emphasis on the rule that use of race or ethnicity to any degree, except in the case of a reliable, specific suspect description, is prohibited;*

- m. *the MCSO process for investigating Complaints of possible misconduct and the disciplinary consequences for personnel found to have violated MCSO policy;*
- n. *provide all trainees a copy of the Court's May 24, 2013 Findings of Fact and Conclusions of Law in Melendres v. Arpaio and this Order, as well as a summary and explanation of the same that is drafted by counsel for Plaintiffs or Defendants and reviewed by the Monitor or the Court; and*
- o. *Instruction on the data collection protocols and reporting requirements of this Order, particularly reporting requirements for any contact with ICE/CBP.*

Currently, we are conducting a curriculum review with all Parties participating. The Plaintiffs' attorneys and we have provided written comments, met together during our most recent site visit, and participated by teleconference for the 2015 Annual Combined Training review process. This process includes line-by-line scrutiny until consensus is reached among the attorneys for the Plaintiffs and the attorneys for the Defendants, with the approval of the Monitoring Team, that the content and wording are factual, legally accurate, and fully compliant with the requirements set forth in Paragraph 49 of the Order. We will continue to review any additional associated training materials as they are developed, and observe training as it progresses to verify that the instructors are adhering to the approved lesson plans. The 2015 Annual Combined Training was the only developed curriculum provided to the Parties for review during this reporting period.

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

*e. **Supervisor and Command Level Training***

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

MCSO has developed a single policy, GG-2 (Training Administration), adopted January 24, 2014, that was intended to incorporate the requirements of this Task. During our most recent site visit, MCAO advised us that policy GG-2 (Training Administration) was currently under revision, and that new policy GG-1 (Law Enforcement Training Policy) is currently under development. The new policy is intended to reference the requirements of Paragraph 52 and to include a standardized process for the development of training in general to include adult-learning methodology. The requirements of Paragraph 52 are very specific in regards to minimum topics that must be included in the curriculum for the Supervisory Training.

Previously, the Parties worked collaboratively on a preliminary curriculum for Supervisor Responsibilities: Effective Law Enforcement that was placed on hold so that precedence could be given to development of the 2014 Fourth and Fourteenth Amendment training, which was scheduled for and predominantly completed by December 2014.

During our September 2014 site visit, MCSO requested that it be able to provide the Supervisor Training in two phases, so as to not unnecessarily delay training that MCSO has the capability to deliver in the near future. Both we and the Plaintiffs' attorneys agreed with this approach in order to keep training ongoing and consistent with new systems as they come online and into practice. However, the development and submission of appropriate training materials for *any* phase of supervisory training has continued to lag.

As of June 30, 2015, the lesson plan, testing criteria, and PowerPoint presentation for Supervisor Responsibilities-Effective Law Enforcement had not been developed. On July 9, 2015, an initial lesson plan for the Supervisory Training was provided to us.

The Monitoring Team and the Plaintiffs' attorneys received what appeared to be an administrative systems component of the lesson plan "Supervisor Responsibilities: Effective Law Enforcement" on July 9, 2015. On July 13, 2015, a conference call was held with the Parties regarding the draft lesson plan "Supervisor Responsibilities: Effective Law Enforcement." Our general impression of this document was that it completely lacked any substantive training on leadership, ethics, or integrity. There were no components to assist supervisors with interpersonal skills to aid in personnel counseling, coaching or generational issues. The Plaintiffs' attorneys echoed our concerns in their comments. To be included within the lesson plan are roleplaying scenarios, interactive exercises and traditional lecture formats in conformance with the requirements of the Order.

On July 21, 2015, during our site visit, Defense counsel advised us that there is a secondary leadership component for this training that has not been developed, a more robust section on the EIS, as well as a PowerPoint presentation that also has not been developed. The inclusion of these sections was previously unknown to us. Defense counsel also advised us on July 21, 2015 during our site visit, that a private contractor was retained by MCSO to provide them with "raw leadership data" that will be compiled and formulated into a lesson plan by the Training Division. Defense counsel anticipated that this second component will receive a review by July 31, 2015 and be disseminated to the Parties no later than August 7, 2015. The dissemination of the complete lesson plan has not yet occurred. The alleged reason for the bifurcated approach – to allow some supervisor training to occur sooner rather than later – now appears to be without merit. We advised MCSO that the justification for the initial bi-furcation of the Supervisory Training no longer applies and that a combined multi-day training schedule may be more appropriate for this training session. We have not yet approved this training program.

The continued delay in developing an acceptable curriculum in content and format is wholly unacceptable. The lack of consistent, quality supervision is a key contributor to the environment that allowed the behaviors at the center of this case to flourish. MCSO must make the delivery of supervisory training a priority.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

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

In September 2014, during our second reporting period, MCSO requested that it be able to provide the Supervisor Training in two phases, so as to not unnecessarily delay training that it has the capability to deliver in the near future. We, and the Plaintiffs, agreed with this approach in order to keep training ongoing and consistent with new systems as they come online and into practice.

On December 17, 2014, during our third reporting period, the Monitoring Team was presented with an initial “outline” document to be utilized to develop a segment of a supervisor course entitled Supervisor Responsibilities-Effective Law Enforcement Course.

A second draft “outline” was submitted to our Team and the Plaintiffs’ attorneys on January 27, 2015 during the fourth reporting period. We provided comments to MCSO on February 27, 2015, and the Plaintiffs’ attorneys provided comments on March 5, 2015.

On April 21, 2015, during our site visit for our fourth reporting period, we were advised by MCAO that it intended to develop supervisory training in two parts. The first part includes ¶53: Subparagraphs a; d; f; h; i; j; and l. The second part includes ¶53: Subparagraphs b; c; e; g; and k; and an EIS segment. MCAO also unexpectedly announced it did not intend to develop a lesson plan, and instead indicated that it believed that an “outline” would suffice for these training deliveries. We advised MCSO that the development of a lesson plan is absolutely critical. During this reporting period, no lesson plan was developed that the Parties could review.

Between April 1, and June 30, 2015, our fifth reporting period, once again, there has been essentially no progress in the development of Supervisory Training, despite the Parties agreeing to an approach that was predicated on speeding up the development and delivery of this training to the Agency’s supervisors. The failure of the MCSO to make satisfactory progress on the bifurcated approach no longer justifies the request. We advised Defense counsel that the justification for the initial bi-furcation of the Supervisory Training no longer applies and that a combined multi-day training schedule may be more appropriate for this training session.

This situation must be addressed immediately. A consistent theme we have observed in the investigations we are conducting and/or monitoring as part of our other Court-assigned responsibilities is a lack of supervisory training for anyone with supervisory authority, regardless of rank.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

Section 7: Traffic Stop Documentation and Data Collection

For Paragraphs 54 and 55, in particular, it was necessary to request traffic stop data from MCSO. The following explanation describes how this was done and how the data were handled once received. These data may also be referred to in other areas of Section 8 and the report as a whole.

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

The monthly sample of traffic stop cases continues to be pulled from the six districts (Districts 1, 2, 3, 4, 6, and 7) and the Lakes Patrol (the “areas”). By way of background, MCSO reported a total of 8,430 cases of traffic stop events for these areas between April 1, and June 30, 2015 (averaging 2,810 per month). This is 31 percent more stops over the prior quarter and 50 percent more traffic stops reported for the same time period one year ago. We are exploring the reason(s) for the increase during this quarter, and will continue to monitor the trend to see if it remains or is transitory. As it now stands, however, even with this increase in the number of traffic stops, the current sample size is quite sufficient to provide us with a 95 percent confidence level. We will continue to monitor the trend in traffic stops to determine if changes in the sample size are warranted at some future date.

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

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

a. Collection of Traffic Stop Data

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

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

m. The final disposition of the stop, including whether a citation was issued or an arrest was made or a release was made without citation.

MCSO developed several policies that, in concert, incorporate the requirements of these Paragraphs. These include: EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) dated September 22, 2014; EB-2 (Traffic Stop Data Collection) dated September 22, 2014; EA-5 (Enforcement Communications), dated September 5, 2014 and CP-8 (Preventing Racial and Other Bias-Based Profiling), dated September 5, 2014. We note that these four policies underwent several revisions, and all were finally approved in September 2014 and disseminated during the Fourth and Fourteenth Amendment training conducted from September through December 2014. According to documents received, 99% of the sworn, compensated personnel were trained, and all existing Posse members attended the training as of the close of the reporting period.²

In order to capture the information required for this Paragraph, MCSO created, and we reviewed, the Vehicle Stop Contact Form, the Vehicle Stop Contact Form Supplemental Sheet, the Incidental Contact Receipt, and the Written Warning/Repair Order, all in electronic form, for those motorists who commit a traffic violation or are operating a vehicle with defective equipment and provided with a warning. We also reviewed the Arizona Traffic Ticket and Complaint Forms issued for violations of Arizona Statutes, Internet I/Viewer Event Unit printout, Justice Web Interface printout, and any Incident Report associated with the event. We selected a sample of 105 traffic stops conducted by MCSO deputies from April 1, through June 30, 2015 for purposes of this review; and assessed the collected data from the above listed documents for compliance with Subparagraphs 54.a.-54.m. All of the listed documentation was used for our review of the following subsections of this Paragraph.

The Paragraph requires that MCSO create a system for data collection. The data collected pursuant to this Paragraph will be captured in the Early Identification System, which will be discussed further in subsequent sections of this report. During our July 2015 site visit, we participated in a ride-along with a deputy in the Lakes District to observe, firsthand, the process utilized by MCSO in conducting traffic stops.

Paragraph 54.a. requires MCSO to document the name, badge/serial number, and unit of each deputy and Posse member involved. Our review indicated that in the 105 vehicle traffic stops, there were 33 cases where the deputy's unit had another deputy assigned to the vehicle or another deputy unit or Posse member was on the scene. There were 10 instances where the primary deputy failed to list the additional deputies on the scene or failed to list the unit or serial number of the deputy on the Vehicle Stop Contact Form. In one case, there were five deputies on the scene and only two were identified. However, for this reporting period the primary deputies indicated their own unit and serial numbers for every stop they initiated. We review the Vehicle Stop Contact Form, I/Viewer Event document, the Justice Web Interface, and the CAD printout to determine which units are on the scene. We should note that if back-up units arrive on a scene and do not announce their presence to dispatch, CAD does not capture this information. We have suggested that MCSO place a mandatory field on the Vehicle Stop Contact Form that indicates the number of units on the scene that would automatically create a drop-down box for additional units to be listed. CID advised that it would look into this

² Failure to attend the training resulted in de-selection from the Posse Program.

modification for a technical change. MCSO created a drop-down box to identify additional passengers in a vehicle and it has worked well. For this reporting period, we have observed a significant reduction in deputies' ability to indicate additional resources responding to their particular traffic stop.

The Vehicle Stop Contact Form is completed by the deputy on every traffic stop whether s/he writes a citation or issues a warning. During our September 2014 site visit, CID advised us that a programming change had been made to the Vehicle Stop Contact Form; and if the deputy fails to indicate his/her unit number in the appropriate box, the system will not allow the deputy to complete the form. Similarly, MCSO should consider making the serial and unit numbers of secondary units mandatory fields if a deputy's name is listed on any form as a back-up unit. During our April 2015 site visit, MCSO advised us that it had been working on a technical fix with TraCS that would allow deputies to input the ethnicity (Hispanic) of the violator on the Arizona Traffic Complaint. This change was implemented during this reporting period. In its previous iteration, the Traffic Complaint form did not recognize Hispanic as an ethnicity.

The identity of personnel on such scenes is a core issue in this case, and we shall consistently evaluate the agency's measure of compliance with this requirement. We found that the deputies' names, and serial and unit numbers were listed with few exceptions, on all required forms and identified on the Vehicle Stop Contact Form. Progress slipped this quarter from the previous review period with 91% compliance; Since MCSO was in compliance with this Subparagraph for the previous quarter it will remain in compliance. Two consecutive quarters of non-compliance after initial compliance will remove MCSO from compliance.

Paragraph 54.b. requires MCSO to document the date, time, and location of the stop, recorded in a format that can be subject to geocoding. Our reviews of the CAD printout for all 105 traffic stops in the sample indicate that this data is captured and geocoded with the time the stop is initiated and the time the stop is cleared. We note that occasionally the CAD time of stop and end of stop times may not be exactly the same time as those listed on the Vehicle Stop Contact Form, due to extenuating circumstances the deputy may encounter. We found three instances where the start or end time on the Vehicle Stop Contact Form differed by five minutes or more from the CAD printout. MCSO uses GPS to determine location for the CAD system. GPS collects coordinates from three or more satellites to enhance the accuracy of location approximation. The data from the satellites can be decoded to determine the longitude and latitude of traffic stop locations should that be necessary. The GPS coordinates are not visible on the CAD printout or any other traffic stop form we review. In order to ensure that MCSO is capturing this information, we had a technician pull up a sample of traffic stop event numbers where we could verify that GPS coordinates were captured for each stop. The CAD data system was upgraded in 2014 to include the geocoding of traffic stops. MCSO is in compliance (97%) with this Subparagraph.

Paragraph 54.c. requires MCSO to document the license plate and state of the subject vehicle. In our last three quarterly reports, we noted improvement in deputies' ability to capture this information. During this reporting period, we found that deputies properly recorded the vehicle tag number and state of issuance in 103 cases. In one case, the deputy advised dispatch that he could not read the tag number (subject vehicle in transit) but would advise once the vehicle was stopped. In the second case, the deputy did not list the tag/state of the subject vehicle on the Vehicle Stop Contact Form or the Warning/Repair Form. In the third case, the deputy indicated

the license plate state of origin incorrectly. In the second case mentioned above, the deputy also failed to describe the vehicle make, model, year or color on the Warning/Repair Form. We found that many of the stops made by deputies were for speeding, invalid license plates or expired vehicle registrations. MCSO is in compliance with this Subparagraph with a rating of 98%.

Paragraph 54.d. requires MCSO to document the total number of occupants in the vehicle when a stop is conducted. There were a total of 105 traffic stops and in 35 of these stops, the vehicle was occupied by more than one occupant (58 total passengers). The Vehicle Stop Contact Form, completed by the deputy on every traffic stop, is utilized to capture the total number of occupants and contains a separate box on the form for that purpose. In one instance, the documents we reviewed for one specific case did not contain the form and we were unable to determine the number of occupants of the subject vehicle; and therefore, MCSO's compliance rate is 99% for this Subparagraph (see Para. 54f). MCSO is in compliance with this Subparagraph.

Paragraph 54.e. requires MCSO to document the perceived race, ethnicity and gender of the driver and any passengers, based on the officer's subjective impression (no inquiry into the occupant's ethnicity or gender is required or permitted). In 35 of the 105 stops, there was more than one occupant in the vehicle. In our review of the traffic stops we identified two stops where the deputy identified the ethnicity of the driver but failed to list the gender of the driver on the Vehicle Stop Contact Form. In the previous reporting period there were two cases where the post stop race/ethnicity and gender for the driver was listed on the Vehicle Stop Contact Form as "unknown," in violation of MCSO policy. The compliance rate for identifying the race/ethnicity and gender of the driver is 98%.

Our review indicated that there were 35 stops where 58 passengers were identified as occupants of the vehicles. In one case the deputy failed to identify the race/ethnicity of one passenger in the vehicle. In two cases the deputy failed to indicate the gender of one occupant in each vehicle. When a deputy indicates two or more passengers in the vehicle on the Vehicle Stop Contact Form, a drop-down box automatically displays additional boxes for the deputy to document the passengers' information. MCSO has advised us that it has instructed deputies not to indicate the word "unknown" when describing the race/ethnicity of drivers or passengers. The compliance rate for identifying the race/ethnicity and gender of the passengers is 95%, a considerable improvement over our previous review.

The stops included 50 white male drivers, 16 white females, 15 Hispanic males, eight Hispanic females, four Black males, four Black females, three Indian/Alaskan females, one Asian/Pacific Islander female, and one Asian/Pacific Islander male. (The ethnicity of three drivers was unknown.) We could not find any indications of bias in the sample of traffic stops we reviewed. In addition, when the BIO conducts audits of the traffic stop data, it issues memorandums to the individual districts so they can learn of any deficiencies and provide corrective action. Most of the deficiencies to date have been for failure to complete all the requested information on Warning/Repair forms or not requiring traffic violators' signatures on required forms to validate that a receipt has been issued. District captains are required to respond to BIO with comments on violations or with corrective action if required. We review the internal audits and associated matrices conducted by MCSO and occasionally we will disagree with their findings.

There were 43 instances where deputies chose to issue warnings to drivers instead of issuing a citation. Forty-one percent of the 105 traffic stops we reviewed resulted in a written warning.

The ethnic breakdown of those receiving warnings reflected the numbers indicated in the number of total stops. The breakdown of those motorists issued warnings is as follows: 26 white males, six white females, three Hispanic males, five Hispanic females, one Black male, and one Black female. In one stop where a warning was issued, the deputy failed to indicate the ethnicity of the driver.

We reviewed documentation where BIO would send memorandums to the District Commanders when their audits found that deputies were not following protocol when completing required documentation for traffic stops. Previously, deputies did not indicate the race, ethnicity, or gender of passengers when no contacts were made with them. The Order requires MCSO deputies to document the perceived race, ethnicity, and gender of any passengers whether contact is made with them or not. MCSO is aware of the deputies' failure to indicate the race/ethnicity of passengers when no contact is made with them, and is working on a solution to include this documentation. We have observed that the efforts put forth by MCSO staff have improved the capture of the ethnicity and gender of passengers. The Order does not require the names of passengers unless a passenger is contacted and the reason for the contact is documented. In those instances where contact is made, the passenger's name should be listed on the Vehicle Stop Contact Form.

MCSO has achieved compliance with this Subparagraph.

Paragraph 54.f. requires that MCSO record the name of any individual upon whom the deputy runs a license or warrant check (including the subject's surname). When we reviewed traffic stop documentation for our First Report, there were only two individuals identified during the 94 traffic stops that had queries (record checks) indicated on the CAD printout. When we visited one of the districts during our September 2014 site visit, we interviewed a deputy who indicated that license plate or driver record checks are made on almost every traffic stop. We inquired further and the deputy produced a copy of a record check on the Intergraph "I/Viewer." However, we did not receive the information from the Intergraph "I/Viewer" system for our first report. We did review "I/Viewer" checks deputies had run for the September sample. In addition, on the deputy's Mobile Data Computer (MDC), there is an icon that allows the deputy to run checks on the Justice Web Interface (JWI). This system provides deputies additional tools that Intergraph CAD does not, such as photographs, criminal history and booking history. MCSO provided a mechanism to verify the existence of all access to the JWI in the samples we request. MCSO indicated in a memorandum dated October 8, 2014 that it will provide the documentation beginning with the October sample request. MCSO provided the JWI documentation for the October-December 2014 quarter for our review and has provided it in all our subsequent monthly requests.

For this review, we found that in the 105 traffic stops conducted all but six stops had license checks run, and there were 72 stops where the driver or one or more passengers had a warrant check run. Two of these warrant checks were not listed on the Vehicle Stop Contact Form, and thus is in violation of the policy. MCSO's compliance rate is 98%, and it is compliant with this Subparagraph.

Paragraph 54.g. requires the deputy to document whether contact was made with any passengers, the nature of the contact, and the reasons for the contact. There were three instances where deputies made contact with passengers. In all cases, the deputy had a valid reason for the contact. In one case, the deputy made a DUI arrest and the vehicle was released to a sober

passenger; in the second case, the passenger had a valid medical marijuana card; and in the remaining case, the contact was initiated by the passenger. MCSO made several changes to the Vehicle Stop Contact Form during the previous quarter to better capture the reason for the stop and the reason the passenger was contacted by changing the check box on the form to a fill-in-the-blank section requiring the deputy to indicate the precise violation or reason for the passenger contact.

To ensure that deputies are accurately capturing passenger information and verify if passengers are contacted, we compare the number of passengers listed by the deputy with the number of passengers entered in the passenger drop-down box on the Vehicle Stop Contact Form. We also review the I/Viewer System and the Justice Web Interface (JWI) to verify if a record check was requested for anyone other than the driver.

Deputies must ensure that they explain why they made contact with any passengers. Indicating moving, non-moving violation, or contact during a traffic stop as a reason for the stop describes why they stopped the driver, but not why they *made contact* with any passengers. Of the three cases where passengers were contacted, the deputies listed the name of one of the contacted passengers for the stop; and in the remaining two cases, the deputy properly checked the box on the Vehicle Stop Contact Form indicating that he did not obtain the passenger's name. In each case, the reason for the contact was indicated.

In our experience the vast majority of traffic stops do not require contact with a passenger unless the driver is arrested, the vehicle will be towed, or there are minor children in the vehicle that will need care. If contact with a passenger is made, deputies should indicate the name of the person contacted. Due to the infrequent contact of passengers during traffic stops, deputies must be diligent in documenting passenger contacts as one or two violations have a direct impact on compliance. MCSO's compliance rate for this Subparagraph is 100%.

Paragraph 54.h. requires deputies to record, prior to the stop, the reason for the vehicle stop, including a description of the traffic or equipment violation observed and any indicators of criminal activity developed before or during the stop. For this review, we took a random sample of 10 cases from the 35 cases we initially requested each month for a CAD audio review. We listened to 30 CAD dispatch audio recordings from the sample of 105 used for this review and found that the deputies advised Communications of the location and license plate and state for 29 stops. In the exception, the deputy failed to indicate the reason for the stop and the dispatcher immediately prompted him for the purpose of the stop. The audio recordings we reviewed were clear, and the deputy advised of the reason for the stop in 29 of the cases. There were 75 instances in the sample where we did not listen to the CAD audio tapes, but did review the CAD printout where the reason for the stop, if advised by the deputy, is documented by the dispatcher. The CAD printout does document the time the stop begins and when it is concluded either by arrest, citation, or warning.

During previous reviews, we found numerous instances where the deputy advised dispatch of the reason for the traffic stop but indicated moving violation or “M” as the reason for the stop on the Vehicle Stop Contact Form. For this reporting period, there was only one instance where the deputy indicated a moving violation as the reason for the stop on the Vehicle Stop Contact Form. This comment by the deputy does not meet the requirements of the Order. The issues were identified during MCSO’s internal audit and, our review of the previous three reporting periods discovered the same deficiencies. MCSO’s compliance rating for this Subparagraph increased to 99%, an increase from the previous quarter’s 95%. MCSO remains compliant with the requirement of this Subparagraph.

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

Some stops vary in time for any number of reasons that may, or may not, be justified. We looked at all stops in our sample, and determined that there were three traffic stops where the duration of the stop *was* excessive without an explanation from the deputy. There were 10 other extended stops that were justified due to the circumstances of the stops. In three stops the times indicated on the CAD printout and Vehicle Stop Contact Form differed by more than five minutes. When we review the extended stops, we examine issues such as whether or not it was a criminal traffic stop, was the vehicle towed, or were there other extenuating circumstances that caused the delay.

MCSO is in compliance with this Subparagraph, with a compliance rating of 94%.

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

On November 7, 2014, a United States District Court Judge issued an Order permanently enjoining enforcement of Arizona Revised Statute (A.R.S.) 13-2319, commonly referred to as the Arizona Human Smuggling Act. On November 17, 2014, MCSO issued Administrative Broadcast 14-75, prohibiting deputies from enforcing the above state statute, including arresting, detaining, or questioning persons for suspected (or even known) violations of the act and from extending the duration of traffic stops or other deputy-civilian encounters in order to do so. During this quarter's review of traffic stops, there was one case that did not contain the Vehicle Stop Contact sheet and we were unable to determine if there was any inquiry as to immigration status.

MCSO is in compliance with this Subparagraph.

Paragraph 54.k. requires MCSO to document whether any individual was asked to consent to a search (and the response), whether a probable-cause search was performed on any individual, or whether a pat-and frisk search was performed on any individual. In our review, we did not find any indications where an individual was asked for a consent search or of any individual who was frisked during the stop. We did find cases where an arrest was made for a criminal traffic offense. In all cases except one, the violator was cited and released. In the one exception, the violator was arrested for DUI and transported to a detention facility. In this case, the deputy did not indicate on the Vehicle Stop Contact Form that he performed any type of search. This physical arrest should have been indicated on the Vehicle Stop Contact Form as a search incident to an arrest. Traffic cases rarely require a subject to be arrested and detained. In the majority of instances where MCSO does charge violators criminally, the violator is cited and released. MCSO's compliance rate for this Subparagraph is 99%.

Paragraph 54.l. requires MCSO to document whether any contraband or evidence was seized from any individual, and the nature of the contraband or evidence. During our review of the collected traffic stop data during this reporting period, there were no stops where contraband or evidence was seized other than the DUI arrest. MCSO is in compliance with this Subparagraph.

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

In order to be compliant with Paragraph 54 of the Order, all Subparagraphs must be in compliance.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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.

We reviewed policy EA-5 (Enforcement Communications; effective September 5, 2014), which complies with the Paragraph requirement.

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

We visited four districts during our July 2015 site visit, and there were no indications from any that there were recurring issues with the unique identifier (MCSO's Event Number that is dispatched out of Communications for every traffic stop).

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

Since our first visit for monitoring purposes in June 2014, TraCS has been implemented in all Districts and the unique identifier (CFS number) is automatically entered from the deputy's MDT; no user intervention was required. TraCS Administrators discovered that the Event Number (unique identifier) was being duplicated on the Vehicle Stop Contact Forms. The Event Number was previously auto-populated by CAD; however, when connection to CAD was lost because of dead zones, CAD populated the last known number, which assigned an incorrect number to the stop. To overcome this deficiency, deputies now manually enter the CAD-supplied unique Event Number on the Vehicle Stop Contact Forms and a warning alert is given, prompting the deputy to confirm the number.

In order to determine compliance, we reviewed 105 traffic stop cases and reviewed the CAD printouts and the Vehicle Contact Forms for all stops. We reviewed the Warning/Repair Forms, when applicable, for those stops where a warning was issued or the vehicle had defective equipment. The unique identification number assigned to each event was listed on all CAD printouts for every stop, and the number was also listed on the Vehicle Contact Forms. During this reporting period, we found one traffic stop that contained an incorrect event number. Policy EA-5, Enforcement Communications, effective September 5, 2014, has been disseminated and trained to.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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.*

Policy EB-2 (Traffic Stop Data Collection), effective September 22, 2014, addresses the issue of regular audits and quality control checks. We recommended in our First Quarterly Report that the policy distinguish between the two. While audits require in-depth analysis, quality control checks serve as more of an inspection or spot-check of the data. MCSO has made the required distinction between the two and changed the policy to comply.

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

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

When we conducted inspections of Districts 2 and 3 during our April 2015 site visit, we discovered the paper records of traffic stops generated prior to TraCS implementation and located at the districts was not secure. We spoke with CID personnel on how to remedy this situation while we were on site. The paper records are maintained at the districts and follow assigned personnel when they are transferred. MCSO did have a protocol that requires written traffic stop data to be located at the districts, but it did not include maintaining the integrity and accuracy of the paper records. This must be addressed in writing – by either updating of the protocol or modification of the policy. During our July 2015 site visit, we visited four districts and inspected the security of the written traffic stop data in three; two of the districts' data was secure, and one was not secure and in violation. During our most recent site visit, MCSO issued documentation to the districts that written traffic stop data would be secured under lock, and a procedure was established for access to the data. We conducted a random review of written traffic stop data at the above-mentioned Districts and staff was able to provide the documentation.

MCSO advised us that it conducted an audit of traffic stop data in January 2014 and again beginning in April 2014. After the January 2014 audit, new handwritten forms were created to collect the data required by policy until full electronic data entry began on April 1, 2014. CID advises that they have conducted spot audits that were directed at portions of data or the actions of individual deputies. CID provided us with an audit during our September 2014 site visit, and continues to provide us monthly audits of a sample of traffic stops that we select. We reviewed the BIO's monthly audits of the traffic samples from April through June 2015, and found them complete and thorough. In order to be in compliance, MCSO must provide the protocol specifically addressing the requirements for maintaining the integrity and accuracy of the written traffic stop data. MCSO provided temporary guidance for security of the data after the reporting period ended and is therefore not in compliance. MCSO advised us that it was in the process of drafting a formal protocol that will be submitted during the next reporting period. The approved policy also requires regularly scheduled audits on a monthly, quarterly, and annual basis. At present, MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

The system for providing "receipts" is outlined in EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) and EB-2 (Traffic Stop Data Collection), both effective September 22, 2014. GJ-35 (Body Worn Cameras) was issued on June 24, 2015 and addresses the part of the Order that requires supervisors to check whether deputies are accurately reporting stop length. In addition to the new policy, a Body Worn Camera matrix was developed by BIO to be utilized by their inspectors for review of camera recordings. It would be appropriate for supervisors conducting their reviews of subordinates' video to use the same form.

Every person contacted on a traffic stop will be provided with an Arizona Traffic Ticket or Complaint (Citation), a Written Warning/Repair Order (Warning), or an MCSO Incidental Contact Receipt. During this reporting period, there were 43 incidents where the deputy gave a warning to the motorist for a traffic violation and in four of these cases, the deputy failed to have the violator sign the warning/repair form; and in four other instances, the deputy wrote "SERVED" in the box requiring a signature for the warning. In order to verify compliance that the violator received the required "receipt" from the deputy, a signature is required, or, if the violator refuses to sign the deputy may note the refusal on the form. We cannot verify that motorists have been given a receipt without a signature on the form or the deputy advising of the refusal of the receipt from the driver. Placing "SERVED" in the signature box without any explanation does not comply with the requirement. There were no Incidental Contact Forms

provided by MCSO during this reporting period. MCSO's compliance for this portion of the Subparagraph is 81%, although MCSO did improve from the results of the 74% in the previous reporting period. We note that while deputies are properly completing the Arizona Traffic Complaint, they are not thoroughly or accurately completing the Warning/Repair Form. MCSO maintains that it is aware of these deficiencies and is working to correct them.

In the 62 cases where drivers were issued citations, we found six instances where the driver did not sign the Arizona Traffic Citation. In four of the cases, the deputy indicated on the form that the driver's signature would not scan; and in one of the four cases, the deputy photographed the driver's signature on the citation and included it in the documentation we reviewed. In two cases, the deputy failed to get a signature on the citation; and in the remaining case, the deputy indicated "SERVED" in the signature box for a 95% compliance rate.

The approved policy dictates that the CAD system will be used for verification of the recording of the initiation of the stop. The stop's termination is noted by the deputy verbally announcing it on the radio. CAD then permanently records this information. Once MCSO implements body worn recording equipment, policies have been developed that will account for its use in verifying stop duration. We will review the video recordings once the body camera system is functional to verify whether deputies are accurately reporting stop length.

In order to address the use of body worn cameras to check on whether deputies are accurately recording stop length, MCSO developed policy GJ-35 [initially EA-6], (Body Worn Cameras), and provided the Monitor and the Plaintiffs' attorneys with copies for our input on December 4, 2014. We and the Plaintiffs' attorneys provided recommendations, and MCSO made changes and issued the new policy on June 24, 2015.

MCSO is not in compliance with this Subparagraph.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

Policies GF-1 (Criminal Justice Data Systems), effective November 7, 2006, and GF-2 (Criminal History Record Information and Public Records), effective January 7, 2000, state that all databases containing specific data identified to an individual comply with federal and state privacy standards and it limits access to only those employees who are authorized to access the system.

The policies go further to include that the dissemination of Criminal History Record Information (CHRI) is based on federal guidelines, Arizona Statutes, the Department of Public Safety, and the Arizona Criminal Justice Information System; and that any violation is subject to fine. No secondary dissemination is allowed. We reviewed an internal MCSO memorandum of April 12,

2014 that required all TOC (Terminal Operator Certification) personnel in these positions to be re-certified on a new testing procedure developed by the Training Division and the Systems Security Officer. We met with a Deputy Chief during this site visit who indicated that MCSO had been vigilant in security of the data systems and had previously prosecuted violators. We were advised of one outstanding case in the system that was resolved by court action this year.

We reviewed two separate and independent external audits, the most recent Arizona Department of Public Safety (December 24, 2012) and the FBI's audit (November 12, 2011) of the integrity and restrictions required for database security. In January 2014, the FBI advised us that a previously scheduled audit of MCSO databases would not occur; and that a similar scheduled audit by Arizona DPS was also cancelled. We met with the Database Administrator and the Commander of the Warrants Division, who both advised us that no unlawful breaches of the databases had occurred during this reporting period. Every new recruit class receives three hours of training on this topic during initial Academy training. We will continue to observe the security issues outlined in Paragraph 58 of this Order; but at present, MCSO is in compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

***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.*

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

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

b. Electronic Data Entry

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

We reviewed the approved MCSO policies EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), and EB-2 (Traffic Stop Data Collection), both effective September 22, 2014; and found them to be compliant with the provisions of the Paragraph. However, the system must be able to generate summary reports and analyses, as well as be used to conduct searches of the data. The requirement also includes that the system enable the deputies to enter the traffic stop data electronically from the field. If TraCS experiences a malfunction in the field, there is a protocol that requires the deputy to electronically enter the traffic stop data prior to the end of the shift.

We reviewed documents indicating that the Bureau of Internal Oversight (BIO) is conducting spot checks of the data and forwarding those instances of non-compliance to the districts for action. CID provided a memorandum on April 28, 2014, that indicated that MCSO was in the process of conducting its first audit to determine the validity of the data captured. MCSO continues to conduct monthly traffic stop audits of the traffic stops and forwards them for our review. We have found the audits to be complete and thorough. Initially, the traffic stop data was captured on forms created by MCSO, completed by the deputy in the field, and manually entered in the database by administrative personnel located at each district. Now all traffic stop data is entered electronically, whether in the field or at MCSO Headquarters. For those situations where connectivity is lost in the field, policy dictates that the written traffic stop data be entered electronically by the end of the shift in which the event occurred.

As of June 30, 2015, there were a total of 249 vehicles assigned to the Districts. There were 183 marked vehicles equipped with the TraCS e-citation system. (All marked cars are TraCS-equipped.) The remaining 66 vehicles are unmarked, and 49 of those vehicles are equipped with TraCS. We also reviewed vehicle documentation for the reporting period, and verified that all marked MCSO vehicles that conduct traffic stops on a routine basis are equipped with the ability to input traffic stop data from the field.

We looked at all districts for those units that are used to conduct traffic enforcement to ensure that deputies were able to enter the data electronically from the field. Therefore, we removed from the vehicle population those vehicles that were obviously specialized or special purposed, and are not used to conduct traffic stops. Due to the size of the patrol fleet, the number of marked and unmarked patrol vehicles fluctuates from month to month.

In addition, MCSO must provide documentation pertaining to the training of deputies who use electronic data entry systems for traffic stops. During our June 2014 site visit, we were informed that training was conducted via train-the-trainer processes, whereby EIS personnel train supervisors who then train deputies under their command. However, no documentation of said training had been created; therefore, MCSO is not able to document who has received this training and who has not. We spoke with a Deputy Chief during the December 2014 site visit who indicated that there is a new training and documentation process being developed by the Training Division to identify those deputies who have received TraCS training. On May 5, 2015, MCSO prepared a draft copy of a lesson plan for TraCS training that we have reviewed. When the training is completed, the Office should be able to verify who attended the training as required by the Order. MCSO deputies have demonstrated their ability to access and utilize TraCS, as evidenced by their total time on a traffic stop averages 15 minutes or less.

While MCSO is making progress, it is not yet in Phase 2 compliance with Paragraph 60.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

c. Audio-Video Recording of Traffic Stops

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

During our September 2014 site visit, we met with two MCSO Deputy Chiefs and other staff to discuss the progress of acquiring in-car video and audio equipment for all patrol vehicles used to conduct traffic stops. MCSO had initially set out to purchase fixed in-car cameras as required by the Order, but expressed an interest in acquiring body worn video and audio recording devices for their deputies. The Court issued an Order providing an amendment/stipulation on October 10, 2014 amending the Order to incorporate on-body cameras. We believe this is a prudent choice in that it allows for capturing additional data, where a fixed mounted camera has limitations. The change will capture more citizen interactions when contact is away from the vehicle.

During our April 2015 site visit, we met with the Deputy Chief of the Bureau of Internal Oversight and staff from CID, and were advised that MCSO personnel had selected a vendor (TASER International) to provide the body-worn cameras. The Maricopa County Board of Supervisors approved the request for purchase on January 29, 2015. MCSO advised us that its request included the purchase of 700 body cameras, 150 docking stations, and 50 individual docking stations for those deputies who do not regularly report to district offices. We reviewed MCSO's contract with TASER, and note that it is for five years, with service intervals included, and that TASER will provide data storage and security through Evidence.com Data Security. We reviewed an internal memorandum from the Deputy Chief of BIO from February 19, 2015 that described an implementation plan for issuance of the cameras beginning with Districts 1, 2, and 3; to be followed by Districts 4, 6, 7, and Lakes. During our July 2015 site visit, we met with two Deputy Chiefs, along with Technology Bureau technical staff, and Plaintiffs' attorneys, and we were advised that District 6 will now be the beta site for the initial implementation and testing of the system prior to the implementation for the remaining Districts; this will occur during December 2015 after the infrastructure has been completed. A vendor for building the infrastructure requirements of the system had previously been secured. MCSO staff has completed a draft of the training (lesson plan) for the body cameras and has begun working out a training schedule to accommodate the roll out period.

MCSO has developed a policy to address the requirements for the use of the body worn video/audio recording equipment for every traffic stop, and the security and maintenance of associated equipment. The policy addresses what deputies are required to do if equipment is malfunctioning, as well as the documented process of how such malfunctions are reported and serviced. During the previous reporting period, MCSO provided a draft policy, EA-4 (Use of Body Worn Cameras), which did not meet all of the requirements. The Monitoring Team and the Plaintiffs' attorneys provided input on the draft, and the new policy, renamed GJ-35 (Body Worn Cameras) was issued on June 24, 2015, and meets the requirements of Section VIII. MCSO will not be in compliance with this Paragraph until all deputies and sergeants who make traffic stops are equipped with body worn cameras, and they are used in accordance with the Order.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

MCSO evaluated on-person body cameras from other jurisdictions and decided on a vendor (TASER International). We had recommended that MCSO deputies conduct a functionality test at the beginning and end of their tour of duty, and it was included in the policy revision (GJ-35) along with the other requirements in this Paragraph. The policy does state the requirement that

deputies are subject to discipline if they fail to activate the video and audio equipment as soon as the decision to initiate the stop is made and continue recording through the end of the stop. The policy also addresses how non-functioning equipment will be repaired or replaced. MCSO will not be in compliance until the body-worn cameras are deployed and used in accordance with policy and the Order.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

Policy EB-2 (Traffic Stop Data Collection) includes the requirement that MCSO retain written traffic stop data completed on the Vehicle Stop Contact Form for a minimum of five years after it is created, unless a case involving a traffic stop remains under investigation by the Office or is subject of a Notice of Claim, civil litigation or criminal investigation, in which case MCSO shall maintain such data or recordings for at least one year after the final disposition of the matter, including appeals. MCSO has developed a protocol and a policy that requires the original hard copy form to be kept at the district level and filed separately for each deputy. When a deputy is transferred, his written traffic stop information will follow him to his new assignment. The Technology Bureau maintains electronic traffic stop data, and we reviewed the bureau's protocol for maintaining the integrity of the data. MCSO has yet to develop a protocol for reviewing the on-body camera recordings and for responding to public records requests in accordance with the Order. During our July 2015 site visit, MCAO advised us and the Plaintiffs' attorneys that MCAO would develop the manual for the release of body camera recordings, and that the draft would be completed by September 30, 2015. This was amenable to both the Monitor and the Plaintiffs. MCSO is not in compliance with this Paragraph.

MCSO developed and submitted a draft policy, EA-4, that did not meet the requirements of the Paragraph. We, along with the Plaintiffs, provided MCSO with suggestions to correct the deficiencies in the proposed draft. MCSO advised us that it incorporated our concerns into a

new draft that would be submitted in the near future. In order to be compliant with this Paragraph, the new policy governing the use of on-person cameras must consider accountability measures to ensure compliance, activation of video cameras for traffic stops, review of camera recordings, and responses to public records request. Therefore, until the policy is approved, disseminated, and trained to, MCSO remains not in compliance with the requirements of the Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

d. Review of Traffic Stop Data

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

We reviewed MCSO policies EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) dated September 22, 2014; EB-2 (Traffic Stop Data Collection), dated September 22, 2014; GJ-33 (Significant Operations), dated September 5, 2014; the draft Early Identification System (EIS) policy; GH-4 (Bureau of Internal Oversight Policy and Procedures), dated May 29, 2015); a letter from the Plaintiffs’ attorneys containing comments on the EIS System and Draft Policy (August 4, 2015); and the Arizona State University proposed benchmarks to use in the monthly, quarterly, and annual evaluations of traffic stop data (presented to us at our July 2015 site visit). We also reviewed traffic stop data for the month of March 2015, as well as the documents and analyses conducted by the EIU to set alerts based on thresholds set for the benchmarks to look for warning signs or possible indicia of racial profiling. The analyses prepared by the EIU using March 2015 traffic stop data identified alerts at the deputy level across Zip codes, beats, districts, and the entire MCSO geographic area. Our review and meetings during our site visit demonstrate that EIU staff continue to work diligently to identify and refine the thresholds to identify possible cases of racial profiling or biased policing.

The introduction of training and technical assistance from Arizona State University (ASU), which signed a contract on April 8, 2015 with MCSO, is a very promising change. The statement of work delineates how ASU will assist EIU in adopting statistically based thresholds for a range of benchmarks cited in the research literature on detecting racial profiling and other biased-based problems. The ASU team has proposed benchmarks reflecting those in Paragraph 67 of the Order (see below), as well as others for purposes of identifying possible instances of racial profiling and other biased-based problems. These benchmarks are intended to identify bias that causes a deputy to make a traffic stop in the first place (pre-stop bias) as well as bias that occurs after a traffic stop occurs (post-stop bias).

During our July 2015 site visit, the ASU team discussed how these benchmarks will be used to detect pre- and post-traffic stop biases. The ASU team also intends to use inferential analysis (e.g., regression analysis) whereby ASU staff will specify alternative regression models to

identify traffic stops at various levels of analysis (deputy, beat, district, census tract, MCSO-wide, squad). The methodology proposed by ASU is sensible and well-founded in the literature, and it offers a reasonable means to achieve the intent of this Paragraph to formalize protocols to identify racial profiling or other biased-based problems. To achieve Phase 1 compliance, MCSO must memorialize the general methodology for periodic analyses as required by this Paragraph in a protocol.

Based on information obtained during our July site visit, it is our understanding that ASU will initiate its analyses of traffic stop data using 12 months of traffic stop events from July 1, 2014 through June 30, 2015. This work will be coordinated with the EIU. We further understand that the ASU/EIU team will use this analysis as an opportunity to test the proposed benchmarks and the methodology to look for instances of pre-stop and post-stop racial profiling or other biased-based problems. ASU expects this analysis to possibly lead to refinements of the thresholds, the identification of new benchmarks, and the specification of alternative regression. We further understand that the methodology will eventually be used in monthly and quarterly analyses. To achieve Phase 2 compliance, MCSO must utilize the methodology established in the protocol established for Phase 1 compliance in the monthly, quarterly, and annual analyses used to identify racial profiling or other biased-based problems in the monthly, quarterly, and annual analyses required by the Order.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

***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.*

We reviewed MCSO policies EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance, dated September 22, 2014); EB-2 (Traffic Stop Data Collection) dated September 22, 2014; and the Significant Operations/Patrols guidelines (GJ-33, dated September 5, 2014); the BIO policy (GH-4); and the draft Early Identification System (EIS) Policy and Procedures. Additionally, we participated in meetings during our July 2015 site visit to clarify EIU's role and responsibilities in BIO. We learned that the Bureau of Internal Oversight (BIO) is the designated unit within MCSO for meeting the requirements of this Paragraph. BIO will conduct the monthly, quarterly, and eventual annual analyses of traffic stop data. According to the July 20, 2015 draft Early Identification System (EIS) Policy and Procedures document, the Early Intervention Unit (EIU) is housed within BIO and is responsible for all data analysis. The EIU is identified in the draft EIS Policy and Procedures as responsible for the analyses seeking warning signs or indicia of racial profiling or other biased-based problems. The EIU is also BIO's point-of-contact with Arizona State University related to supporting the statement of work between MCSO and ASU on matters related to monthly, quarterly, and annual analyses of traffic stop data pursuant to Paragraphs 66 and 67.

We note that GH-4 does not mention the EIU and its role is supporting BIO's policy with regard to this Paragraph. GH-4 states that BIO will analyze collected traffic stop data monthly, quarterly, and annually to look for possible individual-level, unit-level, or systemic problems related to racial profiling or bias-based policing. However, the policy falls short of explicitly designating BIO as the group designated by MCSO working under the supervision of a lieutenant or higher to analyze traffic stop data on a monthly, quarterly, and annual basis. The policy must also ensure that the review group members recuse themselves from analyzing data pertaining to their own activities. Therefore, MCSO is not in Phase 1 compliance with Paragraph 65.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

***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 policy EB-2 (Traffic Stop Data Collection, dated September 22, 2014) references periodic analyses of traffic stop data to occur on a monthly, quarterly, and annual basis in order to check for possible individual-level, unit-level, or systemic problems. MCSO policy GH-4 (Bureau of Internal Oversight) includes a discussion of non-audit services that shall be performed that include the monthly evaluation of traffic stop data and monthly, quarterly, and annual analyses of traffic stop data to look for possible individual-level, unit-level, or systemic problems related to racial profiling or biased-based policing. MCSO has entered into a contractual relationship with Arizona State University (ASU) (contract dated April 8, 2015) that requires ASU to collaborate with MCSO to provide instruction to MCSO so it can analyze and report on traffic stop data pursuant to this Paragraph, among others. The contract with ASU cites end products to include completed monthly, quarterly, and annual reports. In addition, the most recent draft Early Identification System (EIS) Policy and Procedures documents what it terms "threshold incidents" that will be entered into IAPRO by the EIU. The draft EIS policy also documents how these benchmarks will set alerts for traffic stops on possible racial profiling or other biased-based policing. The Bureau of Internal Oversight Policy and Procedures (GH-4, dated May 29, 2015) states that it will conduct monthly, quarterly, and annual analyses of traffic stop data. Because of the references to annual evaluations in GH-4, the inclusion of benchmarks in the latest draft EIS policy, and the external support being provided by ASU, MCSO is nearing Phase 1 compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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.*

We reviewed MCSO policies EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), dated September 22, 2014; EB-2 (Traffic Stop Data Collection), dated September 22, 2014; and GJ-33 (the Significant Operations/Patrols guidelines, dated September 5, 2014). We also reviewed the July 20, 2015 draft Early Identification System (EIS) Policy and Procedures, which includes in item 5 under Procedures threshold incidents that will be entered into IAPro. EB-2 explicitly lists the language of Paragraph 67 as part of its policy for periodic analyses of traffic stop data collection and therefore is in Phase 1 compliance. We also note that the latest draft EIS policy and procedures will strengthen Phase 1 compliance by delineating the incident thresholds that will be set in IAPro to identify possible cases of racial profiling and other biased-based policy.

Regarding Phase 2 compliance, the EIU provided copies of analyses and documents describing the benchmarks used to set alerts for possible cases of racial profiling or other misconduct using traffic stop data for March 2015. These analyses and documents were helpful in showing how benchmarks are being used to conduct weekly, monthly, and quarterly analyses looking for individual, unit, or systemic problems. The analyses have expanded to include police beats and districts as alternative units of analysis beyond individual-level and district-level analyses. Inclusion of these other geographic areas is encouraging, as it adds other dimensions for analysis of racial profiling or other biased-based policing. Our review of documentation provided by the EIU showed how it still uses the benchmarks based on expert opinion to set alerts for subsequent investigation by EIU or supervisory staff.

During our July site visit, we were able to confirm that these benchmarks reflect categories consistent with Paragraph 67; however, it remains the case that the exact thresholds used to set alerts are still based on expert opinion. Also during our site visit, we met with Arizona State University (ASU) staff who are under contract to MCSO to provide analytic support to MCSO. ASU staff presented a methodology that includes benchmarks prescribed by this Paragraph (as well as additional ones based on the research literature) that will be soon be subject of an analysis using traffic stop data for the July 1, 2014 through the June 30, 2015 time period. At

our meeting, ASU staff proposed thresholds for the benchmarks reflecting what we believe research has found to be reasonable. However, the efficacy of the thresholds proposed for the benchmarks is unknown until they are tested in monthly, quarterly, and annual analyses of traffic stop data. Therefore, MCSO is not in Phase 2 compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

As referenced in prior quarterly reports regarding Significant Operations (Paragraph 36), MCSO has finalized, distributed, and trained personnel to GJ-33 (Significant Operations). Therefore, the Department has achieved Phase 1 compliance with this Paragraph.

We have previously noted that MCSO informed us that the last Significant Operation, Operation Borderline, had occurred during the period from October through December 2014. Operation Borderline was a drug interdiction effort described completely in Section 6 (Pre-Planned Operations) of those reports.

For the current reporting period, MCSO has responded to our monthly document request regarding Significant Operations with a memorandum from each district's command staff outlining their Significant Operation activity. In that vein, each district's command staff have notified us by memorandum that their officers have not been involved in any Significant Operations during the months of April, May, and June 2015. In addition, during our July 2015 site visit, both BIO and CID staff confirmed that there had not been any Significant Operations conducted since Operation Borderline. Finally, during visits to individual district offices in July 2015, District Command Staff corroborated that no Significant Operations had been conducted within their Districts. Therefore, MCSO is in both Phase 1 and Phase 2 compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

***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.*

As noted elsewhere in this report, MCSO had provided a new draft of the EIS policy, which incorporates the Blue Team and EIPro systems that allow supervisors to make regular notations about the traffic stop activity of persons under their command and review most critical information pertaining to their subordinate's employment history. The draft policy was returned to MCSO with comments from us the week prior to our July 2015 site visit. In addition, Plaintiffs' attorneys have provided a letter (dated August 4, 2015) outlining their concerns regarding the EIS system and policy. The latest draft was also discussed in several meetings during the site visit, and the issues raised remain under review by MCSO. While this policy has yet to be approved, MCSO has conducted ongoing training for Blue Team. However, according to MCSO command staff, the introduction of a more complete set of Supervisory Training materials and processes is awaiting final approval of the EIS policy. Therefore, MCSO is not in Phase 1 compliance with this Paragraph.

As noted in our third and fourth quarterly reports, MCSO's memorandum in response to the request for information for this Paragraph described a new drop-down menu for supervisors making notations about their subordinates that allows the supervisor to choose from a list of MCSO policies regarding the notations they are making. These include: EA11 (Arrest Procedures); CP2 (Code of Conduct); CP3 (Workplace Professionalism); CP8 (Preventing Racial and Other Bias-Based Profiling); EB1 (Traffic Enforcement, Violator Contact, and Citation Issuance); and EB2 (Traffic Stop Data Collection); among other criteria.

As noted above, the draft EIS policy describes an EIPro screen allowing supervisors to review all information, except the details of internal and external complaints, regarding persons under their

command. In addition, supervisors are able to use a drop-down menu that would trigger concerns the supervisor has about deputies' "workplace professionalism," "preventing Racial and Other Bias- Based Profiling," and the like as enumerated in this memorandum and outlined above. During the site visit, the EIS lieutenant, and supervisors from District 2 and the Lakes District, showed us the drop-down menus and how supervisors can remain updated on the activity of their assigned personnel. The District 2 supervisor also demonstrated how additional features incorporated into TraCS – one field signifying review of traffic stops of subordinates and a second in which the supervisor can make comments regarding the stop itself – improved the ability of first-line supervisors to assess the work of their subordinates and also allowed lieutenants and commanders of the districts to ensure that these reviews are taking place. However, as noted above, the latest changes to the EIS system still require that line supervisors contact PSB staff to have access to documents relating to internal and external complaints involving their subordinates. This deficiency was noted in our on-site meetings with MCSO personnel and included in our site visit exit meeting discussion.

MCSO informed us during our April 2015 site visit that the agency was procuring a new supervisory evaluating system called Makenotes from CI Technologies that could track how supervisors handle the alerts identified by EIU personnel. However, after closer scrutiny by MCSO, it was determined that this software would not meet the needs of the Department to achieve compliance with the Court Order. Therefore, MCSO cancelled this software procurement, and MCSO technical personnel are working to find solutions to the EIS relational database deficiencies by modifying existing software.

An additional requirement of this Paragraph is that supervisors conduct a monthly review of collected data for deputies under their command. There are several ways that MCSO is working to meet these goals. First, the BIO has been conducting an analysis of supervisory notes contained in Blue Team, showing notations that supervisory personnel have made regarding traffic stops, potential biased policing, and the like regarding their subordinates. The data from the February 2015 inspections show that there was a lack of consistency with regard to what supervisors were reviewing and the meetings they were having with their deputies. For example, 83% of the supervisory notes reviewed met the criteria of bi-monthly review of subordinates; only 72% of first line supervisors had discussed traffic stops with their subordinates; and only 33% had written notes about discussing discriminatory policing with their subordinates. As a result of such inspections, BIO staff had recommended improvements in supervisory/Blue Team training and the assurance that all supervisors have access to EIS resources.

The inspection reports from May and June 2015 show significant improvements across all categories of review. For example, the inspections show that the rate of bi-monthly reviews by supervisors had risen to 96% for the month of May and 95% for the month of June. The review and acknowledgement of traffic stops rose to 98% for May and 100% for June. The latter improvement in supervisor reviews of their subordinates is likely due to the fact that MCSO added two fields to the TraCS data that required supervisors to date when they reviewed the traffic stop information and allowed them to comment on specific stop issues. However, we also observed through the May and June inspections that all (100%) supervisors are now making notes about having discussions with their subordinates regarding discriminatory or biased policing during their shift-briefing activities.

In addition, EIU personnel regularly review supervisory notes on a weekly basis for indications of problems with deputy behavior. The EIU examinations provide another level of review that occurs routinely to examine how supervisors are supervising their subordinates' activity. Included in these supervisory notes are descriptions of the type of traffic stops deputies are involved in as well as the race and ethnicity of the persons they come into contact with. The majority of these notes indicate deputies are meeting the requirements of their position. However, as noted by the EIU summaries provided as a result of our monthly document request, there are also clear examples of deputy behavior that has caused the supervisor to include a negative appraisal and counseling to their subordinate, including notations about their failure to stay up-to-date on E-Learning Systems and an insufficient amount of information to explain their patrol activity. As noted previously, with the addition of EIPro, these positive or negative appraisals can be viewed by deputies and their supervisors. Therefore, this additional interaction between supervisors and deputies should hopefully result in more consistent and professional services being delivered to the community. Finally, EIU personnel have developed a new set of self-populating supervisory tables that are going to provide supervisors throughout the agency with the ability to pull up all traffic stops for a single deputy for review as well as the ability to compare significant traffic stop details such as length of traffic stop, citation rates, arrest rates and the like across their entire squad of deputies or any subset therein. These are significant advancements for supervisory personnel.

In future site visits, the evolution of these new supervisory tools will be a major issue to address with EIU and supervisory personnel. In particular, we are interested in observing more supervisory actions as they take place in the field, as well as interviewing supervisors and deputies regarding the evolution of supervision within MCSO over the last several months.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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.

As noted in response to Paragraphs 64 and 65, we reviewed EB-1 (Traffic Enforcement, Violator Contacts and Citation Issuance), as well as EB-2 (Traffic Stop Data Collection). In addition, since September 2014, MCSO provided several drafts of their EIS policy to the Monitor and Plaintiffs' attorneys. Each subsequent draft includes more refined definitions and clarifications.

The majority of problematic issues have been resolved with the latest EIS draft in June 2015. However, during both our April and July 2015 site visits, we also met with several CID and EIU staff regarding issues related to EIS and this Paragraph. Several concerns were raised with MCSO about definitions and protocols included in earlier drafts of the EIS policy. Therefore, since the EIS policy remains under development and review, MCSO is not in Phase 1 compliance with Paragraph 70.

In addition, we have noted in the past that the documentation describing the “alert” of problematic behavior is not sufficient to judge whether any particular alert may have been “cleared” prematurely. As a result, in response to the last two documentation requests MCSO has produced a synopsis of alerts on a monthly basis as well as a more complete description of how those alerts have been handled or assigned.

EIU staff has provided memoranda on their methodology used to analyze traffic stop data on a weekly and monthly basis. These documents, and communication during the latest site visit with contracted ASU personnel, have clarified how EIU personnel try to identify “outliers,” “racial profiling,” and “improper conduct.” Members of the Monitoring Team will continue working with EIU staff and their contractor to fine-tune these analyses. However, as we have noted in earlier reports, MCSO should develop a statistically defensible process that excludes as much as possible the arbitrary and artificial setting of “alert” thresholds. Up to this point, the alerts outlined in the EIS Supervisory Manual are based upon the experience of EIU personnel and may, therefore, not uncover all aspects of biased policing not captured by these definitions and protocols.

The EIU have now produced several memoranda and spreadsheets pertaining to alerts during this, and the prior, reporting periods. The memoranda summarizes the alerts and how they were handled while the spreadsheets add additional detail regarding the investigation of EIU staff or the assignment of these alerts to district supervisors for a more thorough review, including an interview with the deputy whose behavior triggered the alert. The spreadsheet analysis provides context to the activity of EIU staff investigations. For instance, in one case the alert was triggered by “County Attorney Turndown” with the notation by EIU staff that “there was no reasonable likelihood of conviction.” As a result, EIU personnel sent a notification to the immediate supervisor to begin an investigation based on these EIS alerts. There are also examples of Internal Complaint alerts that resulted in discipline or supervisor counseling regarding CP-2 (Code of Conduct). The alert spreadsheets therefore show the wide array of activity that has sprung from the development of the EIPro “dashboard” of alerts contained in the EIS database.

EIU personnel also developed a synopsis of all alerts during these particular reporting periods. For instance, in April 2015, there were a total of 111 alerts. As a result of the initial investigation of these alerts, EIU personnel designated 70 of these as “false” alerts. During our July site visit, the term “false” was clarified to mean that through their investigation the EIU staff had been able to show why an alert calling for action had not yet been met. As an example, upon evaluation, EIU personnel found that several behaviors had been misidentified and while the deputy did have a “yellow” indicator on the dashboard, it did not yet rise to the level of a “red” alert requiring action. In other cases, the alerts were triggered because the same incident had been entered multiple times. In instances such as these, either EIU personnel, or the immediate supervisor, can clarify the numbers generated by the EIS system. EIU personnel clarified that

even though these alerts were downgraded, it does not mean they are discounted because it can still afford first line supervisors an opportunity to communicate with their subordinates about trends observed through the EIS system.

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

At present, MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

***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.*

We have been provided access to all existing data. As noted above, the additional spreadsheet analysis tracking the alert status of cases of concern has improved our view of the supervisory review process. Moreover, the addition of two specific TraCS fields that allow supervisors to acknowledge review of traffic stops and add comments pertinent to those traffic stops would appear to alleviate concerns that we have raised in the past. In addition, the Patrol and Supervisory Note inspections and County Attorney Disposition inspections conducted by BIO personnel have been informative and raised interesting issues that will be investigated in future document requests and site visits. In particular, the County Attorney Disposition report on "turndowns" provides limited detail about the reason for the County Attorney turning down prosecution for these cases. The inspection report notes that an internal review showed that even though cases were turned down by the County Attorney the officer "complied with procedure" at a rate ranging from 79% in January 2015 to 93% in April 2015. While we acknowledge the improvement, we still require more information from MCSO to ensure that "turndowns" are not endemic of more systemic problems that may pertain to issues involved in the Court Order. Moreover, we want to ensure that supervisors are adequately reviewing deputy reports to minimize the problems of "turn downs" at the outset.

We will continue to observe and evaluate the introduction of new software systems that impact the ability of supervisors to effectively supervise their subordinates. In that vein, we were informed during our July 2015 site visit that EIU personnel had developed a new set of self-populating supervisory tables that are going to provide supervisors throughout the agency with the ability to pull up all traffic stops for a single deputy for review as well, as the ability to compare significant traffic stop details such as length of traffic stop, citation rates, arrest rates, and the like across their entire squad of deputies or any subset therein. These are significant advancements for supervisory personnel. In upcoming site visits, we will meet with line supervisors to gauge how they are using these new tools, keeping in mind that they may not be employed until such time as the new Supervisory Training curriculum is approved and finalized.

In addition, we will be requesting additional information in the Inspection reports from BIO. To this point, we have had access to all data that we have requested. We will continue to expect unfettered access to these reviews as they are completed.

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

Section 8: Early Identification System (EIS)

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

a. Development and Implementation of the EIS

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

The Early Intervention Unit (EIU) staff continues to do a noteworthy job of providing data, conducting audits, and developing an EIS system that incorporates pieces of information from across the organization. Moreover, BIO personnel have shown through the Supervisory Note Inspections how quickly MCSO has responded to the finding that less than 50% of supervisors were effectively using many of the EIS tools available for supervision during their March 2015 inspection. BIO staff noted these deficiencies and recommended supervisory training and instruction to facilitate the use of the tools that were being made available for supervisor functions. As a result, over 94% of supervisors are now using those same tools as evidenced in the findings of the May and June 2015 inspections. These changes were accomplished without the benefit of an overarching EIS policy to guide them.

As noted earlier, a draft EIS policy was provided by MCSO on September 4, 2014 to the Monitoring Team and the Plaintiffs’ attorneys, who recommended several changes and modifications. The EIS policy was returned to MCSO on October 16, 2014. We received a subsequent revision of the EIS policy from MCSO in February 2015, and returned it with comments and suggestions in March 2015. We received a third draft from MCSO in June 2015, and we returned it in the same month with additional comments and clarification. During our July 2015 site visit, several Plaintiffs’ representatives noted that they had not received the second or third drafts of the EIS policy and that they had several concerns that were raised during these meetings covering the EIS system. MCSO provided the Plaintiffs’ attorneys with the latest EIS draft policy; the Plaintiffs’ attorneys submitted their comments in a letter dated August 4, 2015. In the coming weeks, we will evaluate the changes proposed as this policy evolves. However, MCSO is not in Phase 1 compliance with this Paragraph at this time.

In addition, we have noted several additions to the data incorporated into the EIS system. First, within the TraCS data system, MCSO has added one field that allows supervisors to note their review of subordinates’ traffic stops, and a second field that allows supervisors to make specific comments on those stops when deemed necessary. Second, MCSO informed us of the implementation of EIPro in February 2015. EIPro is designed to facilitate a supervisor’s review of their subordinates’ agency history. While an improvement, this software still does not allow supervisors unfettered access to internal and external complaints; therefore, we continue to work on the draft EIS policy with MCSO to overcome these issues. EIPro was also introduced through a Briefing Board process that did not involve online or in-person training documentation. Both Plaintiffs’ attorneys and Monitor personnel have recommended that more

training on EIS is required as additional features are added to it. Moreover, MCSO must be able to memorialize who has received the training and how effective this training has been. Finally, during our April 2015 site visit, we were informed that MCSO had begun the procurement process for Makenotes, a software program designed for supervisory functions and oversight. At that time, we were not provided any documentation of this procurement or manuals that describe its use.

During our July 2015 site visit, MCSO informed us that its further evaluation of Makenotes showed that it would not meet the needs of MCSO; as a result, MCSO terminated the procurement process in favor of an in-house solution. We expect that the introduction of this new software will more closely align with the documentation of training requirements specified in other areas of the Court Order. It is disconcerting, however, that MCSO introduced EIPro and the two new fields in TraCS; and began procurement of Makenotes; without consultation with the Monitor or input from the Parties as required by this Paragraph. We expect that MCSO will be more transparent and inclusive in the future.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

As noted above, we received a third draft of the EIS policy in June 2015, and returned it the same month with additional comments and requests for clarification. During our July 2015 site visit, several Plaintiffs’ representatives noted that they had not received the second or third drafts of the EIS policy, and that they had several concerns that were raised during these meetings covering the EIS system. MCSO subsequently provided the Plaintiffs’ attorneys with the latest EIS draft policy; Plaintiffs’ attorneys submitted their comments to MCSO in a letter dated August 4, 2015. In the coming weeks, as this policy evolves, we will evaluate the changes proposed.

However, the EIU has come together well to this point. The unit is coordinated by a lieutenant, with three sergeants working on investigations, one analyst, and one administrative staff member. MCSO has provided an up-to-date organizational chart for the Bureau of Internal Oversight that incorporates the EIU personnel. The EIU staff continues to conduct Pre-EIS data analysis, since there is not yet an approved EIS policy, using data they have compiled from data sources across the organization – including CAD, RMS, Blue Team, TraCS, EIPro, and others.

As noted above, MCSO introduced EIPro, a supervisory software tool, into the EIS system in February 2015. However, the only material distributed about EIPro came from a Briefing Board posted by MCSO to its employees. Training on EIPro and other aspects of the EIS is being planned as part of supervisory training. Therefore, MCSO is not in Phase 1 compliance with this Paragraph.

Several issues remain from past site visits or reports pertaining to the sufficiency of data entry and inclusion, even though EIU has been organized as outlined above. Some of these issues are technological in nature, and others result from inadequate training or personnel unable to enter data into the electronic system.

For instance, in a memo from the Deputy Chief of the Technology Bureau in response to a request for information, we were advised that the current RMS system does not accommodate the incorporation of Incident/Field Based Reporting narratives into the data sharing system; therefore, MCSO is in the process of developing the necessary forms in TraCS. MCSO has provided the basic outline of the current Field Forms, but it has not yet developed how they will be included into the EIS system.

During our December 2014 site visit, we learned that some districts continued to have several hundred "open" Vehicle Stop Contact Forms in TraCS as the result of missing information that would not allow the form to be closed. By our April 2015 site visit, all but a few dozen of these remained outstanding. During our July 2015 site visit, we visited district offices, and found that all supervisors are now regularly checking the TraCS entries of their subordinates and any "open" forms are being closed properly and expeditiously.

Previously, MCSO had been procuring another software system, Makenotes, to facilitate supervisors' appraisals of their subordinates. However, between our April and July 2015 site visits, MCSO determined that Makenotes would not meet the needs of the agency, and therefore terminated this procurement process. MCSO technical personnel are attempting to develop alternative options using existing software to achieve the same flexibility sought by the agency. We will monitor the implementation and training of any new software additions to ensure that it meets the requirements of the Order.

Finally, we had requested an equipment tracking system to ensure that all districts had vehicles and computers with TraCS installed and operational. During our April 2015 site visit, we reviewed documentation indicating that over 98% of all vehicles had TraCS installed, and that each district office had additional computer terminals that could be used for TraCS data entry should the need arise. Moreover, during our inspections of district offices during our April and July 2015 site visits, we noted that there were sufficient additional patrol vehicles should any deputy experience a TraCS problem in his/her originally assigned vehicle. More importantly, MCSO has implemented a system for deputies to identify problematic equipment so that it can be addressed as quickly as possible.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

As noted above, a draft EIS policy has undergone several revisions with the latest offering from MCSO in June 2015, which we returned with suggestions for modification in during the same month. Moreover, Plaintiffs' representatives noted during our July 2015 site visit that they had not been kept apprised of revisions to the EIS policy. We will continue to work with the Parties to achieve a comprehensive EIS policy. In addition, MCSO is continuing to work toward adding software fixes and links to overcome some of the problems encountered in the existing EIS database. Since the EIS policy remains under development and review, MCSO is not in Phase 1 compliance with this Paragraph.

We have asked for clarification of the definitions included in the draft EIS policy including, but not limited to, "bias-based policing," "critical incidents," "County Attorney Actions," and the like. In a memorandum responding to a request for documentation, the EIU has further clarified these definitions.

In addition, at our September 2014, December 2014, and April 2015 site visits, EIU personnel provided insight into the ways that they used the data to conduct weekly and monthly analysis looking for "outliers," "potential questionable behavior," and "racial profiling." As a result of these discussions, we requested more documentation to support the analysis conducted. Similar to our observations in Paragraphs 64 and 65, the documentation provided in January 2015 provides insight into what EIU personnel are doing, but the process remains largely "qualitative" since it relies heavily on judgments of EIU personnel. MCSO has contracted with an outside vendor to develop a quantitative protocol for these alerts and investigations. While MCSO appears to be capturing most of the necessary information through the alert settings, the way in which the Department arrived at these alert thresholds remains unclear, and will have to be further developed in consultation with MCSO's contractor. While the additional spreadsheet analysis of alerts described earlier provides some insight into the clearance process of alerts by EIU personnel, or the transmittal of complaints to district personnel, the contractor will need to work with MCSO to address the qualitative aspects of the alert process and attempt to develop a quantitative one. We will continue to work with MCSO, and its contractor, to ensure a quantifiable and sustainable solution is found to address these issues. During both our April and July 2015 site visits, we met for extended periods of time with the contractor and found that they possessed the expertise necessary to convert the qualitative alert process to a quantitative one. We will work with both the contractor and MCSO to evaluate the methods they develop and outcomes they produce. We cannot make determinations about whether their methods actually get us closer to a statistically valid examination of discriminatory/biased policing until such time as we are able to evaluate the conclusions they come to and the method they use to arrive at these conclusions.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

Paragraph 75. *The EIS shall include a computerized relational database, which shall be used to collect, maintain, integrate, and retrieve:*

- a. *all misconduct Complaints or allegations (and their dispositions), excluding those made by inmates relating to conditions of confinement or conduct of detention officers (i.e., any complaint or allegation relating to a traffic stop shall be collected and subject to this Paragraph even if made by an inmate);*
- b. *all internal investigations of alleged or suspected misconduct;*
- c. *data compiled under the traffic stop data collection and the patrol data collection mechanisms;*
- d. *all criminal proceedings initiated, as well as all civil or administrative claims filed with, and all civil lawsuits served upon, the County and/or its Deputies or agents, resulting from MCSO Patrol Operations or the actions of MCSO Patrol Operation Personnel;*
- e. *all arrests;*
- f. *all arrests in which the arresting Deputy fails to articulate probable cause in the arrest report, or where an MCSO Supervisor, court or prosecutor later determines the arrest was not supported by probable cause to believe a crime had been committed, as required by law;*
- g. *all arrests in which the individual was released from custody without formal charges being sought;*
- h. *all Investigatory Stops, detentions, and/or searches, including those found by the Monitor, an MCSO supervisor, court or prosecutor to be unsupported by reasonable suspicion of or probable cause to believe a crime had been committed, as required by law;*
- i. *all instances in which MCSO is informed by a prosecuting authority or a court that a decision to decline prosecution or to dismiss charges, and if available, the reason for such decision;*
- j. *all disciplinary action taken against employees;*
- k. *all non-disciplinary corrective action required of employees;*
- l. *all awards and commendations received by employees;*
- m. *Training history for each employee; and*
- n. *bi-monthly Supervisory observations of each employee.*

The EIS policy outlining the data elements and processes remains under development and review. MCSO added the EIPro software to the EIS system and is working on the development of additional software options to improve the ability of supervisors to evaluate the activity of their subordinates. However, at this time, we have no description or documentation regarding these software changes and how they will be incorporated into the EIS process. Therefore, MCSO is not in compliance with this Paragraph.

Some of the issues raised in past evaluations of the draft EIS policy are definitional and have been subsequently addressed through clarification documents; for instance, in 75.a., the IR Memorialization (IRM) includes the concept of biased-based policing; and in 75.c. (IRM) we recommended that MCSO provide definitions of Investigatory Stop Violations and Incidental Contacts which have also been added. Issues such as these have been easily rectified. We have continued to recommend additional modifications, as in 75.d., regarding “criminal charges,” and 75.f., “County Attorney Actions,” that could also be rectified with minor changes in language.

Other issues involve access to details about internal and external complaints involving subordinates (Subparts 75.a. and 75.b of this Paragraph) for supervisory personnel. All previous versions of the draft policy, as of July 2015, did not allow supervisors to review this particular information for deputies under their command without the assistance of EIU or PSB personnel. The purported introduction of EIPro in a more recent formulation of the EIS software appeared to afford such access for supervisors. However, during our April 2015 site visit, there continued to be resistance to allowing supervisors independent and immediate access to internal and external complaints against subordinates in a timely fashion that does not require the involvement of EIU or PSB personnel. We will have to continue to confirm the inclusion of these elements through document review and examination in the future.

Finally, as noted in Paragraph 73, the Technology Bureau Chief has advised that the bureau is working to ensure that field reports are included in the data that combines to make the entirety of the EIS data system more complete. As noted above, MCSO is also working to improve software options for supervisor review, which we will evaluate during future site visits. MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

***Paragraph 76.** The EIS shall include appropriate identifying information for each involved Deputy (i.e., name, badge number, shift and Supervisor) and civilian (e.g., race and/or ethnicity).*

EB-2 (Traffic Stop Data Collection) requires the capture of the information necessary for EIU personnel to link a deputy’s traffic stops, along with the racial and ethnic make-up of those stopped, to the actions the deputies take in those stops. In addition, the integrity analyses conducted by our personnel have shown that this information is rarely missing from the TraCS data supplied by MCSO. During our July 2015 site visit, we discussed a few instances in which the CAD data indicated that back-up officers had arrived at the scene of a traffic stop but were not indicated on the original officers TraCS form. MCSO is investigating the modification of TraCS to provide drop-down boxes for back-up officers that are automatically created when the number of officers on the scene exceeds one. This was done for vehicle passengers and has improved the information available for review in the EIS system. We will continue to monitor the modification of TraCS. MCSO is in compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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.

As noted above, during our September 2014 and December 2014 site visits, the issue of “necessary equipment, in sufficient amount and in good working order” was requested from MCSO. As noted in Paragraph 73, MCSO provided documentation that over 98% of vehicles assigned to Districts for patrol activities are already equipped with TraCS. Moreover, in the rare event that a TraCS vehicle is not available, or the vehicle equipment is not working, each district has equipment within its offices that would allow a deputy to input his/her traffic stop information before the end of their shift (EB-2, Traffic Stop Data Collection, 4A1). In addition, the Deputy Chief of the Technology Management Bureau has provided a memorandum in response to our document request that comprehensively shows the deployment of personal computers and printers across the districts and specialty units. During inspections of districts during our April and July 2015 site visits, we were able to visually confirm the availability of replacement squads equipped with TraCS and computers at each of the district offices should vehicle systems fail. The memorandum is also a testament to the security of the system. At present, it would appear that the technology and equipment available meet the requirements of the Order.

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

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

As noted previously, the EIS policy remains under development and review. Therefore, MCSO is not in Phase 1 compliance with this Paragraph.

Prior to our September 2014 site visit, a draft EIS policy was received by the Monitoring Team and Plaintiffs’ attorneys on September 4, 2014. This document was returned to MCSO on October 16, 2014, with extensive comments from both Monitoring Team personnel and Plaintiffs’ attorneys. In response to our last document request, MCSO provided a new draft EIS

policy on February 23, 2015. We returned this draft with comments and discussed several issues noted above during the April 2015 inspection. Subsequently, MCSO provided a third draft of the EIS policy in June 2015, which we returned with comments during the same month. The EIS policy was also the focus of several meetings during our July 2015 site visit. Plaintiffs' attorneys at those meetings indicated that they had not seen the latest drafts of the EIS policy. This oversight was corrected, and Plaintiffs' attorneys have now had the opportunity to comment on the latest draft policy. Future reports will discuss the latest policy efforts and the inclusion of additional software features being developed by MCSO to afford supervisors the ability to include ongoing review and comments regarding their subordinates. We will evaluate these systems as they become available, including the training protocols put in place.

The Deputy Chief of the Technology Management Bureau provided a memorandum in response to Paragraph 77 that is also pertinent to Paragraph 78. On the second page of this memorandum, dated October 17, 2014, there is a description of the security of the database and server. These appear to meet the requirements of the Order. However, at present, MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

***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.*

In the absence of a finalized EIS policy, or a fully integrated database as noted previously, MCSO personnel in the EIU have done a notable job pulling together data to conduct analyses looking for behavior that may appear to be outside the norm. However, at present, MCSO is not in Phase 1 compliance with this Paragraph. A new draft of the EIS policy is under development.

The Chief of the Technology Bureau has enumerated in a memorandum provided after our December 2014 site visit describing how MCSO is developing new forms in TraCS to address the inadequacies of the current RMS system to integrate Incident/Field Based Reporting narratives into the data-sharing system. During our July 2015 site visit, MCSO informed us that this process of incorporating incident reports into TraCS is ongoing. MCSO has also added the EIPro software to the EIS system, which affords supervisors some insight into the agency history of personnel under their command.

However, as noted previously, the current system still does not allow supervisors access to internal and external complaints without the assistance of EIU or PSB personnel. Moreover, this additional software was introduced for use with only a Briefing Board and no formalized in-person or online training. We informed MCSO that this would not be sufficient and MCSO has incorporated this training into the proposed lesson plans for supervisors, which are still awaiting final approval. Moreover, MCSO had been procuring the Makenotes software from CI Technologies to afford supervisors a more complete mechanism to evaluate the personnel under

their command. However, following a more thorough analysis of this software, MCSO concluded that it would not fit its needs and could not be easily modified. Accordingly, MCSO is now investigating additional options to modify their existing software to make sure that the EIS system meets all aspects of the Order. We will be evaluating all aspects of these new software systems, the training for them, and their application in the field during future site visits.

We were apprised of the weekly and monthly audits being conducted by EIU personnel during our December 2014 site visit. MCSO has provided monthly memorandum since February 2015 that enumerates the alerts EIU personnel have discovered. As a result of further request and consultation, MCSO has now provided a spreadsheet that coincides with their numerical tally of alerts and the subsequent outcomes. This spreadsheet provides much more detail that allows us to understand why some alerts resulted in quick termination by EIU personnel and why others were forwarded to District personnel. This spreadsheet also describes the timeframe allowed for District investigations, as well as space indicating the outcome of the investigation. This new detail has allowed for more transparency of alert processes. However, as noted above, there remain several issues about the setting of thresholds that EIU and District personnel employ in their investigations. We anticipate that the recently contracted outside vendor for data analysis will add detail to these processes that is currently lacking. Finally, EIU personnel have developed a new set of self-populating supervisory tables that will provide supervisors throughout the agency with the ability to pull up all traffic stops for a single deputy for review, as well as the ability to compare significant traffic stop details such as length of traffic stop, citation rates, arrest rates and the like across their entire squad of deputies or any subset therein. These are significant advancements for supervisory personnel.

While EIU personnel are doing well during this pre-EIS stage, they need to be more comprehensive and detailed in the process and production of their reports.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

b. Training on the EIS

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

As noted above and in a memorandum for Paragraph 80 dated January 26, 2015, the EIU was developing a new version of the EIS policy that was delivered in February 2015. We have made additional suggestions and comments to the latest policy draft in late March 2015. A third draft of the EIS policy has been received and reviewed by us in June 2015. Following a request by Plaintiffs' attorneys during our July 2015 site visit, they have also been afforded the opportunity to comment on the latest draft of the EIS policy. MCSO has added the EIPro software to the EIS system in January 2015, and proposes to modify existing software to afford supervisors greater flexibility in evaluating their subordinates. Finally, MCSO has provided a draft training curriculum for supervisors utilizing the EIS system. We and Plaintiffs' attorneys have made comments on this training material, and we continue to work with MCSO and the Plaintiffs' attorneys to finalize this important requirement of the Order. At this point, since the policy has not yet been approved, MCSO is not in Phase 1 compliance with this Paragraph.

MCSO added the EIPro software to the EIS system in January 2015, and introduced this to the agency through a Briefing Board. EIPro allows supervisors to have access to the history of personnel under their command with the exception of internal and external complaints that can only be accessed through collaboration with EIU or PSB personnel. We have recommended that this be modified to allow immediate access to these types of reports by supervisors. MCSO has been notified repeatedly that without such modifications we cannot approve the EIS system. In the latest draft of the EIS policy of June 2015, this deficiency had not been rectified. Moreover, during the review of the Supervisory Training Curriculum in June 2015, we noted that the training differentiated "Employees with Purview" from line supervisors regarding access to information about internal and external complaints. As written, the training would only allow Command staff, as opposed to all line supervisors, access to these materials. Furthermore, it came to our attention during our July 2015 site visit that EIU personnel had not yet seen the proposed training curriculum even though the majority of the training surrounds the use of the EIS database. Additional issues regarding the training curriculum were provided to MCSO for review and incorporation.

During our April 2015 site visit, EIU personnel claimed that EIPro was self-descriptive and did not require online or in-person training. We questioned whether that met the requirements of the Order; and recommended that a process similar to the overhauling of TraCS training be implemented for EIPro, as well. This training was incorporated into the Supervisor Training Curriculum outlined above. It should also be noted that during district inspections during our April and July 2015 site visits, supervisory personnel were able to easily access the EIPro system and show how they are able to keep track of the alert status and employment history of their subordinates. Nonetheless, training must be articulated clearly and administered in a way to capture who has successfully completed the process to meet the requirements of the Order.

As noted previously, MCSO had been procuring a new software component, Makenotes from CI Technologies but has now terminated that procurement after it was found that the software did not meet the needs of the Agency and could not be modified. MCSO is in the process of evaluating the ability to modify existing software that will purportedly allow supervisors the ability to easily evaluate the employees under their command in accordance with the Order. We have received no documentation about EIPro or these new software modifications. Our future site visits will focus on these additions to the EIS system and the related training. Finally, EIU personnel have also developed a new set of self-populating supervisory tables that are going to provide supervisors throughout the agency with the ability to pull up all traffic stops for a single

deputy for review, as well as the ability to compare significant traffic stop details such as length of traffic stop, citation rates, arrest rates, and the like across their entire squad of deputies or any subset therein. These are significant advancements for supervisory personnel.

However, as a result of the limitations outlined above, MCSO is not in compliance with Paragraph 80.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

c. Protocol for Agency and Supervisory Use of the EIS

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

- a. *comparative data analysis, including peer group analysis, to identify patterns of activity by individual Deputies and groups of Deputies;*
- b. *identification of warning signs or other indicia of possible misconduct, including, but not necessarily limited, to:*
 - i. *failure to follow any of the documentation requirements mandated pursuant to this Order;*
 - ii. *racial and ethnic disparities in the Deputy's traffic stop patterns, including disparities or increases in stops for minor traffic violations, arrests following a traffic stop, and immigration status inquiries, that cannot be explained by statistical modeling of race neutral factors or characteristics of Deputies' specific duties, or racial or ethnic disparities in traffic stop patterns when compared with data of a Deputy's peers;*
 - iii. *evidence of extended traffic stops or increased inquiries/investigations where investigations involve a Latino driver or passengers;*
 - iv. *a citation rate for traffic stops that is an outlier when compared to data of a Deputy's peers, or a low rate of seizure of contraband or arrests following searches and investigations;*
 - v. *complaints by members of the public or other officers; and* vi. *other indications of racial or ethnic bias in the exercise of official duties;*
- c. *MCSO commander and Supervisor review, on a regular basis, but not less than bimonthly, of EIS reports regarding each officer under the commander or Supervisor's direct command and, at least quarterly, broader, pattern-based reports;*

- d. *a requirement that MCSO commanders and Supervisors initiate, implement, and assess the effectiveness of interventions for individual Deputies, Supervisors, and units, based on assessment of the information contained in the EIS;*
- e. *identification of a range of intervention options to facilitate an effective response to suspected or identified problems. In any cases where a Supervisor believes a Deputy may be engaging in racial profiling, unlawful detentions or arrests, or improper enforcement of Immigration-Related Laws or the early warning protocol is triggered, the MCSO shall notify the Monitor and Plaintiffs and take reasonable steps to investigate and closely monitor the situation, and take corrective action to remedy the issue. Interventions may include but are not limited to counseling, Training, Supervisor ride-alongs, ordering changes in practice or procedure, changing duty assignments, Discipline, or other supervised, monitored, and documented action plans and strategies designed to modify activity. All interventions will be documented in writing and entered into the automated system;*
- f. *a statement that the decision to order an intervention for an employee or group using EIS data shall include peer group analysis, including consideration of the nature of the employee's assignment, and not solely on the number or percentages of incidents in any category of information recorded in the EIS;*
- g. *a process for prompt review by MCSO commanders and Supervisors of the EIS records of all Deputies upon transfer to their supervision or command;*
- h. *an evaluation of whether MCSO commanders and Supervisors are appropriately using the EIS to enhance effective and ethical policing and reduce risk; and*
- i. *mechanisms to ensure monitored and secure access to the EIS to ensure the integrity, proper use, and appropriate confidentiality of the data.*

The EIS policy and the protocols to be used by supervisory personnel remain under development and revision. As noted above, MCSO had submitted a new draft EIS policy in February 2015; and was provided with comments and suggestions in late March 2015. A third draft was received and commented on in June 2015. Moreover, the EIS policy was the focus of several meetings during our July 2015 site visit. During these meetings, it came to our attention that Plaintiffs' attorneys had not been provided some drafts of the EIS policy. This oversight was rectified, and Plaintiffs' attorneys have now been afforded the opportunity to make comments and suggestions on the evolving EIS policy and database. In addition, MCSO is proposing to add a new element to the EIS data to facilitate supervisor evaluations of their subordinates. This will involve a modification of existing software programs. We will evaluate each modification to the data and policy as they are proposed and introduced. Therefore, MCSO is not in Phase 1 compliance with this Paragraph.

Both we and the Plaintiffs' attorneys have made suggestions and comments on the draft EIS policy and returned same to MCSO. Highlights of those suggestions for this Paragraph include:

- 1) Delineating a more thorough description of the threshold limits and empirically evaluating, with their outside contractor, the adequacy of these limits, for actions that could result in an alert;

- 2) Including in the policy or supporting protocols a more complete description of how the EIU may set different thresholds depending on the assignment of any given deputy (81f);
- 3) Training on EIS should be included in the checklist of training and MCSO should attempt to capture which individuals received training in TraCS and EIPro since there is no memorialization of this at present;
- 4) As noted previously in the discussion of alerts related to racial profiling, MCSO should consider a more robust operationalization of this concept in a way that is understandable to all parties. It is expected that with the addition of an outside contractor, who was present during both our April and July 2015 site visits, that these issues will be quickly resolved; and
- 5) Creating a protocol or template for EIU and district personnel to further memorialize how alerts are cleared, forwarded for additional investigation, or result in counseling or retraining. While the spreadsheet data provided by MCSO during the last data production request illuminates this process, we have suggested ways in which this might be more efficiently done. Once again, the inclusion of the outside contractor may ameliorate these issues in the future. Several of these issues have already been addressed by MCSO. For instance, in the latest version of the EIS Supervisors Manual, MCSO has created two appendices that describe in detail the issues outlined in items 1 and 2 above. Moreover, the Supervisory Training Curriculum and TraCS training curriculum are in the development process; we will evaluate these as they progress and become available for implementation. Finally, we have met on several occasions with the outside contractor assisting MCSO in its data development and analysis. This contractor possesses the expertise to meet the requirements of the Order and we will evaluate their proposals and reports as they become available.

Finally, EIU personnel have developed a new set of self-populating supervisory tables that will provide supervisors throughout the agency with the ability to pull up all traffic stops for a single deputy for review; as well as the ability to compare significant traffic stop details such as length of traffic stop, citation rates, arrest rates and the like across their entire squad of deputies or any subset therein. These are significant advancements for supervisory personnel. This new tool will also have to be included in the Supervisory Training that is currently under development. We have also requested the opportunity during upcoming site visits to monitor and observe supervisor/subordinate monthly reviews of activity, as well as intervention investigations as a result of alert activation. Future reports will recount the findings from these observations.

At present, MCSO is not in compliance with Paragraph 81.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

Section 9: Supervision and Evaluation of Officer Performance

COURT ORDER X. SUPERVISION AND EVALUATIONS OF OFFICER PERFORMANCE

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

a. General Duties of Supervisors

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

We reviewed all policy submissions, and the policy requirements for Paragraph 83 are covered under GC-17 (Employee Disciplinary Procedure), which was revised on September 5, 2014. MCSO's policy is in compliance with Paragraph 83.

We conducted interviews with supervisors and commanders from two districts during our July 2015 site visit to determine if there is compliance with the policy.

We conducted interviews with a District 2 supervisor and a District 2 Commander. The Commander indicated that supervisors respond to certain arrests but there is no set requirement as to which type of arrests they respond to. Supervisors generally respond to any arrest involving use of force. The Commander also stated that supervisors review, sign and date all incident reports. The Commander indicated that District 2 deputies continue to complete Field Interview (FI) cards on the Justice Web Interface (JWI) system. The Commander was aware that there is a requirement for supervisors to review FI cards, and she stated that it is her understanding that a solution is being worked on. The Commander also stated that she was selected to serve on a committee that is working on developing a daily activity report. The supervisor interviewed confirmed that there is no specific type of arrests that supervisors are required to respond to. The supervisor stated that he reviews and signs all incident reports, and checks for articulation of probable cause in arrests. Neither deputies nor supervisors are completing daily activity reports.

In our site visit to District 2, we observed that citizen complaint forms were readily accessible to the public, in English and Spanish, in the lobby or areas generally open to the public on a 24/7 basis. An inspection of the facility revealed no collection boxes for identification documents or license plates. The Commander advised us that incident reports are generated for any identification documents and license plates seized, and the items are placed in a secure location until transferred to the Property Unit.

We conducted a site visit to District 3 and met with the District Commander and a district supervisor. The supervisor advised us that supervisory response to arrests is left up to the discretion of the supervisor; there is no written directive as to which type of arrests require a supervisory response. FI cards are completed on the Justice Web Interface (JWI), but there are not many FI cards completed by deputies. Supervisors are instructed to check reports for accuracy and completeness, and administrative personnel ensure that reports are completed and turned in on time. An inspection of the facility confirmed that the boxes previously used to collect identification documents and license plates are no longer in use. As with District 2, identification documents and license plates are documented with an incident report and the evidence is secured until transferred to the Property Unit. Citizen complaint forms were available in English and Spanish in the lobby of the District 3 station.

We reviewed a representative sample of 90 incident reports for April 2015, for the randomly selected dates of April 6, and April 22, 2015. Eighty-nine, or 99%, of the 90 incident reports were memorialized within seven days. Five vehicle crash reports included the name of the reviewing supervisor, but there was no signature or date of review. All incident reports had been reviewed and signed by a supervisor. MCSO has changed the report format to show the date when a deputy submits the report to the supervisor, and the date of supervisory review. Twelve of the reports were completed using the old format, where the deputy authoring the report is named but there was no date to confirm that the report was turned in before the end of the shift. Two of 12 arrest reports reviewed were not memorialized by a supervisor within the required 72 hours.

We reviewed a representative sample of 115 incident reports for May 2015, for the randomly selected dates of May 3, and May 13, 2015. A total of 111 of the 115 incident reports, or 97%, were reviewed and memorialized within seven days as required by Paragraph 83. All 12 arrest reports reviewed were memorialized by a supervisor within 72 hours. Several crash reports included the supervisor's name, but no signature or date, on the report.

We reviewed a representative sample of 99 incident reports for June 2015, for the randomly selected dates of June 8, and June 21, 2015. Ninety-seven of the 99 incident reports, or 98% were reviewed and memorialized by a supervisor within seven days as required by Paragraph 83. All 27 arrests submitted, or 100%, were memorialized by a supervisor within the required 72 hours. Twenty-two vehicle crash reports included the supervisor's name, but not the signature or date of review, on the report.

We reviewed 12 Field Interview (FI) cards that were completed during the reporting period. The FI cards were completed in the Justice Web Interface (JWI). There is no evidence of supervisory review in any of the completed FI cards; the FI format on JWI does not have a field to capture or memorialize supervisory reviews.

During our July 2015 site visit, we met with MCSO command staff and discussed the issues associated with the lack of a daily activity reports for deputies and supervisors, as well as the need to identify which type of arrests supervisors should be required to respond to.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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.

We recently reviewed a draft of revised policy GB-2 (Command Responsibility); and both we and the Plaintiffs' attorneys provided comments pertaining to Paragraph 84, to MCSO. Paragraph 84 requires that, within 120 days of the effective date, all patrol deputies shall be assigned to a single, consistent, clearly identified supervisor and that first-line supervisors shall be assigned to supervise no more than 12 deputies. The current draft of GB-2, once implemented, will meet the requirements of Paragraph 84. MCSO is not in Phase 1 compliance with this Paragraph.

To verify Phase 2 compliance with this Paragraph, we reviewed monthly rosters and shift rosters for the second quarter of 2015. We also reviewed the "June 2015 Patrol Bureau Shift Roster Inspection Summary," which described BIO's examination of every MCSO shift roster in June to verify, among other points, that shifts did not exceed the 1:12 supervisor-to-deputies ratio.

In accordance with our methodology, for April, we reviewed a sample of rosters from Districts 1 and 2; for May, we reviewed a sample of rosters from Districts 3 and 4; and for June, we reviewed a sample of rosters from Districts 6, 7, and Lake Patrol. Monthly and daily rosters show that deputies are assigned to one single consistent supervisor and that supervisors are assigned no more than 12 deputies. All districts are completing monthly rosters.

During our July 2015 site visit, we interviewed supervisors and commanders from District 3 and District 4. In our discussions, we learned that supervisors have no more than 12 deputies reporting to them, and that supervisors work the same days and hours as the deputies that report to them.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Deferred

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

We reviewed MCSO's policy submissions, and the requirements for Paragraph 85 are covered under EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) as revised on September 22, 2014. EB-1 is in compliance with Paragraph 85. EB-1 states, "Supervisory Responsibilities: First line supervisors shall individually discuss the traffic stops made by each deputy under their supervision at least one time per month. The discussion shall include whether the deputy detained any individuals and the reason for such detention, and whether any stops involved immigration issues."

We reviewed MCSO's submission as proof of compliance with Paragraph 85. A document request was made for MCSO to provide copies of reports documenting that supervisors are meeting with and discussing individually the stops made by each deputy, at least once per month. We requested documentation for one randomly selected supervisor from each district, for each month of the review period, and the squad of deputies that reports to that supervisor. MCSO submitted 146 supervisory notes completed for 121 deputies. Some supervisory notes covered a two-week period.

Of the 146 supervisory notes reviewed, very few contained all the necessary information in order to meet the requirements of Paragraph 85. We found that some supervisors were methodical reviewers and were thorough in their documentation, but these were the exception, as most supervisors tended to be very brief in their comments and failed cover the required areas. Some supervisors are making comments and notations in a section of the Blue Team Notes titled "Allegations Linked to this Officer." We do not believe this field in Blue Team Notes was intended for that purpose. The comments are in bulleted form and appear intended to cover the topics required in the supervisory meeting. We found these comments to be repetitive, and they appeared to be cut-and-paste, as the wording was almost identical in all their supervisory notes. It also appears that there are still some supervisors that are simply reviewing the information in the data tracking system and rendering a conclusion as to whether or not the deputy conducted the stops and detentions in accordance with this Paragraph. This Paragraph requires a conference or meeting to discuss each stop, and the reason for the stop or detention, with the deputy.

During our July 2015 site visit, we addressed with MCSO command staff the deficiencies with supervisory reviews of stops and detentions, and the documentation of monthly discussions between supervisors and subordinates. MCSO needs to continue to work with supervisors to improve the quality of these monthly supervisory reviews.

During our October site visit, we will again discuss with MCSO the concerns found with the documentation of supervisory reviews of traffic stops. We believe that training will remedy the majority of the documentation issues. However, MCSO must also ensure that supervisors are meeting with subordinates to discuss traffic stops, and not merely reviewing data in TraCS.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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.

We recently reviewed a draft of revised policy GB-2 (Command Responsibility); and both we and the Plaintiffs' attorneys provided comments pertaining to Paragraph 86, to MCSO. Paragraph 86 requires that on-duty field supervisors be available throughout their shifts to provide adequate on-scene field supervision to deputies under their direct command and, as needed, to provide supervisory assistance to other units. Paragraph 86 also requires that supervisors shall be assigned to work the same days and hours as the deputies they are assigned to supervise, absent exceptional circumstances. The current draft of GB-2, once implemented, will meet the requirements of Paragraph 86. MCSO is not in Phase 1 compliance with this Paragraph.

To verify Phase 2 compliance with this Paragraph, we reviewed a sample of daily shift rosters for the second quarter of 2015. For April, we reviewed Districts 1 and 2; for May, we reviewed Districts 3 and 4; and for June, we reviewed Districts 6, 7, and Lake Patrol. Monthly and daily rosters indicate that deputies are assigned to and work the same schedules as their supervisors.

However, there is no currently available documentation that could assist us to audit the Paragraph 86 requirement that field supervisors provide adequate on-scene field supervision to deputies under their direct command. Supervisors do not complete daily activity reports to document their supervision or daily contacts with the deputies assigned to them. We have been involved in ongoing discussions with MCSO regarding possible methods to document these interactions.

In our discussions with MCSO, we have stressed the importance of daily activity reports in order to verify supervisory interaction with subordinates during their shift. MCSO has indicated that an electronic format would be more efficient, instead of reverting to paper reports. While we understand the advantages of an electronic format, we have yet to receive a status report on this project. We will meet again with the MCSO staff during our October site visit to inquire on the status of daily activity reports.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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.

We reviewed the submissions and the policy requirements for Paragraph 87 covered under GC-17 (Employee Disciplinary Procedure), which was revised on September 5, 2014. MCSO's policy is in compliance with Paragraph 87.

GC-17 (revised September 15, 2014) states, "Commanders and supervisors shall be accountable for the quality and effectiveness of their supervision, including whether commanders and supervisors identify and effectively respond to misconduct, as part of performance evaluations or through non-disciplinary corrective action, or through the initiation of a formal investigation and the disciplinary process, as appropriate."

MCSO submitted a draft of policy GC-4 (Employee Performance Appraisals) in August 2015. The draft policy was reviewed and returned to MCSO with comments and suggestions. The policy is pending final review and approval.

We requested the performance appraisals for all deputies and supervisors who were evaluated during the review period. We received and reviewed 60 performance evaluations submitted for deputies who received evaluations between April 1, and June 30, 2015. Some performance evaluations were sufficiently detailed and well written, and others lacked substance and sufficient detail. We recommend that MCSO standardize requirements for the completion of performance appraisals, and conduct training to ensure consistency in documentation and ratings.

We also reviewed performance appraisals for 34 sergeants who received performance appraisals during this reporting period. Of the 34 supervisor performance evaluations, most contained an assessment of the quality and effectiveness of the sergeants' supervision. None of the 34 supervisors' performance evaluations contained comments regarding the supervisors' demonstrated ability to identify and effectively respond to misconduct. We addressed this issue with MCSO command staff during our July site visit.

MCSO submitted copies of reprimands for a captain, two lieutenants, and four sergeants. The reprimands were for personnel who previously worked in the Human Smuggling Unit. The supervisors and command personnel were reprimanded for failing to ensure that personnel under their command complied with established MCSO policy. This action was related to the Internal Affairs investigation into allegations that HSU members "pocketed" items seized from the public.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

b. Additional Supervisory Measures

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 has taken the position that it no longer has specialized units that enforce immigration laws. During discussions with CID and MCAO attorneys, we have suggested that applicable immigration laws and immigration-related crimes, as those terms are defined in the Order, be identified. From there, a determination can be made as to which units, if any, enforce these laws as one of their core missions.

In previous discussions, MCSO and MCAO attorneys articulated that the three criminal violations that they believe qualify as potentially immigration-related include: human smuggling; forgery; and misconduct with weapons. During our December 2014 site visit, we were informed that MCSO was disbanding the Criminal Employment Unit, which was part of the Special Investigations Division.

On November 7, 2014, a United States District Court Judge issued an Order permanently enjoining enforcement of Arizona Revised Statute (A.R.S.) 13-2319, commonly referred to as the Arizona Human Smuggling Act. On November 17, 2014, MCSO issued Administrative Broadcast 14-75, prohibiting deputies from enforcing the above statute including arresting, detaining, or questioning persons for suspected (or even known) violations of the Act and from extending the duration of traffic stops or other deputy-civilian encounters in order to do so.

During our April 2015 site visit, we met with the MCSO Command Staff to review proof of compliance that the Criminal Employment Unit (CEU) had been disbanded, as MSO had asserted, and that there were no Specialized Units enforcing immigration-related laws. MCSO submitted a copy of a memorandum dated December 15, 2014, from Deputy Chief Lopez to Chief Deputy Sheridan which states, "After a thorough discussion with Command Staff, it has been determined that the CEU will be disbanded after the current identity theft investigation concludes in the end of January or early February 2015. The Maricopa County Sheriff's Office will be voluntarily enjoining itself from investigating identity theft for the purposes of gaining employment. This determination was made after certain laws enacted by the State of Arizona have been enjoined by United States Federal Court Decisions. The grant funding provided by the State to MCSO to enforce these crimes will be returned to the State. Existing personnel assigned to CEU will be transferred to other units in the Office to fill manpower needs. CEU will be removed from the organizational chart and Operations Manual of the Special Investigations Division."

MCSO also submitted a memorandum dated January 6, 2015, from Executive Chief Trombi to Chief Deputy Sheridan which states, "As a direct result of US District Judge David G. Campbell's January 5, 2015 Order in *Puente Arizona v. Joseph Arpaio*, which was previously distributed via the Court Compliance Division, I have directed Deputy Chief Lopez to immediately cease any future and/or active/pending investigations related to ARS 13-2009(A)(3) and the portion of ARS 13-2008(A) that addresses actions committed 'with the intent to obtain or continue employment.' Additionally, I have directed Chief Lopez to immediately disband and

reassign deputies currently assigned to that investigative branch known as the Criminal Employment Unit and remove any such identifiers with our agency that indicate the existence of such a unit. These deputies shall be assigned to various other divisions/districts as deemed appropriate by office needs for resources.”

In addition, MCSO submitted a copy of a letter dated February 12, 2015, from Sheriff Joseph Arpaio to Ms. Kathy Peckardt, Interim Director of the Department of Administration of the State of Arizona. The letter states that MCSO will be returning \$32,292.72 in previously allocated State funds to enforce criminal employer sanctions.

MCSO advised us that the Criminal Employment Unit has been renamed the Anti-Trafficking Unit, and that its mission has changed to drug interdiction. MCSO submitted an organizational chart for the Special Investigations Division, which shows that the Criminal Employment Unit name has been changed to “ATU.”

During our July 2015 site visit, we met with MCSO command staff and attorneys to review proof of compliance that the Anti-Trafficking Unit, formerly known as the Criminal Employment Unit, had its mission changed, as MCSO had asserted, and that there were no specialized units enforcing immigration-related laws. MCSO submitted a copy of the Special Investigations Division’s Operations Manual with an effective date of May 15, 2015. The Operation Manual states, “The mission of the Maricopa County Sheriff’s office Anti-Trafficking Unit is to identify, investigate, and apprehend individuals involved in the Transnational Criminal Organizations (TCO) that engage in the following crimes: the smuggling of human beings and/or narcotics, money laundering, home invasions, kidnapping extortion, trafficking of weapons, and gang related crimes.” It was MCSO’s position that human smuggling was inadvertently left in as part of the ATU mission.

Until such time as the Special Investigation Division’s Operations Manual is revised to reflect that the Anti-Trafficking Unit no longer investigates human smuggling, compliance is deferred.

Compliance Status:

Phase 1: Deferred

Phase 2: Deferred

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

We reviewed the following documents submitted by MCSO as policy documentation relative to Paragraph 89 requirements: EA-11 (Arrest Procedures), which was revised on September 5, 2014; GC-17 (Employee Disciplinary Procedure), which was revised on September 5, 2014; and

proposed EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), which was revised on September 22, 2014. The requirements of the Paragraph are covered as a result of the combination of these policies.

We requested to inspect all reports related to immigration status investigations, any immigration-related crime, or incidents or arrests involving lack of identity. The incident reports submitted were for the period from April 1, 2015 to June 30, 2015. The MCSO submission consisted of six incidents that occurred during the time period requested. All incidents involved a physical arrest, and all were reviewed by a supervisor within 72 hours. Three incidents involved individuals driving with suspended licenses. One incident involved a warrant for theft of identity and possession of marijuana. One individual was involved in car crash but had no valid driver's license. One individual was arrested for criminal speeding, and had no valid driver's license. We reviewed all six incidents submitted for this reporting period, and found no issues of concern or compliance violations.

In MCSO's response, MCSO stated, "there were no immigration-related arrests or investigations, so there is no incident documentation to include in this response. There were no immigration-related arrests or investigations for misconduct with weapons or forgery, or for any immigration-related crime, so there is no incident documentation to include in this response."

MCSO has yet to establish daily activity reports for deputies and supervisors. Daily activity reports can be used document any arrests or investigations related to immigration, immigration-related crime, identity fraud, or lack of identity documents, and corresponding supervisory approvals or disapprovals. A supervisor's daily activity report may also be used to document any deficiencies or corrective actions related to any arrest or investigation in violation of MCSO policy.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

***Paragraph 90.** MCSO Deputies shall submit documentation of all stops and Investigatory Detentions conducted to their Supervisors by the end of the shift in which the action occurred. Absent exceptional circumstances, within 72 hours of receiving such documentation, a Supervisor shall independently review the information. Supervisors shall review reports and forms for Boilerplate or conclusory language, inconsistent information, lack of articulation of the legal basis for the action, or other indicia that the information in the reports or forms is not authentic or correct. Appropriate disciplinary action should be taken where Deputies routinely employ Boilerplate or conclusory language.*

We reviewed EA-11 (Arrest Procedures), which was revised on September 5, 2014. EA-11 states that deputies shall submit documentation of all stops, investigatory detentions, and arrests to their supervisors by the end of the shift in which the action occurred. Absent exceptional circumstances, within 72 hours of receiving such documentation, supervisors shall independently review the reports. If the incident did not include an arrest or detention, the supervisor shall review the IR within seven calendar days, absent exigent circumstances. Supervisors shall

review reports and forms for boilerplate or conclusory language, inconsistent information, lack of articulation of the legal basis for the action, or other indicia that the information in the reports or forms is not authentic or correct. Supervisors shall take appropriate action to address all violations or deficiencies in investigatory stops or detentions, including non-disciplinary corrective action for the deputy, or referring the incident for administrative review or criminal investigation. We reviewed EA-11, revised on September 5, 2014; and it is in compliance with this Paragraph.

We reviewed 35 incidents involving traffic stops for April 2015. Out of 35 traffic stops, two resulted in arrests, one for criminal speeding and one for driving with a suspended license. Only those stops that had an Incident Report associated with it had documentation of supervisory review. All 35 stops had Vehicle Stop Contact Forms, and in most instances also had traffic citations, but none of the Vehicle Stop Contact Forms contained any notations or signatures from a supervisor indicating that a review had taken place, and the date of the review. There were no notations by deputies on the Vehicle Stop Contact Forms, indicating the time they were submitted, and there were no acknowledgements of receipt or review by the supervisor. We were unable to verify if any were turned in by the end of the deputy's shift, or if the supervisor reviewed the documentation within 72 hours as required by this Paragraph.

We reviewed 34 incidents involving traffic stops for May 2015. Out of 34 traffic stops, three resulted in arrests, two for DUI and the other for driving with a suspended license. All 34 stops had Vehicle Stop Contact Forms, and in most instances also had traffic citations; but none of the Vehicle Stop Contact Forms contained any notations or signatures from a supervisor indicating that a review had taken place, and the date of the review. There were no notations by deputies on the Vehicle Stop Contact Forms, indicating the time they were submitted, and there were no acknowledgements of receipt or review by the supervisor. We are unable to verify if any were turned in by the end of the deputy's shift, or if the supervisor reviewed the documentation within 72 hours as required by this Paragraph.

We reviewed 35 incidents involving traffic stops for June 2015. Out of 35 traffic stops, none resulted in arrest. All 35 stops had Vehicle Stop Contact Forms, and in most instances also had traffic citations; but none of the Vehicle Stop Contact Forms contained any notations or signatures from a supervisor indicating that a review had taken place, and the date of the review. There were no notations by deputies on the Vehicle Stop Contact Forms, indicating the time they were submitted, and there were no acknowledgements of receipt or review by the supervisor. We are unable to verify if any were turned in by the end of the deputy's shift, or if the supervisor reviewed the documentation within 72 hours as required by this Paragraph.

We recommend that MCSO devise a way to record the date and time when deputies submit Vehicle Stop Contact Forms to their supervisors, on the form, and also find a way to memorialize the date of review by the supervisor in order to meet the requirements of this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

EB-1 (Traffic Enforcement, Violator Contacts and Citation Issuance) revised September 22, 2014, is compliant with the Paragraph 91 requirements.

We reviewed EA-11 (Arrest Procedures), which was revised on September 5, 2014. EA-11 states that deputies shall submit documentation of all stops, investigatory detentions, and arrests to their supervisors by the end of the shift in which the action occurred. Absent exceptional circumstances, within 72 hours of receiving such documentation, supervisors shall independently review the reports. If the incident did not include an arrest or detention, the supervisor shall review the IR within seven calendar days, absent exigent circumstances. Supervisors shall review reports and forms for boilerplate or conclusory language; inconsistent information, lack of articulation of the legal basis for the action, or other indicia that the information in the reports or forms is not authentic or correct. Supervisors shall take appropriate action to address all violations or deficiencies in investigatory stops or detentions, including non-disciplinary corrective action for the deputy; or referring the incident for administrative review or criminal investigation. We reviewed EA-11, revised on September 5, 2014, and it complies with this Paragraph.

We reviewed traffic stop data reported by MCSO for **April 2015**. Thirty-five reports for traffic-related events were submitted. MCSO reported that of the 35 reports, 21 traffic-related events, or 60%, had no deficiencies noted. Twenty-seven potential issues were discovered.

MCSO found that 32 of the 35 stops reviewed, or 91%, had a receipt that contained a signature or acknowledgement that the subject was served a receipt or had a documented reason for the lack of signature or service. All 35 stops, or 100%, had an Arizona Traffic Citation or Complaint, MCSO Written Warning, or MCSO Incidental Contact Form. Thirty-one of the stops, or 89%, had the post stop race/ethnicity on the Vehicle Stop Contact Form match the Arizona Traffic Ticket and Complaint Form or the MCSO Written Warning. Thirty-two of the stops, or 91%, had all subjects who were queried for an MVD/NCIC check on CAD and JWI documented on the Vehicle Stop Contact Form. Ten of the traffic stops reviewed were inspected to ensure that the deputy recorded the law enforcement reason for the stop in the dispatch audio recording. All 10 stops indicated 100% compliance. Two stops had IRs associated with them. Both stops, or 100%, had the IR memorialized by a supervisor within the timeline set by MCSO policy. Thirty of the stops, or 86%, had a Computer Aided Dispatch (CAD) documented reason for the traffic stop and they matched the documented reason for the stop on the Vehicle Stop Contact Forms. One of the stops, or 3%, listed the post-stop race/ethnicity as unknown for the driver on the Vehicle Stop Contact Form.

During this inspection, MCSO also discovered the following issues:

- In one stop, the reason for the stop on CAD was not the same as that listed on the Vehicle Stop Contact Form.

- In five stops, the CAD times did not match the times annotated on the Vehicle Stop Contact Forms.
- Three stops had missing, incomplete, or inaccurate information on the Vehicle Stop Contact Forms.
- In one stop, the Vehicle Stop Contact Form indicated that an arrest was made, but no search was documented.
- In five stops, the Vehicle Stop Contact Form perceived race/ethnicity did not match the post stop perceived race/ethnicity on the Citation or Written Warning.
- In four stops, the Vehicle Stop Contact Form did not document additional units.
- In two stops, there was missing, incomplete, or inaccurate information on the Citation, Written Warning, Incidental Contact Form or Incident Report.
- In three stops, CAD/JWI indicate that the deputy ran an MVD/NCIC check on subjects who do not appear on the Vehicle Stop Contact Form.
- In four stops, the receipts do not contain a signature or acknowledgement that the subject was served a receipt and did not document a reason for the lack of signature or service.

MCSO made several recommendations including additional training for deputies on the importance of accurately including all required data on MCSO forms, additional training on policies EB-1 and EB-2, mandatory supervisory periodic review of TraCS, the revision of EB-2 to mandate a signature from the violator or have the deputy check the “served” box with an explanation why there is no signature, and lastly that commanders ensure that the issues identified are addressed.

We reviewed traffic stop data reported by MCSO for **May 2015**. Thirty-five reports for traffic-related events were submitted. MCSO reported that of the 35 reports, 20 traffic-related events, or 57%, had no deficiencies noted. Twenty-four potential issues were discovered.

MCSO found that all of the 35 stops reviewed, or 100%, had Vehicle Stop Contact Forms completed. Of these, 35 of the stops, or 100%, had a Computer Aided Dispatch (CAD) documented reason for the traffic stop and they matched the documented reason for the stop on the Vehicle Stop Contact Forms. Thirty-five of the stops, or 100%, had a receipt issued to the driver and all contacted passengers. If not, the reason for no receipt was documented. One of the stops had passengers that were contacted but had a documented valid reason for doing so. Four of the stops, or 11%, had missing, incomplete or inaccurate information on the Citation, Written Warning, or Incidental Contact Forms. MCSO found that 33 of the 35 stops reviewed, or 94%, had a receipt that contained a signature or acknowledgement that the subject was served a receipt or had a documented reason for the lack of signature or service. Thirty-five of the 35 stops, or 100%, had an Arizona Traffic Citation or Complaint, MCSO Written Warning, or MCSO Incidental Contact Form. Thirty-two of the stops, or 91%, had the post stop race/ethnicity on the Vehicle Stop Contact Form match the Arizona Traffic Ticket and Complaint Form or the MCSO Written Warning. Thirty-five of the stops, or 91%, had all subjects who were queried for an MVD/NCIC check on CAD and JWI documented on the Vehicle Stop Contact Form. Ten of the traffic stops reviewed were inspected to ensure that the deputy recorded the law enforcement reason for the stop in the dispatch audio recording. All 10

stops indicated 100% compliance. Three stops had IRs associated with them. All three stops, or 100%, had the IR memorialized by a supervisor within the timeline set by MCSO policy. Thirty-two of the stops, or 91%, had a Computer Aided Dispatch (CAD) that matched the documented reason for the stop on the Vehicle Stop Contact Forms. One of the stops, or 3%, listed the post stop race/ethnicity as unknown for the driver on the Vehicle Stop Contact Form.

During this inspection, MCSO also discovered the following issues:

- Six stops had missing, incomplete, or inaccurate information on the Vehicle Stop Contact Forms.
- In one stop, the Vehicle Stop Contact Form unit number did not match CAD.
- In three stops, the Vehicle Stop Contact Form perceived race/ethnicity did not match the post stop perceived race/ethnicity on the Citation or Written Warning.
- In three stops, the CAD times did not match the times annotated on the Vehicle Stop Contact Forms.
- In three stops, the reason for the stop on CAD was not the same as that listed on the Vehicle Stop Contact Form.
- In three stops, the Vehicle Stop Contact Form did not document additional units.
- In two stops, the receipts do not contain a signature or acknowledgement that the subject was served a receipt and did not document a reason for the lack of signature or service.
- In three stops, there was missing, incomplete, or inaccurate information on the Citation, Written Warning, Incidental Contact Form or Incident Report.
- In three stops, the post-stop race ethnicity was not perceived/recorded on one or more passengers on the Vehicle Stop Contact Form.

MCSO made several recommendations including additional training for deputies on the importance of accurately including all required data on MCSO forms, additional training on policies EB-1 and EB-2, mandatory supervisory periodic review of TraCS, the revision of EB-2 to mandate a signature from the violator or have the deputy check the “served” box with an explanation why there is no signature, and lastly that Commanders ensure that the issues identified are addressed.

We reviewed traffic stop data reported by MCSO for **June 2015**. Thirty-five reports for traffic-related events were submitted. MCSO reported that of the 35 reports, 24 traffic-related events, or 69%, had no deficiencies noted. Twelve potential issues were discovered.

MCSO found that all of the 35 stops reviewed, or 100%, all had Vehicle Stop Contact Forms completed. Of these, 34 of the stops, or 97%, had a Computer Aided Dispatch (CAD) documented reason for the traffic stop and they matched the documented reason for the stop on the Vehicle Stop Contact Forms. Thirty-five of the stops, or 100%, had a receipt issued to the driver and all contacted passengers. If not, the reason for no receipt was documented. Two of the stops had passengers that were contacted but had a documented valid reason for doing so. Thirteen of the stops had additional passengers in the vehicle and all, or 100%, had the post stop race/ethnicity perceived/recorded on all passengers on the Vehicle Stop Contact Forms. Thirty-five of the stops, or 100%, had a receipt that contained a signature or acknowledgement that the

individual was served, or the lack of service was documented. Thirty-five of the stops, or 100%, had an Arizona Traffic Citation/Complaint or MCSO Written Warning, or MCSO Incidental Contact Form for each event. Thirty-five of the stops, or 100%, had the post stop race/ethnicity on the Vehicle Stop Contact Form match the Arizona Traffic Ticket and Complaint Form or the MCSO Written Warning. Thirty-four of the stops, or 97%, had all subjects who were queried for an MVD/NCIC check on CAD and JWI documented on the Vehicle Stop Contact Form. Ten of the stops were inspected to ensure that the deputy recorded the law enforcement reason for the stop on the dispatch audio recording, and there was 100% compliance in these 10 stops. Three of the stops had IRs associated with them. All three stops, or 100%, had the IR memorialized by a supervisor within the timeline set by MCSO policy. Thirty-three of 35 stops, or 94%, listed CAD times match the times annotated on the Vehicle Stop Contact Forms, or had a valid reason for the discrepancy. None of the Vehicle Stop Contact Forms associated with the 35 stops listed the post stop race/ethnicity as unknown.

During this inspection, MCSO also discovered the following issues:

- In one stop, the reason for the stop was not the same as that listed on the Vehicle Stop Contact Form.
- In two stops, the CAD times did not match the times annotated on the Vehicle Stop Contact Forms.
- In one stop, the post-stop perceived race/ethnicity listed on the Vehicle Stop Contact Form did not match the information listed on the Citation or Written Warning.
- Three stops had missing, incomplete, or inaccurate information on the Vehicle Stop Contact Forms. In one stop, there was missing, incomplete, or inaccurate information on the Citation, Written Warning, Incidental Contact Form or Incident Report.
- In two stops, the Vehicle Stop Contact Form did not document additional units.
- In three stops, there was missing, incomplete, or inaccurate information on the Citation, Written Warning, Incidental Contact Form or Incident Report.

MCSO has recommended additional training for deputies on the importance of accurately including all required data on MCSO forms.

We reviewed six Incident Memorialization Forms that were submitted for the period in review. One Memorialization Form was entered on April 28, 2015, for an incident that occurred on June 6, 2014. This incident involved an administrative investigation. The employee made conclusory statements on the arrest report. An Internal Affairs investigation sustained the findings. One Memorialization Form was related to an improper photo lineup, and the issue was addressed through training. One Memorialization Form was related to a deputy not reading *Miranda* warnings in a custodial interview. This incident was also addressed through training. The last two Memorialization forms were related to incident reports not turned in by the end of the shift as required, and the employees were counseled.

MCSO continues to conduct periodic inspections of investigatory stops and detentions to ensure that the deficiencies are identified and addressed. We believe that first-line supervisors are the cornerstones for ensuring compliance. In April 2015, field supervisors identified 17 deficiencies related to the documentation of traffic stops. In May 2015, supervisors identified six deficiencies

related to the documentation of traffic stops. In June 2015, supervisors identified 16 deficiencies related to the documentation of traffic stops. We are encouraged by the increased involvement of supervisors in the review of traffic stops, and their diligence in identifying deficiencies with documentation and record-keeping. We hope to see similar diligence as it relates to identifying substantive issues in stops and detentions that appear unsupported by reasonable suspicion or are otherwise in violation of MCSO policy, as required by this Paragraph. We recommend that commanders also be engaged and active in the supervision of field personnel. BIO should continue its efforts to identify deficiencies and make recommendations for solutions, but the ultimate responsibility will fall on supervisors in the field to identify issues and address them in a timely manner. MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

EA-11 (Arrest Procedures) was revised on September 5, 2014; and EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) was revised on September 22, 2014. EB-1 is compliant, in that it states that supervisors shall track each deputy's deficiencies or violations and the corrective action taken, in order to identify deputies who need repeated corrective action. EB-1 also states that supervisors shall take appropriate corrective or disciplinary action against supervisors who fail to conduct complete, thorough, and accurate reviews of deputies' investigatory detentions and stops. EB-1 states that supervisors shall track, through the Early Intervention System (EIS), each deputy's deficiencies or violations and the corrective action taken in order to identify deputies who need repeated corrective action. EB-1 also states supervisors shall notify the Professional Standards Bureau to ensure that each violation is documented in the deputy's performance evaluations and that the supervisory review shall be taken into account in the supervisor's own performance evaluations. EB-1 also states that MCSO shall take appropriate corrective or disciplinary action against supervisors who fail to conduct complete thorough and accurate reviews of deputies' investigatory detention and stops. EB-1 meets the requirements of Paragraph 92.

Policy GC-4 (Employee Performance Appraisals) is currently under revision and will contain the requirements of this Paragraph. We reviewed a draft of this policy and returned it to MCSO with comments. For the period under review, and until such time as GC-4 is published, MCSO is not in Phase 1 compliance with this Paragraph.

In response to our request for proof of compliance, MCSO submitted the following response:

“Review of deputies EIS profile is currently accomplished through the Blue Team dashboard. This dashboard displays colored lights. Red shows an alert has been set, Yellow shows one incident away from an alert. Green shows more than one incident away from an alert. The dashboard does not record when a supervisor looks at a deputy’s EIS profile. We have received requests from supervisors concerning information in an employee’s EIS profile and we have provided the information requested. However, there is no tracking method in place to record or track these requests.

“The Maricopa County Sheriff’s Office has purchased from the IPro vendor, CI Technologies, a new program called EI Pro. The Sheriff’s Office is beta testing the original version of EI Pro. This program does record when a supervisor looks at a specific incident in a deputy’s profile. In the actual user log for the specific IPro incident, the following is recorded:

“EIPRO: Employee user name [S...] accessed incident XXXX, where XXXX is the specific IA PRO internal number for the incident.”

MCSO also submitted a draft policy on the Early Identification System (EIS) in August 2015. We reviewed and returned the policy with comments and suggestions. Until such time as EIS is established throughout MCSO and supervisors are able to track each subordinate’s violations and deficiencies in investigatory stops and detentions, as well as the corrective actions taken, MCSO is not in compliance with Paragraph 92.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

EA-11 (Arrest Procedures) as revised on September 5, 2014 states that deputies shall submit documentation of all stops, investigatory detentions, and arrests to their supervisors by the end of the shift in which the action occurred. This revised policy is compliant with Paragraph 93.

We reviewed a representative sample of 90 incident reports for April 2015, for the randomly selected dates of April 6, and April 22, 2015. Eighty-nine, or 99%, of the 90 incident reports were memorialized within seven days. Five vehicle crash reports included the name of the reviewing supervisor, but there was no signature or date of review. All incident reports had been reviewed and signed by a supervisor. MCSO has changed the incident report format to document the date when a deputy submits the report to the supervisor, and the date of supervisory review. Twelve of the reports were completed using the old format where the deputy authoring the report is named but there was no date to confirm that the report was turned

in before the end of the shift. Two of 12 arrest reports reviewed were not memorialized by a supervisor within the required 72 hours.

We reviewed a representative sample of 115 incident reports for May 2015, for the randomly selected dates of May 3, and May 13, 2015. A total of 111 of the 115 incident reports, or 97%, were reviewed and memorialized within seven days as required. A supervisor memorialized all 12 arrest reports within 72 hours. Several crash reports included the supervisor's name, but there was no signature or date on the report.

We reviewed a representative sample of 99 incident reports for June 2015, for the randomly selected dates of June 8, and June 21, 2015. Ninety-seven of the 99 incident reports, or 98% were reviewed and memorialized by a supervisor within seven days as required. All 27 arrests submitted or 100% were memorialized by a supervisor within the required 72 hours. Twenty-two vehicle crash reports included the supervisor's name, but there was no signature or date of review on the report.

MCSO has shown improvement in this area by requiring that deputies document the date when incident reports are turned in, and requiring that supervisors sign and date the review. However, we are still observing reports turned in without a notation of the date when they were turned in by deputies, and most vehicle crash reports have no signatures or dates of supervisory review.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

***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.*

Our process for verification consists of reviewing supervisors' documentation of 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. MCSO submitted policies EA-11 that was revised on September 5, 2014 (Arrest Procedures). EA-11 states that supervisors shall document any arrests that appear unsupported by probable cause or are otherwise in violation of MCSO policy; or indicate a need for corrective action or review of MCSO policy, strategy, tactics, or training. Supervisors 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. EA-11 is in compliance with the requirements of Paragraph 94.

We reviewed six Incident Memorialization Forms that were submitted for the period in review. One Memorialization Form was entered on April 28, 2015, for an incident that occurred on June 6, 2014. This incident involved an administrative investigation. The employee made conclusory

statements on the arrest report. An Internal Affairs investigation sustained the findings. One Memorialization Form was related to an improper photo lineup, and the issue was addressed through training. One Memorialization Form was related to a deputy not reading *Miranda* warnings in a custodial interview. This incident was also addressed through training. The last two Memorialization Forms were related to incident reports not turned in by the end of the shift as required, and the employees were counseled.

We previously recognized the increased involvement of supervisors in the review of traffic stops, and their diligence in identifying deficiencies with documentation and record-keeping. The same diligence should be employed in identifying issues in arrests that appear unsupported by probable cause or are otherwise in violation of MCSO policy, as required by this Paragraph. We recommend that commanders also be engaged and active in the supervision of field personnel. BIO should continue its efforts to identify deficiencies and make recommendations for solutions, but the ultimate responsibility is on supervisors in the field to be actively involved and engaged with their deputies, especially as it relates to arrests and detentions. MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

We reviewed EA-11 (Arrest Procedures) as revised on September 5, 2014; and the policy meets most of the requirements of Paragraph 95. Both EIS and a performance evaluation system are in development. Paragraph 95 requires that 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. EA-11 (Arrest Procedures), revised on September 5, 2014, comports with these requirements. EA-11 also requires that supervisors shall take appropriate corrective or disciplinary action against supervisors who fail to conduct complete, thorough, and accurate reviews of deputies' investigatory detentions and stops. EA-11 requires that supervisors shall track, through the Early Intervention System (EIS), each deputy's deficiencies or violations and the corrective action taken in order to identify deputies who need repeated corrective action. EA-11 also requires supervisors to notify the Professional Standards Bureau to ensure that each violation is documented in the deputy's performance evaluations, and that the supervisory review shall be taken into account in the supervisor's own performance evaluations.

MCSO submitted a draft of policy GC-4 (Employee Performance Appraisals) in August 2015. The draft policy was reviewed and returned to MCSO with comments and suggestions. The policy is pending final review and approval. MCSO also submitted a draft policy on the Early Identification System (EIS). We reviewed and returned the policy with comments and suggestions. Until such time as EIS is established throughout MCSO and an EIS governing policy is finalized and established, MCSO is not in compliance with this Paragraph.

We reviewed performance appraisals for 34 sergeants who received performance appraisals during this reporting period; most contained an assessment of the quality and effectiveness of the sergeants' supervision. None of the 34 evaluations contained comments regarding the supervisors' demonstrated ability to identify and effectively respond to misconduct. We addressed this issue with MCSO command staff during our July site visit.

We have advised MCSO that evaluating a supervisor's ability to identify and respond to misconduct is a requirement of this paragraph, but this dimension is usually missing from most supervisors' performance appraisals. In the current Employee Performance Evaluation form, there is no mandatory field for this dimension. This rating requirement can be addressed through training and Briefing Boards, as we have previously discussed with MCSO. MCSO has indicated that the Employee Performance Appraisal form will be revised. We have suggested, and will reiterate during our October site visit, that any future revision of the EPA form must include a mandatory field to address this requirement.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

***Paragraph 96.** A command-level official shall review, in writing, all Supervisory reviews related to arrests that are unsupported by probable cause or are otherwise in violation of MCSO policy, or that indicate a need for corrective action or review of agency policy, strategy, tactics, or Training. The commander's review shall be completed within 14 days of receiving the document reporting the event. The commander shall evaluate the corrective action and recommendations in the Supervisor's written report and ensure that all appropriate corrective action is taken.*

We reviewed EA-11 (Arrest Procedures), which was revised on September 5, 2014; and the policy meets the requirements of Paragraph 96. EA-11 requires that command-level personnel 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 MCSO 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 make recommendations in the supervisor's written report and ensure that all appropriate corrective action is taken.

We requested all Incident Memorialization Forms for the period in review. MCSO's submission consisted of five Incident Memorialization Forms submitted as proof of compliance with Paragraph 94, for the period of review from April 1, to June 30, 2015. MCSO also stated in its submission documents that there were four Incident Memorialization Forms working their way through channels. We have previously commented that the number of Incident Memorialization

Forms seemed quite low. For the last review period, 15 Incident Memorialization Forms were submitted. Only five Incident Memorialization Forms in a three-month period may indicate that supervisors are failing to identify serious issues or not properly reviewing subordinates' work products. MCSO asserts that training and policies have resulted in improvement in this area, resulting in the low number of Incident Memorialization Forms. We need verifiable data in order to corroborate this. MCSO cannot currently segregate arrests reports for review from the overall population of incident reports generated on a daily basis. We currently review a small random sample of arrest reports, from two days of each month in the review period. We recommend that MCSO find a way to provide copies of arrest reports for review so that we may corroborate that the low number of Incident Memorialization Forms is due to improved performance.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

***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).*

In response to our request for proof of compliance, MCSO submitted the following response:

“Review of Deputies EIS profile is currently accomplished through the Blue Team dashboard. This dashboard displays colored lights. Red shows an alert has been set, Yellow shows one incident away from an alert and green shows more than one incident away from an alert. The dashboard does not record when a supervisor looks at a Deputy’s EIS profile. We have received requests from supervisors concerning information in an employee’s EIS profile and we have provided the information requested. However, there is no tracking method in place to record or track these requests.”

“The Maricopa County Sheriff’s Office has purchased from the IAPro vendor, CI Technologies, a new program called EI Pro. The Sheriff’s Office is beta testing the original version of EI Pro. This program does record when a supervisor looks at a specific incident in a Deputy’s profile. In the actual user log for the specific IAPro incident, the following information is recorded:

“EIPRO: Employee user name [S...] accessed incident XXXX, where XXXX is the specific IA PRO internal number for the incident.”

In August 2015, MCSO submitted a draft policy on the Early Identification System, and a draft of GC-4 (Employee Performance Appraisals). We reviewed and returned these policies with comments and suggestions. Until such time as EIS and GC-4 are established throughout MCSO and an EIS governing policy is finalized and established, MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

d. Regular Employee Performance Review and Evaluations

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

MCSO noted that policy GC-4 (Employee Performance Appraisals) is currently under revision. MCSO submitted a draft of policy GC-4 in August 2015. The draft policy was reviewed and returned to MCSO with comments and suggestions. The policy is pending final review and approval.

MCSO maintains that the IPro/Blue Team system should have the ability to track the data required by this Paragraph. MCSO must, however, resolve the first-line supervisor access issues identified in Section IX (Early Intervention System). MCSO is not in compliance with Paragraph 98.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

Paragraph 99. *The review shall take into consideration all past Complaint investigations; the results of all investigations; Discipline, if any, resulting from the investigation; citizen Complaints and commendation; awards; civil or administrative claims and lawsuits related to MCSO operations; Training history; assignment and rank history; and past Supervisory actions taken pursuant to the early warning protocol.*

MCSO submitted a draft of policy GC-4 (Employee Performance Appraisals) in August 2015. The draft policy was reviewed and returned to MCSO with comments and suggestions. The policy is pending final review and approval. Until such time as the GC-4 policy is given final approval and established, MCSO is not in compliance with this Paragraph.

MCSO maintains that the IPro/Blue Team system should have the ability to track the data required by this Paragraph. MCSO must, however, resolve the first-line supervisor access issues identified in Section IX (Early Intervention System).

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

MCSO submitted a draft of policy GC-4 (Employee Performance Appraisals) in August 2015. The draft policy was reviewed and returned to MCSO with comments and suggestions. The policy is pending final review and approval.

We reviewed performance appraisals for 34 sergeants who received performance appraisals in the reporting period. Most contained comments related to the quality of supervision. None of the evaluations contained comments regarding the supervisor's demonstrated ability to identify and effectively respond to misconduct.

As noted previously with deputy performance evaluations, the thoroughness and detail of supervisory performance evaluations vary widely. We recommend that MCSO standardize requirements for the completion of performance appraisals in its upcoming revision of the performance appraisal process, and also conduct training to ensure consistency in documentation and ratings.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in 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.

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

During our July 2015 site visit, we met with MCSO command staff and attorneys to review proof of compliance that the Anti-Trafficking Unit, formerly known as the Criminal Employment Unit, had its mission changed, as MCSO had asserted; and that there were no specialized units enforcing immigration-related laws. MCSO submitted a copy of the Special Investigations Division's Operations Manual with an effective date of May 15, 2015. The Operation Manual states, "The mission of the Maricopa County Sheriff's Office Anti-Trafficking Unit is to identify, investigate, and apprehend individuals involved in the Transnational Criminal Organizations (TCO) that engage in the following crimes: the smuggling of human beings and/or narcotics, money laundering, home invasions, kidnapping extortion, trafficking of weapons, and gang related crimes." MCSO's position was that human smuggling was inadvertently left in as part of the ATU mission.

Until such time as the Special Investigation Division's Operations Manual is revised to reflect that the Anti-Trafficking Unit no longer investigates human smuggling, compliance with this Paragraph is deferred.

Compliance Status:

Phase 1: Deferred

Phase 2: Deferred

Section 10: Misconduct and Complaints

COURT ORDER XI. MISCONDUCT AND COMPLAINTS

a. Internally-Discovered Violations

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

The following MCSO policies were offered in response to this Paragraph: GH-2 (Internal Investigations); CP-8 (Preventing Racial and Other Bias-Based Profiling); CP-5 (Truthfulness); CP-2, (Code of Conduct); CP-3, (Workplace Professionalism); and GC-17 (Employee Disciplinary Procedure). These policies were disseminated and trained to during the Fourth and Fourteenth Amendment training that was completed during this reporting period.

During our previous site visits, we determined that there had been a number of changes in staff assignments in the districts, and personnel were only vaguely aware of responsibilities outlined in GH-2 (Internal Investigations). The districts have continued to experience additional staffing changes, and MCSO has assigned a sergeant to each district to enhance supervision and serve in an administrative capacity and specifically to conduct internal investigations.

We were also advised that little or no formal training for internal investigations had been conducted at the districts or jails during the previous year. The Plaintiffs' attorneys have also shared their concerns about the lack of progress in ensuring consistent investigations, developing template documents and checklists, and having PSB monitor administrative investigations.

During this reporting period, MCSO PSB added additional staff. Two lieutenants have been assigned to liaison with district supervisors who conduct internal investigations and another lieutenant will liaison with the Detention side.

Some of the areas of concern we have seen in internal investigations include: lack of clarity of the violation; allegations that are overly broad; lack of justification for outcome/discipline; and lack of appropriate documentation. PSB personnel have agreed that modifications may be needed in their policies, and they have contacted several other agencies to receive copies of their policies. PSB personnel are also working on a supervisory training module to ensure field supervisors know how to properly conduct an administrative investigation, as well as an investigative checklist for supervisors to use.

During the previous reporting period, we reviewed numerous administrative investigations. Some were investigated by PSB, and others by district supervisors. We consistently saw that those investigated by PSB supervisors were more thorough and more likely to contain all of the required documentation. Some of the investigations reviewed were initiated internally after MCSO personnel brought forward concerns, indicating that there is recognition of the responsibility by at least some employees to bring forward potential misconduct. There was also evidence that MCSO continues to monitor the actions of Posse personnel.

As we have seen in the past, many of the investigations we reviewed during this reporting period were initiated internally; some resulted in corrective action, including coaching, verbal counseling, written reprimands, and termination. While many of the cases were adequately investigated, we continue to note that in some cases there is a failure to thoroughly investigate, findings are inconsistent with the investigation, and there is no written indication that the progressive discipline and matrix system is being used to determine the appropriate sanction.

PSB personnel have been open to the concerns we have brought forward, and appear to have taken some steps to improve their internal investigation process as was noted in their improved structure and more investigations that were adequately investigated. They are still working on the potential revision of policies and providing training to supervisory personnel. We will continue to work with PSB personnel as they have requested as they revise any policies, and develop appropriate supervisory training.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

b. Audit Checks

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

MCSO did not submit any policies or audits in support of this Paragraph. MCSO did submit a document showing a record of audits of Incident Reports.

During our first site visit, we were made aware of MCSO's acquisition of IAPro for case management and tracking. At that time, the system had not been completely populated with the cases, nor had all IA employees been trained on the system. During our September 2014 site visit, MCSO informed us that several personnel changes had taken place in the Professional Standards Bureau. PSB personnel were not familiar with all of the operations of the unit at that time. None were familiar with conducting integrity checks and proactively investigating deputies who may be engaging in illegal or improper behavior. We referred them to an agency that has developed multiple protocols for these types of investigations.

During our December 2014 site visit, we discussed the concept and purpose of "integrity tests" with a different IA command staff. They stated that they had not been able to do the research on other agencies' use of integrity tests up to that point. During the last reporting period, we urged MCSO to delegate someone in a management position to research other agencies that have these programs in place.

During the previous reporting period, MCSO advised that the Department has been working on creating and developing integrity and audit checks for the office; but to date, no policy has been developed and no audits have been completed. MCSO has added additional personnel to the

Professional Standards Bureau, and MCSO begun to review other agencies' policies for these types of audits. The Plaintiffs' attorneys have also noted their concerns about the lack of progress in this area, asking our Team to provide more guidance to the MCSO regarding the type of integrity audits that would fulfill the terms of this Paragraph. We agreed to meet with MCSO to assist them with developing their unit.

In May 2015, PSB provided an update on its progress with integrity audits. During April, two PSB lieutenants traveled to Los Angeles and met with both the Los Angeles Police Department (LAPD) and the Los Angeles Sheriff's Office (LASO) to discuss their organizational use of integrity audits. Our team also provided them with information from the Oakland, CA Police Department, which has a robust Integrity Testing Unit.

PSB has now created a unit called the Internal Investigations Unit (IIU) whose purpose will be to specifically address Paragraph 103, as it pertains to integrity audits. Members of the unit are in the process of formulating operational procedures and are relying, in part, on documents that were gathered from LAPD, LASO, and Oakland PD as a guideline for creating the IIU.

On May 19, 2015, detectives from the IIU conducted an integrity audit with MCSO Property and evidence. IIU detectives met with Property and Evidence personnel and verified that approximately 1,440 pounds of marijuana had been properly verified and documented prior to turning it over to the DEA for destruction.

MCSO continues to make progress in the development of their integrity audits, but progress remains slow. We will continue to make ourselves available to assist them and will request that they provide us with the details of audits they conduct in the future.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

c. Complaint Tracking and Investigations

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

MCSO policy GH-2 (Internal Investigations) Section G. 1, revised September 5, 2014, requires personnel to cooperate with administrative investigations, including appearing for an interview when requested by an investigator and providing all requested documents and evidence. Commanders shall facilitate the employee's appearance, absent extraordinary and documented circumstances. GH-2 was disseminated and trained to during the ongoing Fourth and Fourteenth Amendment Training. MCSO is therefore in Phase 1 compliance with this Paragraph.

During this reporting period, MCSO provided a list of 19 supervisors who were notified in May when personnel under their supervision were summoned for an investigation, and a list of 29 who were notified in June. Up to this point, there has been no method to document all of the areas regarding employee cooperation with investigations that are necessary to comply with this Paragraph. The Plaintiffs' attorneys have also noted concerns with compliance with this Paragraph. MCSO informed us during the previous reporting period that it had developed a checklist that will include all the information that needs to be documented regarding employees cooperating with investigations and notification of supervisors. During this reporting period, we found that this checklist is still in draft form and has not been finalized. Once completed, the checklist would also be used to ensure compliance with Paragraph 105. We have requested and will review this checklist to determine compliance with this Paragraph once MCSO implements its use.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

The policy, GH-2, Internal Investigations, was revised September 5, 2014; and includes language that investigators shall have access to and take into account, as appropriate, the collected traffic stop and patrol data, training records, discipline history, and any past complaints and performance evaluations of involved deputies. A revised Internal Affairs SOP (Standard Operating Procedure), which should include a checklist with these tasks, had not been submitted for review during the prior reporting period. We noted that the SOP should not only urge investigators to consider this critical data, but should also provide detailed guidance to investigators regarding how such data should and should not be used. The Plaintiffs' attorneys have also noted this concern.

During this reporting period, we reviewed numerous internal investigations that were completed. We continue to find some problems with the investigations, the findings in the investigations, and the discipline assessed; as well as issues with compliance with MCSO policies and procedures. We have had several meetings and discussions with PSB personnel, and they have acknowledged the lack of consistency in the Department's internal investigations and the need to provide training to all supervisors. PSB personnel are currently working on possible revisions of Internal Affairs policies, and they have committed to providing training to all supervisors on how to conduct administrative investigations. We will continue to monitor their progress in these areas and provide input to the process as requested.

MCSO informed us in the last reporting period that it had developed a checklist that would be used for administrative investigations. During this reporting period, MCSO advised us that it had not finalized the checklist and were still reviewing drafts. We have encouraged MCSO to make this a priority for completion. This checklist, once finalized, should assist in ensuring that critical data required is reviewed during the investigative process. We have requested and will review this checklist to assist us in determining compliance with this Paragraph once it is implemented.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

MCSO's record maintenance and/or retention policy as it pertains to complaints is incorporated in GH-2 (Internal Investigations), effective September 5, 2014: "Professional Standards Bureau investigative files will be maintained for five years after an employee's separation or retirement from Office employment."

MCSO has two obligations under this Paragraph – to maintain and make records available. At this time, we have no reason to believe that MCSO has withheld any data requested by the Monitoring Team. However, the Paragraph also covers the requirement that MCSO make un-redacted records of such investigations available to the Plaintiffs' attorneys as well. The Plaintiffs' attorneys continue to advise us that MCSO has not produced certain information they have requested after multiple requests.

MCSO Professional Standards Bureau now has a tracking system that was purchased for its use. PSB is inputting both Criminal IA investigations and Administrative IA investigations into its tracking system, and are now able to provide us with a complete list of all Criminal and Administrative IA's, along with their status upon request. PSB is also able to use different search criteria to obtain information; and it has been able to demonstrate this process to us.

Phase 1 is not applicable for this Paragraph.

Compliance Status:

Phase 1: Not applicable

Phase 2: Not in compliance

Section 11: Community Engagement

COURT ORDER XII. COMMUNITY ENGAGEMENT

a. Community Outreach Program

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

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

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

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

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

On April 4, 2014 an amended Order (Document 670) gave the requirement to hold public meetings to the Monitor. We scheduled three community meetings during this reporting period, two of which were postponed due to activities in the ongoing contempt proceedings. The two postponed meetings – which were scheduled to be held in Queen Creek (MCSO Patrol District 6) on May 27, 2015 and Desert Hills (MCSO Patrol District 4) on June 17, 2015 – will be rescheduled.

The one community meeting we hosted was held on April 22, 2015 at Kyrene Del Norte Elementary School, 1331 E. Redfield in Tempe, AZ 85283 (MCSO Patrol District 1). The meeting was held from 7:00 p.m. until 8:45 p.m. Approximately 50 community members were in attendance. There were a number of complaints, questions and comments offered by the attendees. Deputy Chief Trombi, and other members of MCSO attended the meeting. Deputy Chief Trombi offered remarks for MCSO. The ACLU was represented by Ms. Lopez, Legal Director for the ACLU of Arizona. Ms. Lopez provided a brief overview of the Court's findings in *Melendres v. Arpaio*. Attendees included CAB members Dr. Maldonado, Ms. Porchas, and Ms. Hernandez. There were also several media representatives in attendance.

The meeting was conducted in English and Spanish to ensure that the maximum amount of participation and understanding took place. We explained to the meeting attendees the role of the Monitor, his responsibilities to the Court and the community, the progress being made, and how that progress is measured in terms of Phase 1 and Phase 2 compliance with the Order. We mentioned the challenges ahead in implementing the Order. As part of the initial presentation, and during questions and answers, we made it clear that MCSO did not have the authority to enforce immigration laws except to the extent that it is enforcing Arizona and federal criminal laws. We also explained to those in attendance that the Monitoring Team would have a regular presence in Maricopa County, and we made our contact information available. We advised the attendees that the Monitor has the authority to take complaints or compliments about MCSO, and to ensure that complaints are investigated completely. Further, we explained that new policies, procedures, training, and equipment are being developed for MCSO deputies and supervisors to ensure that they are working within the law and toward the best interests of the people of Maricopa County.

We responded to questions from the attendees, as did Plaintiffs' representatives, or members of MCSO, as appropriate. For those who declined to ask their questions publicly, separate cards were made available for them to write their questions. Attendees were also provided with forms to document and submit complaints or concerns.

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

Approximately 50 community members attended the community meeting in Tempe. The meeting allowed ample opportunity for attendees to ask questions or offer comments. Participants could either use the roving microphone we provided, or write their comments or questions on note cards that were provided for us to read aloud and provide answers. Questions were successfully fielded as attendees politely waited their turn at the microphone. Monitoring Team personnel moved throughout the meeting location, providing microphones where needed or note cards for those who wished to ask their questions in writing.

A key objective of the meeting was to let those in attendance know that the Monitor has the authority, provided by the Court, to receive complaints about any activity involving MCSO personnel and ensure that an investigation is adequately conducted. Forms were made available for this purpose. After the meeting, all Monitoring Team personnel remained behind to individually answer questions.

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

Selected members of the Monitoring Team, some of whom are bilingual, attended the meeting in Tempe. Spanish translation was provided to ensure that the Spanish-speaking attendees could understand all remarks, questions, and answers.

In addition, Ms. Lopez, Legal Director of ACLU of Arizona, and MCSO Deputy Chief Trombi offered remarks. MCSO was well represented at the meeting and were recognized for their attendance. Several of the MCSO personnel in attendance play instrumental roles in the implementation of the Court's Order.

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

Preparations for the meeting in Tempe began well in advance of the meeting date. Issues such as site selection, advertisement in local radio and print media in English and Spanish, agenda creation, and meeting logistics are of utmost importance in the planning stages. Before finalizing these items, we consider input from the CAB and the ACLU of Arizona. CID staff, as well as the Chief Deputy, are kept abreast of the planning as well as consulted on meeting security issues. Members of the Monitoring Team met with the ACLU of Arizona and CAB members to discuss preparations for the public meeting.

The selection of the meeting venue was based on accessibility, adequate meeting space, adequate parking, and ease in locating the meeting site. The meeting in Tempe was widely publicized. Advertisements, in both English and Spanish, appeared in print media with the widest circulation in the area in which the meeting was held. These ads were also included in the media outlets' Facebook pages and websites. Extensive radio spots in Spanish and English were used to announce the meeting. The ACLU of Arizona also submitted the meeting notice to numerous online calendars and their local radio media contacts.

b. ~~Community Liaison Officer~~ Monitor

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

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

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

At the community meeting in Tempe, we and Plaintiffs' representatives explained the breadth of the Order to the community members in attendance. An MCSO representative provided a summary of actions taken by the MCSO to comply with the Order. Community members were also allowed to ask any question of these representatives, and were given an opportunity to

comment on the information provided by these representatives. Community members were also provided forms to document any concerns or complaints. After the meetings, members of the Monitoring Team remained and spoke to several attendees who voiced their compliments and/or concerns and opinions regarding MCSO's operations.

c. Community Advisory Board

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

We have worked with the Plaintiffs' counsel to support and provide guidance to the three-member CAB. They have proven to be proactive in working with the Monitoring Team regarding community outreach initiatives. For example, the CAB created a community survey to solicit comments from community members regarding community trust in MCSO and opinions of law enforcement services provided by MCSO. The surveys were distributed to community members who attended the CAB's community forum held on June 24, 2015. The CAB received 75 completed surveys from attendees and provided those surveys to the Monitoring Team to review. The review of the survey results provided us with another independent means to assess community views regarding MCSO and to identify any complaints against MCSO requiring follow-up. We have solicited CAB's recommendations regarding MCSO policies and procedures, and provided specific guidance to assist in the CAB's planning for its June 24, 2015 community forum. All three CAB members were introduced at the Monitor's April 22, 2015 community meeting in Tempe. CAB members have also attended some of our site visit meetings with the MCSO to offer their feedback and input.

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

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

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

the CAB including providing the CAB with reasonably necessary administrative support. ~~The meeting space shall be provided by the MCSO. The CLO Monitor shall coordinate the meetings and communicate with Board members, and provide administrative support for the CAB.~~

During this reporting period, on June 24, 2015, the CAB held a community forum at which they explained the role of the CAB and the interaction of the CAB with the Monitoring Team, the ACLU of Arizona, and MCSO. We provided guidance and assistance regarding site selection and advertising for the community forum, which was open to the public. There was no cost for the use of the site for the CAB community forum.

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

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

Section 12: Concluding Remarks

While we have noted improvement in MCSO's progress toward compliance, the pace remains unacceptably slow. We assess compliance with 89 Paragraphs of the Order. MCSO is in Phase 1 compliance with 39 of those Paragraphs, or 51%. In 12 Paragraphs, Phase 1 compliance is not applicable – that is, a policy is not required. MCSO is in Phase 2 compliance with 25 Paragraphs, or 28%. Three additional Order-related policies were disseminated to agency personnel during this reporting period. Several drafts of policies have been reviewed by my Team and the Plaintiffs' attorneys over the past several months, and we anticipate their issuance in the near future. However, some are tied to the mandated Supervisor and Command Level Training, which remains mired in the development stage.

One of the policies MCSO published late in the reporting period was GJ-35 (Body Worn Cameras). MCSO advised that it will not begin deployment of this technology until toward the end of this year, and then only in phases. Several infrastructure enhancements must be made to support the downloading of captured video. As we have previously reported, this technology has tremendous potential to increase accountability in the organization. We will follow implementation progress closely. While the deployment must be well thought out and structured, it cannot be unnecessarily delayed. Video capture of traffic stops is an integral part of the Order. We supported the change from vehicle-mounted cameras to body-worn cameras, knowing that the time to adopt the latter system would be greater. We believe the benefits outweigh any deficiencies associated with the longer deployment process. However, MCSO must work diligently to deploy this technology as soon as possible, and we will require a detailed accounting of progress made and plans forward at regular intervals.

We have made multiple requests to MCSO to provide a copy of the training schedule for 2015 Order-related training, as required by Paragraph 44, prior to delivery of the training. The training calendar was not provided during the reporting period. Consequently, we were not afforded the opportunity to review the schedule prior to the initiation of some training, nor to observe the training as it was delivered.

In late August, we received a proposed calendar that includes schedules for the delivery of annual refresher Fourth and Fourteenth Amendment Training, TraCS Training, Body-Worn Camera Training, and Supervisory Training. It is incumbent upon MCSO to make sure that it fulfills all of the requirements of Section VII of the Order prior to the commencement of any Order-related training, including the vetting process for curricula, lesson plans, and instructors.

In conclusion, while slight gains in compliance have been noted, the pace of implementation with the Order's requirements remains unacceptably slow. We have concerns that the personnel changes previously outlined may further adversely impact MCSO's compliance efforts, but we remain open to working with all MCSO personnel to help mitigate any deleterious effects of the transitions. As stated in our last report, regardless of who is assigned to positions within the MCSO, the leadership of the organization ultimately bears responsibility for the agency's progress – or lack thereof – in the implementation of the Order's requirements. The extent to which the Sheriff makes compliance with the Court's Order an agency-wide priority is the sole determinant of whether significant advancements will be made.

Appendix: Acronyms

The following is a listing of acronyms frequently used in our reports:

ACLU	American Civil Liberties Union
ATU	Anti-Trafficking Unit
BIO	Bureau of Internal Oversight
CAB	Community Advisory Board
CAD	Computer Aided Dispatch
CID	Court Implementation Division
CEU	Criminal Employment Unit
EIS	Early Identification System
EIU	Early Intervention Unit
MCAO	Maricopa County Attorney's Office
MCSO	Maricopa County Sheriff's Office
PPMU	Posse Personnel Management Unit
PSB	Professional Standards Bureau
SID	Special Investigations Division
SRT	Special Response Team
TraCS	Traffic Stop Data Collection System