

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



Reporting Period – Second Quarter 2016

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Independent Monitor

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Section 1: Introduction

This is my ninth report issued in my capacity as the Court-appointed Monitor in the case of *Manuel de Jesus Ortega Melendres, et al., v. Joseph M. Arpaio, et al.* (No. CV-07-02513-PHX-GMS), and documents activities that occurred during the second quarter of 2016. Subsequent to my appointment, and as a result of further Court proceedings, my duties have been expanded in the areas of community engagement, oversight of internal investigations, independent investigative authority, and review of MCSO's Property Unit. During this reporting period, the Court issued its Findings of Fact in the civil contempt proceedings that commenced in April 2015. This led to the issuance of a Second Supplemental Permanent Injunction/Judgment Order on July 20, 2016, significantly expanding the duties of the Monitor. Although that Order was issued outside of this reporting period, we will discuss it in further detail at the end of this report. This will be our last quarterly status report that deals exclusively with MCSO's compliance efforts with the first Supplemental Permanent Injunction/Judgment Order ("Order").

During this reporting period, the Maricopa County Sheriff's Office (MCSO) made slight gains in both Phase 1, or policy-related, compliance and in Phase 2, or operational, compliance with the provisions of the Order issued by the Honorable G. Murray Snow in the above-referenced litigation.

In our last report, we were critical of MCSO's inability to finalize and deliver the Supervisory and Command Level Training required by Section VII of the Order, despite two years of effort to develop the lesson plans. During our April site visit, I directed that the Supervisory Training commence on or before June 15, 2016, with the instructors training beginning on or before June 1, 2016. I dispatched a Monitoring Team member to observe the instructor training (Train-the-Trainer) and assist MCSO when requested. We are pleased to report that the Train-the-Trainer session was very productive, and MCSO was able to successfully deliver the training during this reporting period.

We also noted in our last report that MCSO provided us and the Parties with at least two drafts of the annual analysis of the traffic stop data required by Paragraph 66 of the Order. Given that the analysis is for the period ending June 30, 2015 – over one year ago – we directed MCSO to produce a final version of the analysis by May 31, 2016. MCSO met that deadline. The analysis contains what we perceive to be some data and methodology flaws (described in greater detail in the body of this report); but the production of this first report served as a valuable learning experience for MCSO, its contract partner Arizona State University (ASU), and our Team. This will lead to significant changes to the manner in which data are collected and analyzed in future monthly, quarterly, and annual reviews.

ASU's report contained several findings that "may be indicative of racially biased policing." While these results are not conclusive, MCSO was reluctant to explore them in further detail, citing possible data flaws that may have impacted the findings. MCSO expressed concerns that supervisors and deputies might perceive any inquiries as the initiation of discipline. However, this concern was without merit, and with the urging of the Parties, and at our direction, MCSO identified the deputies who were potential outliers based on the report. MCSO unilaterally provided follow-up instructions to the supervisors of these deputies, documented further below, and continues to report to us and the Parties the results of the inquiries.

During this reporting period, MCSO appointed new counsel to work with us and the Parties on compliance issues. However, the Court Implementation Division, or CID, remains our primary point of contact as required by the Order; and we are appreciative of the timely production of documents.

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 reporting period.

- COURT ORDER III. MCSO IMPLEMENTATION UNIT AND INTERNAL AGENCY-WIDE ASSESSMENT: MCSO filed its Second Quarter Report for 2016, as required by Paragraph 11, on September 9, 2016.
- 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 MCSO completed during the fifth reporting period. During this reporting period, MCSO revised one Order-related General Order, EA-11 (Arrest Procedures). Several key Order-related General Orders are currently in development. During this reporting period, MCSO also issued two Briefing Boards and several Administrative Broadcasts that touched on Order-related topics.
- COURT ORDER VI. PRE-PLANNED OPERATIONS: MCSO is in Phase 1 and Phase 2 compliance with this Section of the Order. MCSO did not conduct any applicable pre-planned operations during this reporting period.
- COURT ORDER VII. TRAINING: During this reporting period, MCSO completed the 2015 Annual Combined Bias-Free Policing and Fourth Amendment Training. MCSO also completed development of the Supervisory Training. The Parties and we approved the training, absent the requirements of Paragraph 53.i. and j., and the training was delivered during this reporting period. Administrative Investigations Training for supervisors remains under development. Also during this reporting period, supervisors continued to receive Administrative Investigations Checklist Training. Single classes of Body-Worn Camera and TraCS training were delivered during this reporting period to new deputy recruits. The EIS2 (Early Identification System) lesson plan remains under development. Despite significant efforts by all, new policy GG-1 (Peace Officer Training Administration), revised policy GG-2 (Training Administration), and the Training Division Operations Manual remained under development during this reporting period.
- COURT ORDER VIII. TRAFFIC STOP DOCUMENTATION AND DATA COLLECTION AND REVIEW: MCSO continues to provide a sample of 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. When MCSO made technical changes to the TraCS system, we noted more thorough reporting by deputies. During our April 2016 site visit, we expressed our concern about inadequacies of MCSO practices surrounding the setting of alert thresholds used for ongoing monthly and quarterly data analyses and made it clear that the methodology used by the Early Intervention Unit (EIU) to set alerts in EIS was no longer acceptable. This resulted in an EIU request for specific recommendations for an acceptable methodology. In May 2016, we provided detailed guidance for a new methodology for MCSO to use in setting new

thresholds and a statistically-based methodology MCSO should use to set alerts in its monthly analyses of traffic stop data. Our May 2015 guidance prompted MCSO to discontinue its monthly traffic stop data analysis, starting with the May traffic stop data. MCSO is now working on building a new process for setting alerts based on our guidance, and Arizona State University (ASU) is supporting its efforts. In May 2016, MCSO produced its first annual evaluation in a report titled, "Preliminary Yearly Report for the Maricopa County's Sheriff's Office, Years 2014-2015." The report, which is based on traffic stop data for the July 2014-June 2015 period, found evidence of biased-based policing for the following areas: stop conclusion (warning, citation, incidental contact, other) and being Hispanic; being arrested and being Hispanic; being searched and being Hispanic; having contraband seized and being Hispanic; and in the average length of a traffic stop for Hispanics and Blacks compared to whites. One troubling aspect of the report is that some of its analyses were incomplete, in that it would often note that more research was warranted in certain cases where biased-based policing was detected; yet such research was not conducted. The second annual evaluation is due to us in October and will cover the 2015-2016 fiscal year. In addition to the monthly and annual evaluations of traffic stop data, MCSO is also required under the Order to produce quarterly analyses. MCSO has not yet produced its quarterly report. ASU is developing methodologies for quarterly analyses that MCSO expects it will use to produce its first quarterly analysis early in 2017. Given that MCSO is seriously delinquent in producing quarterly analyses, we believe that MCSO should work toward producing a quarterly analysis using first quarter fiscal year 2015-2016 traffic stop data once ASU finalizes its methodology. Overall, while MCSO has greatly improved the alert investigation process for supervisors by incorporating it into the EIS system, we believe that the lack of training in EIS has resulted in a small number of supervisors closing these investigations without adequate explanation or incomplete processes.

Also during this reporting period, we noted that District 4 and the Lake Patrol were still experiencing the connectivity issues with their body-worn cameras that we had observed during our April 2016 site visit. During our July 2016 site visit, MCSO provided a solution, although inefficient, to ensure that the body-worn camera recordings were uploaded at the end of the shift. We have reviewed recordings of actual traffic stops and have determined that the video and audio are of excellent quality.

- COURT ORDER IX. EARLY IDENTIFICATION SYSTEM (EIS): The EIS policy, GH-5, was published on November 18, 2015. EIS training is scheduled to begin in November 2016. TraCS training for all personnel who have traffic stop contact with the public has been memorialized as required. The EIU has improved the transmission of alert investigations to supervisors by incorporating this process into Blue Team. However, we find that the closure of a minority of alert investigations by supervisors lacks clear descriptions of how or why these investigations were closed. With the publication of the First Traffic Stop Annual Report, MCSO developed a process in which supervisors or deputies that appeared as outliers in the report were sent individual summaries for these deputies, along with an instruction page, and the full ASU report. These supervisors are required to review the statistical data, meet with the deputies to discuss any corrective action and report back through the chain of command. This

process was initiated without the knowledge or input of the Monitor or the Parties. We believe that without proper training in reading such statistical analyses that many supervisors will not know how to proceed. MCSO is also working with ASU to modify their monthly analysis of traffic stop data based upon many of the recommendations made over the months and the limited results of the Annual Report.

Supervisors now have access to summaries of closed investigations involving their subordinates, but they still lack independent access to any open complaints and internal investigations involving their subordinates. MCSO continues to work toward a solution with the software vendor on this issue. During our April site visit, we discussed at length what information had to be captured in the EIS database to represent Incident Reports, Investigatory Stops and Arrests for line supervisors to effectively oversee the activity of their subordinates. Depending on the circumstances surrounding such events, the information could be located in one of several remote databases that do not communicate with the EIS system. MCSO has proposed an interface between these remote databases and EIS, and will provide a timeline for completion of this work. MCSO continues to make progress toward meeting the EIS-related requirements of the Order. However, Bureau of Internal Oversight (BIO) inspection reports of patrol Supervisory Notes continue to show some dramatic fluctuations in the average compliance rates of supervisors meeting all of the oversight requirements of their positions. We anticipate that these will improve once EIS Training is completed.

MCSO has also introduced two new fields to the TraCS data. The review and discuss fields allow supervisors to note when they have reviewed and approved the Traffic Stop forms of their subordinates and when they met with their subordinates to discuss these traffic stops. BIO is already planning inspection reports on these new fields.

- **COURT ORDER X. SUPERVISION AND EVALUATIONS OF OFFICER PERFORMANCE:** During this reporting period, MCSO implemented some long awaited and much needed solutions in this area. The first phase of implementation of Patrol Activity Logs began in June, and although there are still some enhancements pending, the basic tool is in place. Enhancements for the second phase are scheduled for completion in the next reporting period. In the last month of this reporting period, MCSO began documentation of supervisory reviews of Vehicle Stop Contact Forms (VSCFs) and memorialization of supervisor-deputy discussions related to stops and detentions on TraCS. There is still outstanding work with regard to both of these projects, but it appears that MCSO is proceeding on the right track.

During our July site visit, we met with MCSO Human Resources representatives and received an update on the progress of the new Employee Performance Appraisal process. From a technological perspective, there are reportedly no issues that could delay implementation. MCSO has submitted the training curriculum to the Monitoring Team and Parties for review. GC-4 (Employee Performance Appraisals) is pending publication.

During this reporting period, we continued to review Arrest Reports. In May, we added criminal citations to our audit process to gauge the quality of supervisory reviews of incidents involving arrest, and to corroborate that there are no immigration-related arrests. We reviewed Incident Reports to ensure that supervisors are identifying and taking appropriate action in arrests with deficient probable cause statements or that are in violation of MCSO policy. We noted that most reports were well written and relatively comprehensive. In incidents involving arrest where we found probable cause deficiencies, in most instances, we found enough probable cause documented in the Incident Reports; but the information was not transferred accurately or completely to the charging documents. During this reporting period, the number of general Incident Reports that were submitted late or did not contain appropriate memorialization of supervisory reviews increased.

During our District visits, we met with commanders and supervisors, and discussed the weaknesses and strengths found in our reviews, as well as ways to improve compliance and documentation. District personnel demonstrated the review and approval process for Vehicle Stop Contact Forms; and in both of our District visits, the supervisors who conducted the demonstrations proved to be very knowledgeable and adept in using the system tools. MCSO supervisors and commanders appeared well-informed and engaged.

We hope that MCSO continues to refine the management tools put in place during this reporting period. Specifically, we would like to see MCSO make timely enhancements of the Patrol Activity Logs, so that we are able to verify that supervisors are actively working with deputies to increase public trust and address quality of life concerns in Maricopa County.

- **COURT ORDER XI. MISCONDUCT AND COMPLAINTS:** We have seen significant improvement in both process and investigative quality at the Professional Standards Bureau (PSB). At the District levels, investigations remain inconsistent – and in many areas, lacking. We have observed some overall improvements in investigation procedures with the implementation of the checklist and investigative format developed by PSB; yet we continue to have concerns with the thoroughness of some investigations, the justification for findings, the justification for disciplinary decisions, and the manner in which these decisions are made. MCSO continues to work on numerous revisions and rewrites of its internal affairs policies, and we will provide comments and recommendations regarding these proposed policies. PSB now has a lieutenant whose primary responsibility is to liaise with Districts and divisions conducting administrative investigations. He provides written feedback to the District and division supervisors conducting internal investigations and addresses any deficiencies. This position should help to ensure more consistent and complete investigations. PSB supervisors have also attended a variety of training sessions that should assist them in conducting their administrative investigations.

- COURT ORDER XII. COMMUNITY ENGAGEMENT: We held one community meeting during this reporting period. The meeting was held in MCSO Patrol District 1 in Chandler at Frye Elementary School on April 20, 2016. The meeting, which was conducted in both English and Spanish, attracted approximately 30 community members. The meeting was well advertised with area-focused radio, print, distribution of flyers in the vicinity of the meeting, and social media advertising in both English and Spanish. The purpose of the event was to inform community members of the many changes taking place within MCSO, as well as to provide community members the opportunity to voice support or criticism in a safe forum. While we are responsible for Community Engagement, MCSO continues to support our efforts. Key members of the MCSO's leadership, representatives from the Court Implementation Division (CID), and District personnel participated at the meeting; and CID personnel were responsive and helpful in satisfying all requirements to reserve the venue we selected for the community meeting. A member of the Community Advisory Board (CAB) made a presentation at the community meeting in Chandler outlining the purpose and activities of the CAB. During this reporting period, the CAB initiated additional actions to raise community awareness of the existence and function of the CAB.

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 agency, 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 reporting period, MCSO’s overall Phase 1 compliance rate increased by four percentage points, from 63% to 67%. This reflects a change from Not in compliance to In compliance (Paragraphs 66, 76, and 87). MCSO’s overall Phase 2 compliance rate increased by four percentage points, from 40% to 44%. This reflects a change from Not in compliance to In compliance (Paragraphs 45, 46, 61, 89, and 96); a change from Not in compliance to Deferred (Paragraphs 19, 24, 43, 44, and 47); a change from In compliance to Deferred (Paragraph 25); and a change from In compliance to Not in compliance (Paragraph 54).

Ninth Quarterly Report Summary		
Compliance Status	Phase 1	Phase 2
Not Applicable	14	
Deferred	0	9
Not in Compliance	25	42
In Compliance	50	39
Percent in Compliance	67%	44%

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 75 for Phase 1. 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). With the publication of the CID Operations Manual on June 29, 2015, MCSO achieved Phase 1 compliance with this Paragraph.

At the beginning of our tenure, the division was staffed with a captain, two lieutenants, and two sergeants. Since that time, the staff has grown significantly, and as of our July site visit, CID consists of one captain, one lieutenant, four sergeants, one detective, two deputies, and one administrative assistant. The division is currently hiring to replace its management analyst, who transferred to another MCSO unit. CID continues to be supported by MCAO attorneys and outside counsel, who frequently participate in our meetings and telephone calls with division personnel.

During this reporting period, following a change in MCSO's outside counsel, CID again changed the manner in which documents are provided to us. Under the new system, the Monitoring Team, the Plaintiffs, and the Plaintiff-Intervenors receive all files and documents simultaneously through MCSO's counsel via an Internet-based application. With only a few exceptions centering on open investigations, the Parties have access to the same material that we do; and we commend the simultaneous access. For the most part, this transition has been smooth; and CID continues to improve its timeliness of the production of documents.

As we have noted previously, per the Order, CID is our designated point of contact, and we hold CID accountable for addressing any issues with the provision of materials required by the Order.

MCSO remains in Phase 2 compliance with this Paragraph.

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.*

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 in Phase 1 compliance with this Paragraph.

As discussed above, overall CID has a history of being responsive to our requests. In many instances, we have requested material that has not been routinely collected – or even generated – by MCSO. We continue to work with MCSO – and CID’s leadership – on what constitutes appropriate compliance assessment data. We also trust that CID staff will continue to produce documents to us and the Parties in a timely basis.

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.*

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 in Phase 1 compliance with this Paragraph.

On September 9, 2016, CID published its most recent quarterly report as required by this Paragraph. The report covers the period from April 1, through June 30, 2016.² This report is divided into the Order sections, which in turn are divided among its numbered Paragraphs. For each section, MCSO provides an overview of compliance and provides greater detail on the agency’s activities working toward compliance. For each Paragraph, MCSO offers comments on the compliance status and provides responses to concerns raised in the Monitor’s previous quarterly status report, published July 21, 2016. The report, as in the past, includes a table developed with the information provided in our previous quarterly report.

² The report misstates the starting date as March 1, 2016; this appears to be a typographical error.

In its report, MCSO acknowledges that the pace of compliance has increased as a result of several ideas provided by the Monitoring Team during our July 2016 site visit: the revival of the document review protocol; technical assistance provided by the Monitoring Team; and the transfer of additional personnel to PSB and CID. MCSO's new legal counsel has been submitting the monthly production of documents through the ShareFile system in a timely fashion. On a number of occasions, MCSO requested technical assistance from the Monitoring Team in order to assist MCSO personnel with specific Order requirements.

During this reporting period, MCSO published Office Policy EA-11 (Arrest Procedures), and submitted 13 policies to the Monitoring Team for review. Several additional policies remain in development. MCSO also disseminated two Briefing Boards (on Body-Worn Cameras, and Arrests and Procedures); and six Administrative Broadcasts (on TraCS, EIS, and Patrol Logs). Also during this period, BIO conducted quarterly inspections to verify that no discriminatory policing occurred and that no County property was used in a discriminatory fashion. The inspection results reflected between 90-100% compliance rates. We note that the lowest rate BIO found was on the bias-free reinforcement for Detention personnel.

As to training, MCSO has adopted a number of the Monitoring Team's recommendations regarding the application of the 7-Step Training Cycle to all training. MCSO also agreed that GG-2 (Training Administration) required approval of the Monitor and the Parties. Similarly, MCSO adopted the recommendation that the Field Training Officers (FTOs) undergo a PSB review; and as a result, five FTOs became ineligible for continuing services as FTOs.

In its inspections of traffic stops, BIO found an 82% compliance rate, 13% lower than the previous quarter; MCSO attributes this decrease to the implementation of body-worn cameras, which have now been issued to all personnel required to have one. According to MCSO, the Audits and Inspection Unit's inspection matrix increased beyond the scope of the *Melendres* Court Order accounting for the decrease. All patrol vehicles, 174 total, now have the means for deputies to electronically input traffic stop data. Also during this reporting period, MCSO made changes to the TraCS system to more accurately track data.

The most recent version of the EIS Training was sent to the Parties on June 13, 2016. MCSO discussed the lesson plan, as well as the incorporation of instructions to supervisors on the methodology to use when analyzing the new monthly and quarterly data, with the Monitoring Team during our July site visit. However, this training is dependent on the approval and finalization of GH-5 (Early Identification System).

In the area of supervision, MCSO developed a daily Patrol Activity Log with input from the Monitoring Team. MCSO also developed an alternate process of capturing documentation in TraCS for Vehicle Stop Contact Forms and supervisors' discussions with deputies. However, the technical issue of capturing the actual date and time that the deputy submits the VSCF has not yet been resolved.

PSB promoted a Detention lieutenant to captain; he remains at PSB, and PSB also temporarily added additional staff. Further training has been provided to PSB personnel. PSB has created an Administrative Investigation Checklist to ensure that investigators complete all required tasks during an administrative investigation. During this reporting period, PSB assigned 135 investigations and completed and closed 173. PSB also assigned five criminal IA cases, and closed 12 criminal IA cases.

Finally, MCSO submits that it increased its community outreach efforts, with the organization of the Community Outreach Team, which participated in 117 events during the reporting period.

MCSO remains in compliance with Paragraph 11.

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: In compliance

***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).

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

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

On September 15, 2015, MCSO filed with the Court its 2015 Annual Compliance Report in compliance with this Paragraph. We reviewed this report in detail and addressed follow-up questions we had with CID personnel during our October 2015 site visit. Until such time as MCSO files its next Annual Compliance Report, MCSO remains in compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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), published on November 7, 2015, states, "The Policy Section shall conduct an annual policy review of all Critical Policies, as well as the specific policies related to relevant court orders or judgments. The purpose of this annual review is to ensure that the policies provide effective direction to Office personnel and remain consistent with any court order or judgment, current law, and professional standards. The annual review shall be documented in writing." MCSO is in Phase 1 compliance with this Paragraph.

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 its fiscal year, which runs from July 1 to June 30. Reports are to be submitted on or before September 15. (See Paragraph 34.)

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

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

In its response, MCSO noted that 12 Office policies were in compliance with the Court Orders dated October 2, 2013 and July 20, 2016. However, MCSO also determined that 40 additional Office policies “are either currently open for revision or require substantive changes to be in compliance” with the Court Orders cited above. For this reason, we are deferring our compliance assessment with Paragraph 19 for this reporting period.

Compliance Status:

Phase 1: In compliance

Phase 2: Deferred

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

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

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

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), amended February 12, 2016; CP-8 (Preventing Racial and Other Bias-Based Profiling), issued September 5, 2014; EA-5 (Enforcement Communications), amended October 29, 2015; EA-11 (Arrest Procedures), revised June 15, 2016; 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 agency personnel and specifically trained to during the required Fourth and Fourteenth Amendment training conducted by MCSO in 2014. A Monitoring Team member personally observed specific references to areas of required compliance in this Section during the training.

MCSO is in 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. MCSO completed this training in 2014. MCSO is in Phase 1 compliance with this Paragraph.

During our December 2014 site visit, we discussed with MCSO methods and procedures that could be put in place to “consistently reinforce to subordinates that Discriminatory Policing is unacceptable.” The suggestions included reviewing monthly Supervisory Notes, conducting facility and vehicle inspections, and conducting both email and CAD (Computer Aided Dispatch) audits. MCSO implemented many of these methods, and the Bureau of Internal Oversight (BIO) conducted its first Supervisory Notes audit in late 2014. At that time, only 2% of the 47 randomly selected sworn supervisors were in compliance with consistently reinforcing that discriminatory policing is unacceptable in their Supervisory Notes. BIO recommended additional training and policy review, and began publishing reports of its findings on the BIO website for MCSO. BIO has continued to conduct these audits since November 2014, and now includes Detention Supervisory Notes as well as those for sworn personnel.

We have had ongoing discussions with BIO personnel since December 2014 regarding the data collection for Supervisory Notes audits. We have found BIO personnel to be cooperative and responsive to both our requests and, in some cases, our need for additional clarification and information regarding their audits.

There have been some changes and adjustments in the way BIO captures and reports information related to sworn and Detention supervisors reinforcing the prohibition against discriminatory policing. During the last reporting period, we agreed to a methodology that randomly selects the personnel to be inspected during the first month of the reporting period. The Supervisory Notes on these same employees are then inspected for the remaining two months of the reporting period, as well. This allows for the review of all notes on individual employees for a full three-

month period. This method results in our ability to better review and evaluate supervisors' interactions with employees as it relates to the reinforcement that discriminatory policing is unacceptable. We have also continued to remind MCSO that compliance with this Paragraph is dependent on specific and articulated reinforcement from a supervisor – not just an entry that there is no indication of any discriminatory policing.

Since BIO began its Supervisory Notes audits in November 2014, we have continued to see improvement in the entries made by sworn supervisors. For the last reporting period, sworn Supervisory Notes were near 100% compliance.

Detention Supervisory Notes, however, have continued to be problematic. For all previous reporting periods, Detention Supervisory Notes have remained far below an acceptable compliance rate. During our April 2016 site visit, we met with Detention command officers to explain and reinforce the need for Detention supervisors to play an active role in meeting the requirements of this Paragraph, by consistently providing the required reinforcement to their personnel.

For this reporting period, we reviewed the same Supervisory Notes for sworn personnel that were reviewed by BIO for its quarterly audit of compliance with this Paragraph. For each of the 40 employees whose notes we reviewed, we found at least one entry documenting a conversation between the employee and his/her supervisor in which discriminatory policing was discussed. This was often combined with a discussion regarding the deputy's traffic stop data. We agree with the 100% compliance that BIO reported for sworn personnel.

For purposes of the review of Detention Supervisory Notes this reporting period, BIO randomly selected 35 employees. Due to attrition, only 28 of the employees selected remained as active employees for the full reporting period. BIO found that 22 of the 28 employees had in their notes an appropriate supervisory entry regarding the reinforcement that discriminatory policing is unacceptable. BIO reported a 78% compliance rate for Detention Supervisory Notes.

We reviewed the same Detention Supervisory Notes as BIO, but found only 20 employees whose notes documented a discussion on this topic between the supervisor and the employee, a 72% compliance rate. We contacted BIO personnel and reviewed this audit with them. During our discussion, we ultimately agreed that two of the employees BIO had found in compliance were not actually in compliance, based on the specific requirements of the Order. While 72% compliance is an improvement from prior reporting periods, it still remains below an acceptable level.

During our July site visit, we met with command personnel at MCSO Districts 2 and 4, and discussed with them the importance of regularly reinforcing to their personnel that discriminatory policing is prohibited. The District 4 captain holds quarterly staff meetings during which this prohibition is discussed, and the District 4 lieutenant meets monthly with the sergeants and includes this subject as a topic in these meetings

While we find that MCSO sworn personnel are in compliance with this Paragraph, MCSO will not be able to attain full compliance until Detention Supervisory Notes meet the requirements of the Order on a consistent basis.

MCSO has not yet reached Phase 2 compliance with this Paragraph.

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

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 it has since been distributed. It was specifically trained to as part of the Fourth and Fourteenth Amendment training that MCSO completed in 2014. CP-2 was amended on February 12, 2016. MCSO is in Phase 1 compliance with this Paragraph.

During prior reporting periods, we discussed with CID and BIO personnel the importance of conducting random email audits or other inspections as a means to ensure that personnel were using County systems appropriately and to demonstrate compliance with this Paragraph. Since that time, BIO has conducted monthly audits of emails and CAD/MDC communications for this purpose. During its first audits in November and December 2014, BIO identified multiple concerns, which it addressed by forwarding deficiency memorandums or memorandums of concern to the appropriate chain of command; these required a response and appropriate follow-up within 30 days. MCSO also began publishing BIO's audits on the BIO website at mcsobio.org.

Since that time, MCSO has continued to conduct monthly audits of CAD messaging and emails, and its compliance has been at or near 100% each month.

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

During this reporting period, MCSO conducted three CAD and Alpha Paging audits. BIO inspected 7,222 CAD/Alpha Paging messages for April 2016 and reported a 100% compliance rate. BIO inspected 6,000 CAD/Alpha Paging messages for May 2016 and reported a 99% compliance rate. BIO inspected 7,800 CAD/Alpha Paging messages for June 2016 and reported a 100% compliance rate. In its May 2016 audit, BIO found one concern involving the use of an inappropriate slang term. They documented the concern and forwarded it to the appropriate chain of command for disposition. We agree that the slang term was inappropriate, but found that the violation was not relevant to the requirements of this Paragraph.

During this reporting period, MCSO conducted three email audits. For April 2016, BIO inspected 7,459 emails and reported a 99% compliance rate; there were two deficiencies found. In both cases, BIO documented and forwarded the information to the appropriate chain of command for disposition. We reviewed the two deficiencies, and agree with BIO's assessment that they were policy concerns; but we found that neither was relevant to the requirements of this Paragraph. BIO inspected 7,554 emails for May 2016 and reported a 99% compliance rate, finding three deficiencies. All of these deficiencies were appropriately addressed, and none were relevant to the requirements of this Paragraph. BIO inspected 6,708 emails for June 2016 and reported a 100% compliance rate, with no deficiencies found.

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

MCSO continues its efforts to ensure that County property is not used to violate the requirements of this Paragraph – and when deficiencies have been noted, MCSO has taken appropriate action.

We continue to note that consistent compliance with this Paragraph underscores the value of conducting these audits and inspections on an ongoing basis.

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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.

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

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

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

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

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

We continue to review the tip information received by Major Crimes, Enforcement Support, Civil, and Special Investigations for each reporting period and find generally that all tips are consistent with the mission of each tip-line. The drug line received one tip during the last reporting period regarding drug activity that included information that could be relevant to compliance with this Paragraph. We requested additional information, and MCSO provided a follow-up document stating that only the narcotics portion of the complaint was being investigated and the case was still open. We requested an additional update on this tip for this reporting period. MCSO responded that the case was still open, and that it expected to complete the case by August 2016. We will request a final document regarding MCSO’s disposition of this tip for the next reporting period.

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

- District 1 reported, “All calls of this nature would be directed to MCSO Communications to dispatch a Deputy to respond and take a report. Any call regarding drug activity would be directed to MCSO Drug Hotline, which is administrated by MCSO Special Investigations Division.” District 1 advised that it had no system outside of those noted that would allow a community member to call in and report a crime. If a community member called the District, s/he would be referred to MCSO Communications. District 1 did not report any activity relevant to this Paragraph during this reporting period.
- District 2 reported that it does not have any dedicated hotline or tip-line telephone numbers or other such methods specifically to capture or receive complaints from community members regarding potential criminal activity. In general, the District has a main telephone number for any calls incoming to the District. During this reporting period, District 2 did not report any activity relevant to this Paragraph.
- District 3 reported that it accepts complaints from community members regarding potential criminal activity through mail, email, telephone, and walk-up traffic. It does not track actions taken regarding these complaints, but reported that they are generally assigned to the supervisor most able to respond to the complaint. District 3 reported that it had not received any crime tips during this reporting period.
- District 4 reported that it does not currently have a hotline designated to receive complaints from members of the community within its jurisdiction. District 4 reported that it receives complaints from community members in the following ways: walk-up traffic; telephone calls; emails; and notifications of complaints through mcs0.org (forwarded to the captain from Headquarters). District 4 reported receiving information from community members during this reporting period, but it did not initiate any operations; and none of the complaints provided in District 4’s response for this reporting period were relevant to compliance with this Paragraph.
- District 6 reported that it serves the town of Queen Creek pursuant to a law enforcement contract. As Queen Creek’s primary law enforcement organization, it is responsible to police town ordinances/codes as well as applicable state law. District 6 reported that it has a web-based application that is used to report local issues related to town services. District 6 received concerns from the public during this reporting period. None of the concerns provided in the response for this reporting period were related to compliance with this Paragraph, and no operations were initiated.
- District 7 reported that it uses a Request for Enforcement Services/Community Service Form, which members of the public complete for specific enforcement for patrols such as speed enforcement or extra patrols because of potentially reoccurring problems such as criminal damage or vandalism. These forms are given to the Patrol sergeants to assign to deputies. District 7 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 did receive “Text-A-Tips” during this reporting period. We did not find any that were relevant to compliance with the requirements of this Paragraph and District 7 personnel reported that they did not initiate any operations during this reporting period.

- 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 Lake Patrol through the MCSO Communications Division. Lake Patrol reported that it had not received any information from community members regarding criminal activity during this reporting period.

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

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

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

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

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

Once the policies and databases are in place, MCSO plans to conduct E-Learning training for sworn, Detention, and civilian personnel; and hopes to be fully functional by the end of 2016. In the interim, we will continue to receive tip information from each individual division or unit.

We will assess Phase 1 compliance with this Paragraph once the policies and procedures for the new SILO Unit are written and approved. After that time, we can address Phase 2 compliance.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Deferred

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 and amended December 17, 2015; EA-5 (Enforcement Communications), amended October 29, 2015; and CP-8 (Preventing Racial and other Bias-Based Policing), dated September 5, 2014. In our feedback to MCSO, 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 MCSO 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 continued to make technical changes to the TraCS system to ensure that the mandatory fields on the forms used to collect the data are completed and the deputies are capturing the required information. The TraCS administrator made six substantial updates to the system on March 28 and June 29, 2016. TraCS is a robust system that allows the user agency to make technical changes to improve how required information is captured.

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. In addition, we met with ASU personnel in October 2015, February 2016, and April and July 2016, and reviewed the analysis of the traffic stop data they presented. Since our July 2015 site visit, there has been significant improvement in the TraCS system that has enhanced the reliability and validity of the data provided by MCSO. We compare traffic stop data in our sample between Latino and non-Latino drivers.

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

drawing our sample is detailed in Section 7: Traffic Stop Documentation and Data Collection. Our review of a sample of 105 traffic stops (from a total of 6,845) that occurred during this reporting period in Districts 1, 2, 3, 4, 6, and 7, and Lake Patrol indicated that MCSO was following protocol, and that the stops did not violate the Order or internal policies. During our July 2016 site visit, we met with the PSB commander and were advised that PSB did not receive any complaints during this reporting period from Latino drivers alleging racial profiling, deputies selecting which vehicles to stop, or deputies targeting specific communities to enforce traffic laws based to any degree on race. We also inquired of District Captains if they had received any complaints from Latino drivers complaining of disparate treatment. Paragraphs 66 and 67 require an annual comprehensive analysis of all traffic stop data, which will more accurately determine if the requirements of this Paragraph are being met. The first comprehensive analysis was completed during this reporting period. That analysis, prepared by Arizona State University, contained several findings that “may be indicative of racially biased policing.” We, the Parties, and MCSO are currently working to clarify if any of the instances that lead to these suppositions were, in fact, indicative of biased policing. While that process continues, MCSO’s compliance with this Subparagraph is deferred.

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. Based on our review of the data provided for the reporting period, the most common traffic stop violations are as follows:

- 58 stops for speed above the posted limit (56%);
- 20 stops for failure to possess valid registrations, driver’s licenses or tags (20%);
- 11 stops for failing to obey official traffic control devices (11%); and
- Seven stops for equipment violations (7%).

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

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

Paragraph 25.d. requires MCSO to prohibit the selection of which motor vehicle occupants to question or investigate based to any degree on race or ethnicity. During this review of the traffic stop data, we reviewed 34 instances where the deputy contacted passengers; in 14 cases, the contact was due to the driver not having a valid driver's license or suspended plate, and therefore s/he was unable to operate the vehicle. In these cases, in lieu of towing, the deputy allowed the passenger or another person to drive the vehicle. In the remaining instances where MCSO made contact with passengers, the following occurred:

- In two cases, the passenger initiated contact for an explanation of the traffic violation;
- In one case, the deputy indicated contact with the passenger due to the driver being listed on the Homeland Security Terrorist Watch List; and as a safety precaution, the deputy contacted the passenger. The information contained on the CAD printout advised the deputy to approach the vehicle with caution;
- In one case, the driver was arrested for reckless driving, and the deputy advised the passenger;
- In one case, the driver had an Order of Protection against him; and the deputy contacted the passenger to advise her she was not the protected party;
- In one case, the deputy observed criminal littering by the passenger;
- In one case, the passenger was interpreting for the deputy;
- In one case, the deputy observed two visible handguns in the vehicle, and he spoke with the passenger for identification;
- In one case, the deputy observed the driver and passenger attempt to change seats after the stop;
- In one case, the vehicle registration did not match the VIN number, and the deputy spoke with passenger as part of the investigation;
- There were two cases where the deputy smelled the odor of marijuana in the vehicles and spoke with passengers. A canine search revealed cocaine and marijuana in one stop and an arrest was made; in the second instance, marijuana was found in the vehicle but the passenger had a valid Arizona card authorizing possession and was released;
- In one case, the deputy spoke with the passenger who was assisting the driver with locating vehicle documents;
- In one case, the deputy spoke with a passenger reference a missing juvenile;
- In one case, the driver was stopped for reckless driving and the deputy contacted the passenger. In this case, the deputy did not articulate why there was a need to contact the passenger;
- In one case, the deputy was pursuing a vehicle for reckless driving and lost contact; he later identified the wrong vehicle and spoke with the driver and passenger;

- In one case, the deputy spoke with a passenger about a possible vehicle financial responsibility violation. The passenger was the owner of the vehicle and thus the reason for the contact;
- In one case, the driver was operating a large vehicle with seven occupants. The VSCF indicates that the deputy contacted one white male passenger and ran a warrant check. CAD and Intergraph I/Viewer indicate a second male, not listed on the VSCF, had a warrant check run. This second passenger contact was not documented on the VSCF;
- In one case, the driver was stopped for speed; and according to the VSCF, had been drinking. The deputy had the passenger exit the vehicle, and she voluntarily consented to a roadside test to determine if she could drive. The deputy failed to indicate on the VSCF any contact with the passenger. We reviewed the body-worn camera recording for this stop.
- In one case, a Latino driver was stopped for improper lane usage and issued a warning. The deputy failed to indicate the passenger contact on the VSCF.

We found no indication from the sample that deputies based their questioning of passengers, to any degree, on race or ethnicity. Eight percent of the 105 drivers in our sample during this reporting period had suspended driver's licenses or registrations; therefore, it was not unusual for the deputy to run license checks on passengers to ensure that they possess a valid driver's license. We found three stops where deputies did not articulate the reason for contact with a passenger or failed to document the reason for the contact. In our experience reviewing traffic stop data, questioning or investigating passengers occurs infrequently. For this review, we pulled samples for all traffic stops during the quarter. There were a total 6,485 traffic stops that contained 227 instances where passengers were contacted.

We reviewed the demographic data of Maricopa County (according to 2014 U.S. Census data, 30.3% of the population is Hispanic), and found that the ratio of the ethnicity of the violators and passengers in the population was in range with the ethnicity of the individuals stopped. (See Paragraph 54.e.) A review of citizen complaints for the quarter did not reveal any accusations against MCSO personnel that would indicate deputies were conducting pre-textual traffic stops to question drivers or passengers regarding their ethnicity or to determine whether they are unlawfully present in the country. When body-worn cameras are fully implemented, we will review a sample of the recordings to verify if deputies are conducting pre-textual stops or questioning of occupants to determine if they are legally in the country. MCSO is in compliance with this Subparagraph due to its previous compliance. We found the compliance rate to be 91% for this reporting period.

Paragraph 25.e. requires MCSO to prohibit the use of particular tactics or procedures on a traffic stop based on race or ethnicity. (See Paragraph 54.e.) We reviewed a sample of 30 CAD audio recordings of traffic stops and 105 CAD printouts where the dispatcher enters the reason for the stop when advised by the deputy in the field. We also reviewed 27 body-worn camera recordings of deputies making traffic stops. The methodology that we employed to select our samples is described in detail in Section 7. Prior to making the stop, the deputies advised dispatch of the stop with location, tag/state, and reason for the stop in all about one case. None of the stops in the sample involved the use of traffic checkpoints. All stops, with two exceptions,

appeared to comport with policy. For the two non-compliant stops, the deputies did not complete the Vehicle Stop Contact Form. Both stops resulted in an Incidental Contact Form, but policy requires that a VSCF also be completed.

During our April 2016 site visit, we conducted a ride-along with a deputy who was equipped with a body-worn camera to observe the process deputies use during a traffic stop, and to determine if the deputy activated the recording device when the deputy made the decision to stop the vehicle and if the deputy continued to record until the violator was released. In the instance we observed – a violation for failing to signal a turn – the deputy followed procedure. 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. We met with the PSB commander during our July 2016 site visit and inquired if, during this reporting period, any Latino drivers or passengers made any complaints regarding deputies using particular tactics or procedures to target Latinos. The PSB commander advised that PSB had not received any complaints of this nature. 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 verbally contact dispatch and state the reason for the stop unless exigent circumstances make it unsafe for the deputy to contact dispatch. We reviewed 30 CAD audio recordings and the deputy advised dispatch of the reason for the stop, prior to making contact with the vehicle occupants. In 75 other cases that were part of our sample, we reviewed the VSCF and the CAD printout, if included in the documentation, to ensure that the deputies were properly advising dispatch of the reason for the stop prior to making contact with the violator. There were two traffic stops (not part of the CAD audio or body-worn camera review) where we could not determine if the deputy advised dispatch of the violation due to the failure of the involved deputies to complete the Vehicle Stop Contact Forms. In both of these traffic stops, the deputies completed an Incidental Contact form. MCSO policy requires that a VSCF form be completed on every traffic stop regardless of the action taken. There was a third traffic stop that resulted in an Incidental Contact; however, in this case the deputy completed the required VSCF. Our review indicates that MCSO is in compliance with this Subparagraph. When the deputy advises Communications of the location, tag number, and reason for the stop, this information is logged on the CAD printout. (See Paragraph 54e.) MCSO is in compliance with this Subparagraph.

Paragraph 25.g. prohibits deputies from extending the duration of any traffic stop longer than the time that is necessary to address the original purpose for the stop and/or to resolve any apparent criminal violation for which the deputy has or acquires reasonable suspicion or probable cause to believe has been committed or is being committed. In our review of 105 traffic stops, we determined that 13 stops were extended and justified due to the circumstances of the stop. The particulars of these extended stops are as follows:

- White female driver stopped for expired registration. Deputy waited for driver to update her registration online with her cell phone. The deputy reviewed the updated registration on the driver's phone.

- Black female driver stopped for speeding (83 mph in a 45 mph zone) and a resulting DUI investigation. Driver was cited for the speeding violation and released.
- Latina driver stopped for expired registration and upon a warrant check revealed a criminal charge of driving while license suspended. Vehicle towed according to statute and driver was cited and released.
- Deputy running tag checks discovered the license plate had expired two months prior. The Latino driver did not have a driver's license and presented a Consular ID card to the deputy. Driver cited and released for the two violations, vehicle towed. (Note: the vehicle was not registered to a Consulate.)
- White male driver stopped for speeding. Warrant check revealed the driver had a suspended driver's license and was wanted on an outstanding warrant. The driver was cited and booked on the outstanding warrant and the vehicle towed.
- White male driver stopped for speeding and possessed a suspended driver's license. He also had an outstanding warrant. Driver was cited and booked with the vehicle being towed.
- Latino driver stopped for expired registration. Warrant check also revealed driver had a suspended driver's license and the vehicle was towed. At the conclusion of the stop, the deputy drove the driver to his workplace as a courtesy.
- White male driver had an expired registration and a fictitious sticker attached to his license plate. An investigation resulted in the license plate being seized and the driver was cited and released.
- White male driver along with two other white male drivers were stopped for speeding (racing) in the same incident. The extended stop was due to the deputy preparing three separate citations and Vehicle Stop Contact Forms for each of the drivers. All drivers were cited and released.
- Latino juvenile operating a motor vehicle with a restricted driver's license without adult supervision. In lieu of towing, the deputy contacted the juvenile's parents, who came to the scene and picked up the young man and the vehicle.
- Black male driver stopped for suspended license plate. Warrant check also revealed driver's license had been suspended. Vehicle was owned by the passenger's mother. The mother was contacted by cell phone and emailed the passenger the insurance information who provided the documentation to the deputy.
- White male driver stopped for a stop sign violation and issued a citation. Deputy described the reason for the delay as the driver prolonged the length of the stop due to him continually asking questions about the citation.
- Black female was stopped for no valid vehicle registration and cited. Deputy advised on the VSCF that TraCS shut down and system had to be rebooted. The rebooting of the system took several minutes and resulted in a minor delay.

During our July 2016 site visit, in several meetings, we discussed the issue of what constitutes an extended stop. MCSO indicated that each deputy has a different perception of what is or is not an extended stop. Due to these differences in perceptions, calculations, comparisons, and analysis may not be accurate according to a memorandum issued by EIU and provided for our review. As a result, MCSO proposed solutions to address these issues by analyzing length of stop with other vehicle extended stops that have similar characteristics. The proposed solution is to add additional fields to the VSCF form listing these characteristics that could be corroborated through alternative means such as body-worn camera recordings, CAD information and radio transmissions.

All of the extended stops were justified in order to address the original purpose of the traffic contact. MCSO is in compliance with this Subparagraph. (See Subparagraph 54.i.)

Paragraph 25.h. requires the duration of each traffic stop to be recorded. In our review, we determined that the duration was recorded accurately in 104 of the 105 traffic stops. In one case, there was a difference of five or more minutes in the start or end time of the stop, when we compared the Vehicle Stop Contact Form and the dispatch CAD printout. Yet the deputy did not provide an explanation as to why there were disparities. In this traffic stop, the driver was a white male who was stopped for failing to maintain lanes. In addition, his driver's license was suspended and he was booked in the Detention facility.

During this reporting period, we found that MCSO had the fewest deficiencies in capturing accurate stop times since our reviews began. In our experience reviewing MCSO's traffic stop forms, the majority of violations with documenting the beginning and ending times of the stop is attributed to the deputy inaccurately inputting times on the VSCF. The supervisor is required to review all activity by deputies within 72 hours and should catch any discrepancies and provide appropriate counseling to the involved subordinates. If supervisors conducted daily reviews of the TraCS forms, the initiating deputy could make timely corrections. Proper and timely supervision should reduce the number of deficiencies. (See Paragraphs 54.b. and 54.i.) MCSO is in compliance with this Subparagraph, with a 99% compliance rating.

Paragraph 25.i. requires that MCSO provide deputies with a list and/or description of forms of identification deemed acceptable for drivers and passengers (in circumstances where identification is required of them) who are unable to present a driver license or other state-issued identification. The Plaintiffs' attorneys and MCSO have agreed on acceptable forms of identification, and this information has been included in the Fourth and Fourteenth Amendment training conducted by outside consultants. Policy EA-11 (Arrest Procedures), most recently revised on June 15, 2016, provides a list of acceptable forms of identification if a valid or invalid driver's license cannot be produced. Only driver licenses, with 10 exceptions (driver did not have a valid license on his person), were presented to deputies in each of the cases provided in our sample. Six of these cases involved Latino drivers. All 10 cases are described in detail below:

- Latino driver stopped for suspended plate and did not have a driver's license. Driver was cited for the driver's license violation.

- Latino driver evaded deputy as he was driving with a suspended license. The deputy knew the driver and family due to previous calls for service. Driver was cited for suspended driver's license and released.
- Latino driver stopped for expired registration. Driver did not have a driver's license and presented a Consular Card as identification. Driver cited for expired registration and no driver's license.
- Latino driver stopped for expired registration. Further investigation revealed a driver's license suspension. Driver cited for both violations and released.
- Latino driver stopped for speeding (110 mph in a 50 mph zone), and stated he did not have a driver's license. The driver presented a Mexico passport for identification. The deputy issued a citation and released the driver.
- Latina driver stopped for speeding. Driver provided a suspended driver's license and cited for the speed violation and driving with a suspended license.
- Indian/Alaskan male stopped for speeding. Warrant check revealed driver had a suspended driver's license and an outstanding warrant for failure to appear. Driver cited and booked.
- White female stopped for speeding, and did not have her driver's license in possession. Deputy ran a warrants check and found driver had a valid license. Driver cited for speeding; deputy did not enforce not having a valid license in her possession.
- White male driver stopped for speeding and did not have his driver's license in his possession. Driver was the owner of the vehicle and deputy ran a check, which showed that driver had a valid license. Driver cited for the speeding violation.
- Black male driver stopped for operating a vehicle with a suspended license plate due to lack of insurance. The driver did not have a driver's license on his person. Warrant check came back with driver's license suspended. Deputy verified the financial obligations on the plate had been addressed. The driver was cited and released.

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. For this reporting period, we did not find in our sample any instances where a deputy requested – or was provided with – a Social Security Number by the driver or passengers. In three cases, the deputy accepted alternative forms of identification as proof of identification. MCSO began employing body-worn cameras in November 2015, and all Districts were on line and fully operational with the body-worn cameras during this reporting period. We reviewed a sample of traffic stops to evaluate the body-worn camera video/audio interactions of the deputies to determine if they are abiding by the requirements of the Order. In September 2015, MCSO added fields to the Vehicle Stop Contact Form to include the documentation of on-body camera recordings. MCSO is in compliance with this Subparagraph.

Compliance Status:

Phase 1: In compliance

Phase 2: Deferred

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).*

MCSO finalized and published policies EB-1 (Traffic Enforcement, Violator Contacts and Citation Issuance), on September 22, 2014; and EA-11 (Arrest Procedures), most recently revised on June 15, 2016. Both contain the appropriate policy direction and were 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. MCSO is in Phase 1 compliance with this Paragraph.

During this reporting period, MCSO again reports that there were no immigration-related arrests or investigations; or investigations for misconduct with weapons, forgery, or any other immigration-related crime. MCSO reported two arrests for identify theft during this reporting period. In the first instance, MCSO personnel investigating a burglary identified that the suspect, using a fictitious name, had pawned items stolen in the burglary; MCSO arrested the suspect. In the second case, MCSO received a complaint from a community member regarding a former caregiver forging signatures on checks; MCSO also arrested this suspect. In both cases, the victims reported the crimes and desired to aid in prosecution.

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

MCSO reported four incidents where vehicle drivers had charges pertaining to lack of an identity document. Of these drivers, two were Latino males, one was a Latina female, and one was a white male. All contacts were made as a result of articulated traffic violations precipitating the stop, or in response to a reported traffic accident. In the one incident involving a traffic accident, one of the two Latina drivers involved in the accident had two outstanding warrants, a suspended driver's license, and a fictitious license plate on her vehicle. She was booked on these charges. The remaining three drivers were stopped for articulated traffic violations. One Latino driver was arrested for extreme DUI and refusal to provide any identity document after deputies responded to a call of reckless driving involving this subject. One Latino driver was arrested for numerous violations, including traffic violations, criminal damage, resisting arrest, possession of prescription drugs, and providing false identification. The white male driver was cited and released for driving on a suspended license.

Based on our review of the above incidents and the documentation provided by MCSO, the actions of deputies at each scene appear to be consistent with acceptable law enforcement practices.

During this reporting period, MCSO Special Investigations Division's Anti-Trafficking Unit (ATU) arrested four persons and completed 14 criminal reports. We reviewed these investigations and arrests, and found them all to be related to criminal investigations involving the use, possession, or sale of illegal drugs, along with other criminal violations. None of the cases reported during this reporting period were originated by Border Patrol.

There was no indication that race or ethnicity was a factor in determining any law enforcement action that was taken by MCSO personnel in any of these investigations.

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

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 asserts that it does not have an agency LEAR policy, and our Team's review of agency policies has confirmed that assertion. MCSO must continue to reinforce to its personnel that MCSO does not have such a policy.

MCSO remains 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 CP-8 (Preventing Racial and Other Bias-Based Profiling). On September 22, 2014, MCSO finalized EB-1 (Traffic Enforcement, Violator Contacts and Citation Issuance). On June 15, 2016, MCSO most recently revised EA-11 (Arrest Procedures). 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.

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

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

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

During this reporting period, MCSO reported that there were no instances of any subject being transported to ICE/Border Patrol, no instances of deputies having contacts with ICE/Border Patrol for the purpose of making an immigration status inquiry, and no arrests made following any immigration-related investigation or for any immigration-related crime.

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 continues to provide us, the Plaintiffs' attorneys, and the Plaintiff-Intervenors with drafts of its Order-related policies and procedures prior to publication, as required by the Order. We, the Plaintiffs' attorneys, and the Plaintiff-Intervenors review the policies to ensure that they define terms clearly, comply with applicable law and the requirements of the Order, and comport with current professional standards. Once drafts are finalized, incorporating the feedback of the

Plaintiffs' attorneys, Plaintiff-Intervenors, and the Monitoring Team, MCSO again provides them to the Monitoring Team for final review and approval. As this process has been followed for those Order-related policies published thus far, MCSO is in compliance with this Paragraph.

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 policy GA-1 (Development of Written Orders), published on November 7, 2015, indicates that Office personnel shall be notified of new policies and changes to existing policies via Briefing Boards and through a software program, E-Policy. MCSO is in Phase 1 compliance with this Paragraph.

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

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

We have advised MCSO that in those cases where formal training is required by the Order, the E-Policy questions – which test comprehension of a policy – cannot serve as a substitute for the training. During this reporting period, on June 15, 2016, MCSO amended one new Order-related

General Order, EA-11 (Arrest Procedures). Several additional General Orders are currently in development. During this reporting period, MCSO also issued two Briefing Boards and several Administrative Broadcasts that touched on Order-related topics.

During this reporting period, we reviewed Skills Manager System compliance reports for policies that were approved over 60 days prior to the start of this reporting period. Each report lists the MCSO personnel who are required, according to the Training Division, to receive the particular policy via the E-Policy System; and the date upon which the employee received and read the policy. We verified via the Skills Manager System compliance reports that at least 95% of relevant MCSO employees received the following policies within 60 days of their publication: CP-2 (Code of Conduct); CP-3 (Workplace Professionalism); GB-2 (Command Responsibility); Briefing Board 16-11, which announced a revision to GB-2; and Briefing Board 16-17, which announced a revision to GJ-35 (Body-Worn Cameras).

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

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

***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 MCSO completed during previous reporting periods. CP-2 was amended during this reporting period, on February 12, 2016.

During the reporting period covering October through December 2015, we reviewed 59 investigations submitted in response to the requirements of this Paragraph, and also reviewed some of the audio- or videotaped interviews conducted with MCSO personnel. At that time, we identified numerous concerns with the quality of these investigations, including the failure to interview all parties and unsupported findings. We also noted a number of cases where complaints had been filed in late 2014 or early 2015 and were not completed until late 2015. PSB personnel advised that they had become aware of many pending cases during an audit that they had conducted, and that they were in the process of addressing these cases.

During the last reporting period, we reviewed 101 investigations submitted in compliance with this Paragraph. We disagreed with the findings in 21 of the cases; and in more than half of the cases, we had some concerns with the investigation. During our July 2016 site visit, we discussed all of these cases in detail with PSB personnel. Our concerns ranged from incomplete documentation to serious concerns with the findings and/or outcomes of the investigations. We continued to see numerous cases from 2014 and early 2015 being completed during this reporting period, as well.

During this reporting period, we reviewed all 74 investigations involving 90 sworn, reserve, or Posse members, submitted in compliance with the requirements of Paragraph 32; and reviewed some audio/video interviews and body-worn camera videos. There were 101 allegations of misconduct. Four of the cases involved criminal allegations and the remaining cases were administrative in nature. Of the 74 cases we reviewed, 13 were initiated internally and 61 were external complaints. The 74 cases (some of which involved multiple allegations) resulted in 20 sustained findings, 29 not sustained findings, 22 exonerated findings, and 14 unfounded findings. As a result of the 20 sustained findings involving 17 employees or Posse members, one deputy and one Posse member resigned during the investigations. The remainder of the sustained cases resulted in: two suspensions of eight hours each, four written reprimands, six coaching sessions, two verbal reprimands, and one informal training.

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

District or Enforcement Support Bureau personnel investigated the remaining 60 internal investigation cases we reviewed. We agree with the findings in 51 of the cases. In nine of the cases, we believe the findings were unsupported or inappropriate based on the information included in the report. In some cases, our disagreement stems from the failure to interview all possible involved parties, failure to give equal weight to statements made by MCSO personnel and civilian personnel, or failure to consider all information prior to arriving at a finding.

In 24 of the 60 cases completed by District or Enforcement Support Bureau personnel, we have some measure of concern. In some cases, our concerns are procedural in nature and include such issues as failing to include all required documents in the report, or allowing non-supervisory personnel to conduct administrative investigations. In other cases, there are more serious concerns, including: failure to fully document the review of the employee's work history when this information was provided; combining multiple separate violations into a single investigation; failure to conduct interviews with all involved parties; and reaching unsupported findings. During our next site visit, we will meet with the District Commanders and Enforcement Bureau Commander to discuss our concerns with these cases.

We continue to be concerned with the failure of MCSO to reconcile the numerous cases where the complaints were made up to two years ago. In October 2015, MCSO informed us of the discovery of numerous delinquent cases. While we appreciate the efforts of PSB to identify and address these cases, it has been more than eight months since these cases were discovered and there are still cases that have not been completed. We are also aware that many of these cases were, or are, assigned to District personnel to complete. We are aware of the actions PSB has taken to address these delinquent cases, including the assignment of temporary personnel to their unit to assist with completing investigations. What we do not know is what efforts are occurring at the District level to complete the investigations assigned to District personnel. We have requested that MCSO provide us with information on these cases and what actions are being taken to ensure that the remaining delinquent investigations are being completed.

During this reporting period, we saw a reduction in the overall percentage of cases where we have concerns. In four of the cases investigated by District supervisors, the deputy's body-worn camera footage was reviewed as part of the investigation. We reviewed two of the body-worn camera videos that were used to exonerate allegations against a deputy, and agree with these findings. We also noted that in one case where the body-worn camera video was reviewed by the supervisor based on the complaint, the video supported the statements of the complainant, and the allegation against the deputy was sustained. Since internal investigations reports now include the review of body-worn camera videos when they are available, upon our request PSB has developed a protocol to ensure that these videos are provided to us in all future investigations.

Despite the decrease in problematic internal investigations reviewed during this reporting period, nearly a third of the internal investigations conducted by MCSO still do not comply with the requirements of this Paragraph. The failure to properly and expeditiously address misconduct complaints is a disservice to the community and to the MCSO employees who are subjects of these complaints. The responsibility for complying with the requirements of this Paragraph and ensuring that MCSO conducts complete and thorough internal investigations does not lie solely with PSB. For MCSO to be successful in meeting the requirements of this Paragraph, a commitment is required from all those responsible for conducting or overseeing internal investigations.

During this reporting period, we reviewed one administrative investigation inspection conducted by BIO. The purpose for these inspections is to determine if the selected administrative investigations were conducted in compliance with Office policies and in support of the Order. BIO noted 76% compliance in its April 2016 inspection. The majority of deficiencies noted in this inspection relate to investigations that were not completed within the required time limit, investigations where employees were not provided with a Notice of Investigations (NOIs) or *Garrity* Warnings, and investigations with other missing documentation. We agree with the inspection findings, given their stated purpose. Now that there is a required checklist for internal investigations and a lieutenant assigned to PSB who is responsible for oversight of District investigations, BIO has informed us that it will discontinue these audits in the future.

We will not find MCSO in Phase 2 compliance with this Paragraph until MCSO addresses the substantive issues we continue to find in our reviews of MCSO's internal investigations.

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. MCSO distributed these policies to all attendees at the Bias-Free Policing and Fourth Amendment Training described later in this report.

During the last reporting period, MCSO completed and submitted 14 administrative investigations for this Paragraph. We disagreed with one of the findings; and in other cases, we had additional concerns. We discussed all of our concerns with PSB personnel during our July 2016 site visit.

During this reporting period, MCSO completed and submitted two administrative investigations in compliance with this Paragraph. One of these cases was investigated by a Detention supervisor; and the other, by PSB.

In the case investigated by Detention personnel, an inmate alleged that a Detention sergeant and lieutenant were racist because they were not Black. When interviewed, the inmate told investigators that he wished to withdraw his complaint. Based on the inmate's desire to withdraw the complaint, and the fact that he had a history of lying to MCSO staff, the investigating supervisor unfounded the complaint and wrote that an interview with the two principals in the investigation was unnecessary. This finding was approved by the supervisor's chain of command. The complainant's history of lying to MCSO personnel could certainly be considered, but neither that, nor his request to withdraw his complaint, should have resulted in a decision not to conduct this investigation.

In the second case, conducted by PSB personnel, the complainant made numerous allegations regarding the conduct of MCSO personnel and believed that since during her contact with them, they had asked her for her passport and visa, their conduct could have been related to the fact that she was from Canada. PSB conducted a thorough investigation and we agree with their findings of unfounded in this investigation.

MCSO opened two new investigations relevant to Paragraph 33 during this reporting period and provided the general allegations for our review. We will review these cases once the investigations are complete.

We have now reviewed a total of 25 administrative investigations relevant to compliance with this Paragraph. We have disagreed with the findings in five cases and have noted other concerns, including the appropriateness of a disciplinary sanction, and a two-year delay in conducting an investigation.

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

MCSO is not in Phase 2 compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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 policy GA-1 (Development of Written Orders) states, “The Policy Section shall conduct an annual policy review of all Critical Policies, as well as the specific policies related to relevant court orders or judgments. The purpose of this annual review is to ensure that the policies provide effective direction to Office personnel and remain consistent with any court order or judgment, current law, and professional standards. The annual review shall be documented in writing.” This policy was published on November 7, 2015. MCSO remains in Phase 1 compliance with this Paragraph.

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

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

MCSO submitted its first annual policy review (or Policy Section Annual Assessment) on September 28, 2015. The report covers the period of April 1, 2014 through June 30, 2015; and lists the Order-related policies, Briefing Boards, and Administrative Broadcasts issued during that time period. It notes that MCSO’s Policy Section “has taken major steps toward compliance with the Court’s Order” by creating policies related to pre-planned operations, body-worn cameras, and the Bureau of Internal Oversight; and revising policies related to traffic enforcement, and detentions and arrests.

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

MCSO is in compliance with Paragraph 34. We look forward to reviewing MCSO’s second annual policy review, which we expect MCSO to publish within the next reporting period.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

Section 5: Pre-Planned Operations

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

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

COURT ORDER VI. PRE-PLANNED OPERATIONS

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

MCSO has taken the position that the agency no longer has Specialized Units that enforce immigration laws. During discussions with the Compliance and Implementation Division (CID) and attorneys from the Maricopa County Attorney's Office (MCAO), we recommended that applicable immigration laws and immigration-related crimes, as those terms are defined in the Order, be identified. MCSO identified forgery and misconduct with weapons as crimes that may, in some cases, have immigration status as an element of the crime. These cases are now investigated by District detectives, as is also the case for the same crimes without the element of immigration status.

MCSO disbanded its Criminal Employment Unit (CEU) in January 2015 and removed it from the SID organizational chart. Any information regarding the kinds of violations that would have previously been investigated by this unit that come to MCSO's attention are now forwarded to a federal agency for review and any appropriate action. Unused portions of grant funds dedicated to these types of investigations were returned.

MCSO reports that it no longer conducts any human smuggling investigations and has changed the name of the Human Smuggling Unit (HSU) to the Anti-Trafficking Unit (ATU) and changed the focus of the unit. We have observed in our document reviews that this unit now primarily investigates narcotics crimes.

MCSO's organizational chart for SID no longer shows the Criminal Employment Unit or the Human Smuggling 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 since March 2015, we have not seen any arrests for immigration or human smuggling violations. The cases submitted by MCSO and reviewed for the ATU are primarily related to narcotics trafficking offenses.

During this reporting period, the ATU continued to investigate narcotics violations. There were no investigations related to any immigration or human smuggling activity.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

***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.*

On September 5, 2014, MCSO finalized and distributed GJ-33 (Significant Operations). The Protocols, Planning Checklist, and Supervisor Daily Checklists were also finalized and distributed. The policy (GJ-33) was specifically trained to during the Fourth and Fourteenth Amendment training for sworn personnel and Posse members. The policies and protocols accurately reflect the requirements of the Order. MCSO is in Phase 1 compliance with this Paragraph.

Since achieving Phase 1 compliance, MCSO has reported conducting only one significant operation that invoked 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 County. MCSO met all the requirements of this Paragraph during this operation.

During the last reporting period, we became aware of “Operation No Drug Bust Too Small” when it was reported in the media. This operation was reported to have resulted in the arrest of 102 persons and the seizure of millions of dollars in narcotics and other contraband. We contacted MCSO for additional details on this operation and learned that it was a focused effort on outstanding narcotic warrants and street-level drug investigations that occurred between August 2015 and February 2016. MCSO reported that it was not an operation in a typical sense. After reviewing the documentation provided by MCSO at our request, we are satisfied that this operation did not meet the reporting requirements of this Paragraph.

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

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.*

On September 5, 2014, MCSO finalized and distributed GJ-33 (Significant Operations). 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. MCSO is in Phase 1 compliance with this Paragraph.

Since achieving Phase 1 compliance, MCSO has reported conducting only one 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 County. MCSO met all the requirements of this Paragraph during this operation.

MCSO has consistently reported in each subsequent reporting period that it has not conducted any significant operations meeting the requirements of this Paragraph. During this reporting period, MCSO again reported that it did not conduct any significant operations invoking 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 GJ-33 (Significant Operations). 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 in 2014. MCSO is in Phase 1 compliance with this Paragraph.

Since achieving Phase 1 compliance, MCSO has reported conducting only one 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 County. MCSO met all the requirements of this Paragraph during this operation.

MCSO has consistently reported in each subsequent reporting period that it has not conducted any significant operations meeting the requirements of this Paragraph. During this reporting period, MCSO again reported that it did not conduct any significant operations invoking 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 reporting period, MCSO did not conduct any significant operations, and it was not necessary for us to conduct any community outreach meetings related to this Paragraph.

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

MCSO developed the significant operations protocol as required, and modified it to include Section 7 that requires notification to the Plaintiffs. MCSO is in Phase 1 compliance with this Paragraph.

Since achieving Phase 1 compliance, MCSO has reported conducting only one 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 County. MCSO met all the requirements of this Paragraph during this operation.

MCSO has consistently reported in each subsequent reporting period that it has not conducted any significant operations meeting the requirements of this Paragraph. During this reporting period, MCSO again reported that it did not conduct any significant operations invoking the requirements of this Paragraph.

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

During this reporting period, MCSO again reported that no arrests of five or more persons occurred in any significant operation or other qualifying event.

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.*

On April 11, 2016, at the request of Defense counsel, we conducted a conference call to discuss revisions to GG-1 (Peace Officer Training Administration). During the call, Defense counsel explained to us that it preferred the conference call format because of its immediate impact on productivity. We discussed several critical topics, including instructor selection criteria and serious offense and discipline. We also clarified our recommendations for instructor selection criteria, noting that it would be beneficial to provide the Director of Training with additional limited discretion to exclude instructors for cause. During the call, there was extensive discussion regarding major discipline received by instructors. Defense counsel expressed a desire to align serious offense criteria with discipline levels of existing policy GC-17 (Employee Disciplinary Procedures). She offered to attempt to craft a mid-range disciplinary level that the Parties and our Team could embrace with the next iteration; we agreed to this approach. The conference call concluded with an understanding by all that MCSO would quickly address two key areas: further production for tests, evaluations, and critiques; and a major discipline proposal aligned with GC-17. We requested that the next version highlight these new modifications in order to minimize the subsequent review. The Training Division agreed to implement this procedure in order to clearly mark and identify all changes. MCSO represented to us that completing this policy was now a priority and that the companion document, the Training Division Operations Manual, would accompany the new revision.

On April 26, 2016, we received our first copy of the Training Division Operations Manual, independent from policy GG-1. Our review was not favorable. We noted extensive grammatical and formatting errors throughout the document and recommended that a more comprehensive and thorough review be conducted by MCSO prior to submitting this document for review. The manual reveals a training system that is bifurcated for sworn and Detention personnel. We are critical of this practice and believe it has no merit after the adoption of a standardized training cycle. Overall, we believe that the manual fails to incorporate a common, comprehensive system for the management, development, delivery, assessment, and revision of training for both sworn and Detention personnel. Although we recognize a need for the development of different training topics for Detention and sworn personnel, we believe both categories should be addressed within a single training oversight policy. We also noted that the included Training Division Organizational Chart does not provide for critical training areas such as Leadership, Supervisory, and Instructor training. During our June technical assistance site visit, made at the request of Training Command, we provided an alternative view for organizational realignment

into such areas as Pre-Service, In-Service, Supervisory Training, and Executive Development. Each area with no apparent distinction between sworn or Detention personnel. The Training Division Operations Manual was not approved during this reporting period.

On May 19, 2016, we received the second version of GG-1. In light of the review for consistency with the Training Division Operations Manual, we discovered additional areas requiring attention. Modifications were now required for Field Training Deputies to include a mandatory PSB review. The definition of a serious offense was expanded to include personnel disciplined or personnel who currently are the subject of an ongoing investigation that would bar them from serving as an instructor. We found the proposed disciplinary alignment by Defense counsel to be inconsistent with existing GC-17 and insufficient to address our prior concerns. Policy GG-1 was not approved during this reporting period.

Policy GG-2 (Training Administration) was not reviewed during this reporting period. GG-2 was the first training policy provided to us. During our July 2016 site visit, the Director of Training indicated that there was no inclination to adopt our recommendation to merge GG-1 and GG-2 and develop a single, comprehensive training policy. There appears to now be a distinct bifurcation of training mandates for sworn and Detention personnel. A review of GG-2 is required to ensure that organizationally training development and delivery, instructor selection and retention, and documentation of training are consistent and standardized.

During our July 2016 site visit, MCSO informed us that it planned to use the BidSync system to procure instructors for the 2016 Annual Combined Training. The system is designed to ease the payment of instructors acquired for this training. We were advised that MCSO intends to vet and approve instructors by our Team and the Parties, and then to request that they independently register with the bid system. We have no opposition to this process and MCSO reaffirmed its intent to conform to the Section IV review process of the Order

Instructor selection for the 2016 Supervisor Responsibilities: Effective Law Enforcement training was completed during this reporting period. In May, PSB reviewed 10 proposed instructors for this program, and it did not identify any disciplinary issues or ongoing investigations. The instructor pool, however, was reduced to nine instructors as a result of a single retirement. In June, we attended the Train-the-Trainer (T3) program for this course. The T3 was held for two days, on June 1 and 2, for 10 hours each day. Each day, instructors presented their assigned topical content in its entirety to the other instructors. The instructors engaged in robust discussions until they achieved common understanding of critical issues. In some cases, instructors provided valuable suggestions for the delivery of difficult subjects. We addressed pending lesson plan development issues, including: correcting lesson plan formatting issues; addressing lesson plan inconsistencies with specific policy language; and implementing Plaintiffs' concerns and recommendations regarding the use and duration of a specific video. Without the use of a T3, it is likely these issues may have evaded identification prior to actual delivery. We commend MCSO for the manner in which the T3 was conducted and the efforts put forth by the instructors. The Training Division and the instructors alike expressed appreciation for the assistance provided from our Team.

During the T3 site visit, we also audited one instructor folder. This folder was specifically targeted to identify prior community policing training that would provide the experience necessary to deliver this important component of the 2016 Supervisor Responsibilities: Effective Law Enforcement training program. We were able to identify a certificate specific to this experience. We also noted that instructor folders remain established in a uniform manner. Each includes an Instructor Selection Criteria Checklist, Skills Manager employee profile, curriculum vitae or resume, certificates received, and a PSB review. Included certificates support the proposed instructor selection criteria of new policy GG-1. We will continue to conduct further reviews of instructor files.

During our April site visit, we had learned that MCSO had initiated a new class for Field Training Officers (FTOs) in February. Field Training Officers are instructors in the purest sense. We requested a roster of all Field Training Officers. We also requested the PSB reviews that MCSO should have conducted prior to the selections of the FTOs. On May 6, 2016, we received a roster identifying 54 individuals as “active sworn Field Training deputies.” This memo indicates that 17 individuals attended the February Basic Field Training Officer School – yet none of these individuals received the requisite PSB review. MCSO had previously informed us the draft policy GG-1 was being used as the guiding process for FTO review. The review process has been used for all Order-related training instructor selections. However, the Training Division did not initiate the PSB check for FTOs until May 3, 2016, after our April site visit and our request to review the results. By memo, we were advised that the Director of Training was reviewing the results of the PSB review, and we requested the results of this review during our July site visit. The Training Division had conducted the required PSB reviews. MCSO also advised us that the Field Training Coordinator was also creating FTO folders in the same manner as instructor folders. Although the FTO review by PSB did not occur in accordance with the proposed policy guidelines, we commend the Training Division for implementing a draft procedure that will assist in ensuring that FTOs maintain high standards consistent with the instructor cadre.

The Training Division did not conduct annual PSB reviews of incumbent instructors 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 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.*

During our April 11, 2016 conference call, we discussed revisions to GG-1 (Peace Officer Training Administration) relative to what appeared to be confusion of assessments, evaluations, and critiques. We believe the current assessment tool inappropriately combines individual knowledge testing, course evaluations, and instructor critiques into a single tool identified as an assessment. We are most concerned that the current tool does not provide adequate feedback with any degree of useful specificity. As a result of the proposed GG-1 language, we recommended that assessments be identified as tests and only address individual achievement scores. The test should be designed to satisfy the requirements of this Paragraph and/or include writings indicating that MCSO Personnel taking the training, comprehend the material taught whether via live training or online training. An evaluation should provide the student's opinion of the lesson plan content, its organization, and format. A critique should assess the content delivery by the instructor; their podium presence and delivery style for consistency with the desires of MCSO, and the instructor's individual ability to transfer knowledge to the student. Although we initially recommended the creation of three separate tools, we also provided an alternative that would incorporate the instructor critique and the course evaluation in order to survey students only once during a training program. Implementation of these recommendations will result in the production of satisfactory information to MCSO to provide for the revision of lesson plans and assist with compliance of this and other Paragraphs. MCSO previously implemented recommendations to modify the passing grade. MCSO has displayed a propensity for the use of open book tests. Although the methodology has merit, we continue our recommendation that MCSO refrain from universal use.

During this reporting period, MCSO delivered one class of the 2014 Detention, Arrests, and Immigration Related Laws, and Bias Free Policing training. All 31 personnel – a combination of sworn (17), Reserve (three), and Posse (11) members – successfully completed the test. MCSO has determined that all new deputy recruits will receive this training during a post-Academy two-week training period. The new deputies will then be required to attend the current year Annual Combined training along with incumbent deputies. We agree with this approach. We will continue to monitor the test results.

MCSO delivered two classes of the 2015 Annual Combined Training during this reporting period. A total of 27 (three sworn, 24 Posse) personnel received the training. In April 2016, one Posse personnel failed the initial and remedial tests. The 2015 ACT training program was completed as of June 30, 2016.

MCSO delivered four classes of the 2016 Supervisor Responsibilities: Effective Law Enforcement training during this reporting period. One class was the Train-the Trainer, and three classes were provided to supervisors. The Plaintiffs' attorneys, the Plaintiff-Intervenors, and we approved this lesson plan and test in May. None of the 86 supervisory personnel that attended failed the test.

MCSO delivered one class of the 2014 EIS “Blue Team Entry System for IAPro” training during this reporting period. A total of 18 personnel successfully completed the test. In conjunction with the lesson plan and exercise scenarios received during this reporting period, we did not receive a new test for review. Neither the revised lesson plan nor a testing tool was approved during this reporting period.

MCSO delivered one class of TraCS training during this reporting period. A total of 21 personnel (19 sworn, two reserve) successfully completed the test. MCSO advised us that the TraCS lesson plan and test is currently under revision.

MCSO delivered one class of Body-Worn Camera Training during this reporting period. A total of 21 personnel (19 sworn, two reserve) successfully completed the test. MCSO advised us that the Body-Worn Camera training lesson plan and test is currently under revision.

MCSO delivered seven classes of the 2016 Admin Investigations Checklist class. All 67 of 192 supervisory personnel who attended successfully completed the test.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Deferred

***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.*

During our April 11, 2016 conference call to discuss revisions to GG-1 (Peace Officer Training Administration), we discussed the development and use of the Master Training Calendar. We recommended that MCSO include projected training dates to assist in maintaining timely training development.

During this reporting period, we continued to receive a 12-month version of the Master Training Calendar projected into 2017 that included projected delivery dates for several training programs. The inaccuracies in the Master Training Calendar that we previously identified appear to have been addressed.

The Sworn Master Roster – June Report indicates that MCSO has a total of 739 sworn personnel who are required to receive Court Order-related training. This number reflects an increase of 16 personnel.

The Reserve Master Roster – June Report indicates that a total of 31 Reserve personnel are required to receive Court Order-related training. This represents a decrease of three personnel.

The Retired Reserve Master Roster – June Report indicates that a total of 28 retired reserve personnel will be required to receive Court Order-related training. This represents an increase of seven personnel.

The Posse Roster –June Report indicates that a total of 820 Posse personnel will be required to receive Court Order-related training. This represents a decrease of 11 personnel.

The SRELE (Supervisor Responsibilities: Effective Law Enforcement) Mandatory Attendance Roster – June indicates that a total of 192 supervisors (18 Captains, nine Deputy Chiefs, 39 lieutenants, and 126 sergeants) are required to receive Court Order-related Supervisory Training programs.

2016 Supervisor Responsibilities: Effective Law Enforcement Training was delivered four times during this reporting period to a total of 87 supervisory personnel.

MCSO delivered 2014 Blue Team Entry System for IAPro to 18 personnel during this reporting period.

MCSO delivered 2015 TraCS Training to 21 sworn personnel during this reporting period.

MCSO delivered 2015 Body-Worn Camera Training to 21 sworn personnel during this reporting period.

MCSO delivered 2016 Administrative Investigations Checklist Training to 67 supervisory personnel during this reporting period.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Deferred

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

During our April 11, 2016 conference call to discuss revisions to GG-1 (Peace Officer Training Administration), MCSO expressed no concerns with the previously provided comments and recommendations to GG-1 (Peace Officer Training Administration). The language required by this Paragraph remains intact.

During this reporting period, we continued our review with attorneys for the Plaintiffs, the Plaintiff-Intervenors, and the Defendants, of the 2016 Supervisor Responsibilities: Effective Law Enforcement curriculum. The final approved curriculum incorporates adult-learning methods and includes a PowerPoint presentation, interactive learning exercises, and lecture.

The Supervisory Training curriculum was approved on June 7, 2016. This curriculum was approved absent the content required by Paragraph 53.i. and j. Both of these subsections will be addressed in an additional, specific training program, as approved by the Parties and us. We anticipate that the new training program to address the outstanding Paragraph requirements will incorporate adult-learning methods as required by this Paragraph.

We also assisted the Training Division with the Train-the-Trainer (T3) program for the Supervisory Training on June 1 and 2, 2016. This was a most productive program and we commend the Training Division and the instructors who participated. Each instructor conducted his/her section of the program with enthusiasm. The instructors provided feedback on critical topics that generated robust discussions. This program allowed the Training Division to ensure that the lesson plan, videos, and other supporting documentation addressed all recommendations by the Parties and us. Immediate feedback from all of the instructors was both positive and helpful.

We received the third version of the EIS2 lesson plan during this reporting period. Plaintiffs, Plaintiff-Intervenors, and we provided further recommendations to this lesson plan on June 13, 2016. MCSO included several scenarios and exercises for review. We are encouraged by these changes to the lesson plan and believe the interactive components will prove to be beneficial.

The EIS2 curriculum was not approved during this reporting period.

However, for the training delivered during this reporting period, MCSO is in compliance with this Paragraph.

Compliance Status:

Phase 1: Not applicable

Phase 2: 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.*

On April 11, 2016, at the request of Defense counsel, we conducted a conference call to discuss revisions to GG-1 (Peace Officer Training Administration). We further clarified our recommendations on the 7-Step Training Cycle. MCSO has embraced the training cycle concept and used it extensively during this reporting period. The adoption of this process has enhanced the timely production of training materials.

Supervisory Training:

MCSO delivered the 2016 Supervisory Training to 86 of 192 personnel during this reporting period.

EIS Blue Team Training:

MCSO delivered the 2015 EIS Blue Team Training once to 18 new deputies during this reporting period. The 2014 EIS2 lesson plan is currently under review by the Parties and us.

TraCS Training:

MCSO delivered the 2015 TraCS Training once to 21 (19 sworn, two reserve) personnel during this reporting period.

The 2015 TraCS lesson plan is currently under review by the Training Division.

Body-Worn Camera Training:

MCSO delivered the 2015 Body-Worn Camera Training once during this reporting period to 21 (19 sworn, two reserve) personnel during this reporting period.

The 2015 Body-Worn Camera Training lesson plan is currently under review by the Training Division.

Administrative Investigations Checklist Training:

MCSO delivered the 2015 Administrative Investigations Checklist Course to 60 of 192 supervisors during this reporting period.

Annual Combined Training:

The initial 2016 ACT lesson plan was provided to the Parties and us for review during this reporting period. We have provided recommendations to MCSO for consideration.

During this reporting period, MCSO actively engaged our Team and the Parties while developing lesson plans and other training documents. MCSO reviews – and in general, implements – our and the Parties’ recommendations. For the training delivered during this reporting period, MCSO followed the curriculum and instructor review process. MCSO is in compliance with this Paragraph.

Compliance Status:

Phase 1: Not applicable

Phase 2: 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 April 11, 2016, at the request of Defense counsel, we conducted a conference call to discuss revisions to GG-1 (Peace Officer Training Administration), and discussed several critical topics. We further clarified our recommendations on the 7-Step Training Cycle. The adoption of this process will provide for the timely revision of training materials. During our June technical assistance visit to assist with the Supervisory Training T3, Training Division personnel advised us of the forthcoming Countywide implementation of Cornerstone, an online learning management software. Cornerstone may positively impact the manner in which the Training Division accomplishes its mission. It appears that the system uses a Structured Query Language (SQL) database, which houses special-purpose programming language designed for managing data held in a relational database management system. Implementation of this system will allow Training personnel to select, insert, update, and find the location of data – in this case primarily

lesson plans and training documents from cloud storage. Despite initial reports of a late summer implementation date, MCSO now anticipates that Cornerstone will be operational by early 2017. Use of this system should provide the Training Division with a comprehensive annual review of lesson plans, supporting documents, and post-analysis of all training programs. As use of the 7-Step Training Cycle becomes more familiar and routine, the annual update for each lesson plan with new developments in law, participant feedback, and comments, training evaluations, and internal review processes will become standardized.

Previously, we reported that MCSO had unilaterally removed the student comment section from the existing Course Assessment Tool. We were critical of this action. The comment section provides the student an opportunity to make comments about the instructor's delivery and the content of the course curriculum. During our July site visit, Training Division personnel advised us that MCSO had modified the Course Assessment Tool so that it again included this section. We did not review or approve this tool during this reporting period. Our reviews of the Annual Combined Training, and Supervisory Training indicate that the form includes the comment section for the June 2016 deliveries. We anticipate further revision as a result of our April 11, 2016 conference call.

The 2015 TraCS lesson plan is currently under review by the Training Division.

The 2015 Body-Worn Camera lesson plan is currently under review by the Training Division.

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

MCSO is in deferred compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Deferred

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.

During this reporting period, MCSO delivered one class of the 2014 Bias Free Policing training. All 31 personnel – a combination of sworn (17), Reserve (three), and Posse (11) members – successfully completed the course. MCSO has determined that all new deputy recruits will receive this training during a post-Academy two-week training period. The new deputies will then be required to attend the current year Annual Combined training along with incumbent deputies. We agree with this approach.

MCSO delivered two classes of the 2015 Annual Combined Training during this reporting period. A total of 27 (three sworn, 24 Posse) personnel received the training. The 2015 ACT training program was completed as of June 30, 2016.

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

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.*

During this reporting period, MCSO delivered one class of the 2014 Bias Free Policing training. All 31 personnel – a combination of sworn (17), Reserve (three), and Posse (11) members – successfully completed the test. MCSO has determined that all new deputy recruits will receive this training during a post-Academy two-week training period. The new deputies will then be required to attend the current year Annual Combined training along with incumbent deputies. We agree with this approach.

MCSO delivered two classes of the 2015 Annual Combined Training during this reporting period. A total of 27 (three sworn, 24 Posse) personnel received the training. The 2015 ACT training program was completed as of June 30, 2016. MCSO has begun the development of the 2016 Annual Combined Training program. A Train-the-Trainer program is tentatively scheduled for August 22, 2016. The Parties and we have provided MCSO with recommendations to this lesson plan. The lesson plan was not approved during this reporting period.

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

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.*

During this reporting period, MCSO delivered one class of the 2014 Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws. All 31 personnel – a combination of Sworn (17), Reserve (three), and Posse (11) members – successfully completed the course. MCSO has determined that all new deputy recruits will receive this training during a post-Academy two-week training period. The new deputies will then be required to attend the current year Annual Combined training along with incumbent deputies. We agree with this approach.

MCSO delivered two classes of the 2015 Annual Combined Training during this reporting period. A total of 27 (three sworn, 24 Posse) personnel received the training. The 2015 ACT training program was completed as of June 30, 2016. MCSO has begun the development of the 2016 Annual Combined Training program. A Train-the-Trainer program is tentatively scheduled for August 22, 2016. The Parties and we have provided MCSO with recommendations to this lesson plan. The lesson plan was not approved during this reporting period.

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

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.*

During this reporting period, MCSO delivered one class of the 2014 Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws. All 31 personnel – a combination of sworn (17), Reserve (three), and Posse (11) members – successfully completed the course. MCSO has determined that all new deputy recruits will receive this training during a post-Academy two-week training period. The new deputies will then be required to attend the current year Annual Combined training along with incumbent deputies. We agree with this approach.

MCSO delivered two classes of the 2015 Annual Combined Training during this reporting period. A total of 27 (three sworn, 24 Posse) personnel received the training. The 2015 ACT training program was completed as of June 30, 2016. MCSO has begun the development of the 2016 Annual Combined Training program. A Train-the-Trainer program is tentatively scheduled for August 22, 2016. The Parties and we have provided MCSO with recommendations to this lesson plan. The lesson plan was not approved during this reporting period.

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

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

a. 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.

During our April 11, 2016, at the request of Defense counsel, we conducted a conference call to discuss revisions to GG-1 (Peace Officer Training Administration), and discussed several critical topics. Recommendations specific to this Paragraph are addressed in the draft policy, Section 3. Law Enforcement Training: E.1-3.

During this reporting period, the Parties and we approved the 2016 Supervisor Responsibilities: Effective Law Enforcement lesson plan. This lesson plan was approved without the inclusion of the requirements of Paragraph 53.i. and j. The Parties and we will address these Subparagraphs in a secondary lesson plan. A Train-the-Trainer program was conducted on June 1 and 2, 2016.

Delivery of this program occurred three times during this reporting period. A total of 86 of 192 supervisory personnel received the training and successfully completed the class during this reporting period.

Until such time as all supervisors are trained, MCSO remains not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not applicable

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.*

During this reporting period, the Parties and we approved the 2016 Supervisor Responsibilities: Effective Law Enforcement lesson plan. This lesson plan was approved without the inclusion of the requirements of Paragraph 53.i. and j. The Parties and we have agreed to address these Subparagraphs in a secondary lesson plan.

Misconduct investigative training is currently under development. A total of 86 of 192 supervisory personnel received the training and successfully completed the class during this reporting period.

Until such time as all supervisors are trained, MCSO remains not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not applicable

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 for the Monitoring Team to request traffic stop data from MCSO. The following describes how we made that request and how we handled the data once we received it. These data may also be referred to in other areas of Section 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-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 Lake Patrol. By way of background, MCSO reported a total of 6,845 cases of traffic stop events for these areas between April 1 and June 30, 2016 (averaging 2,282 per month).

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

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

a. Collection of Traffic Stop Data

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

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

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 and amended December 17, 2015; EA-5 (Enforcement Communications), amended October 29, 2015; 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.³

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, 2016 for purposes of this review; and assessed the collected data from the above-listed documents for compliance with Subparagraphs 54.a.-54.m. All of the listed documentation was used for our review of the following subsections of this Paragraph.

The Paragraph requires that MCSO create a system for data collection. The data collected pursuant to this Paragraph will be captured in the Early Identification System, which we discuss further in subsequent sections of this report. We previously participated in a ride-along with a deputy in the Lake Patrol to observe, firsthand, the process MCSO uses 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 26 cases where the deputy's unit had another deputy assigned to the vehicle or one or more other deputy units or Posse members were on the scene (144 total deputies or Posse members on the scene). In three cases involving secondary units who arrived on the scene, the deputies' names, serial and unit numbers were not listed on the VSCF. In one of these two cases, the deputy's unit number was listed on the CAD printout as being present at the scene. In the second case the primary deputy failed to list the back-up deputy on the VSCF. In the third case, there were two back-up units on the scene and one of the units was not listed on the VSCF. In this case, the body-worn camera recording revealed the third unit on the scene. For this reporting period, the primary deputies indicated their own unit and serial numbers for every stop they initiated. We review the Vehicle Stop Contact Form, I/Viewer Event document, the Justice Web Interface, and the CAD printout to determine which units are on the scene. If back-up units arrive on a scene and do not announce their presence to dispatch, CAD does not capture this information. We previously recommended that MCSO create a drop-down box to identify

³ Failure to attend the training resulted in de-selection from the Posse Program.

additional passengers in a vehicle, and it has worked well. We recommended that MCSO place a mandatory field on the Vehicle Stop Contact Form that indicates the number of units on the scene that would automatically create a drop-down box for additional units to be listed. CID personnel advised that they would look into this technical change during our July 2015 site visit, and made the change during the subsequent reporting period.

On every traffic stop, the deputy completes the Vehicle Stop Contact Form 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 made 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. Deputies must be diligent by inputting correct serial and unit numbers in the system, as it will not detect incorrect numbers. 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 the third quarter of 2015. In its prior iteration, the Arizona 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. The Order requires that all deputies on the scene be identified with their names, serial and unit numbers on the appropriate forms. We noted two instances where the primary deputy did not list the name, serial number, or unit number on the VSCF. MCSO's compliance rate is 98% for this reporting period.

Paragraph 54.b. requires MCSO to document the date, time, and location of the stop, recorded in a format that can be subject to geocoding. Our reviews of the CAD printout for all 105 traffic stops in our sample indicated that the date, time, and location is captured with the time the stop is initiated and the time the stop is cleared. In previous reporting periods, we noted instances where the GPS coordinates could not be located on the documentation received (CAD printout/I/Viewer). We contacted MCSO about this issue and MCSO is now providing us with the GPS coordinates by way of a separate document that lists the coordinates for the traffic stop samples we provide. MCSO uses GPS to determine location for the CAD system. GPS collects coordinates from three or more satellites to enhance the accuracy of location approximation. The data from the satellites can be decoded to determine the longitude and latitude of traffic stop locations should that be necessary. We have recommended that BIO conduct an inspection of GPS coordinates during its monthly audits of the traffic stop data. The CAD system was upgraded in 2014 to include geocoding of traffic stops. CID continues to provide us with a printout of all case numbers in the sample containing the associated coordinates. The CAD or I/Viewer system contains the coordinates in about 85% of the cases. MCSO provided all GPS coordinates for the 105 cases we reviewed, for 100% compliance.

Occasionally the CAD time of stop and end of stop time do not exactly match those listed on the Vehicle Stop Contact Form due to extenuating circumstances the deputy may encounter. During this reporting period, we found one instance where the start or end time on the Vehicle Stop Contact Form differed by five minutes or more from the CAD printout without any explanation from the deputy involved in the stop. The CAD system is more reliable than the VSCF in determining stop times, as it is less prone to human error. When the deputy verbally advises dispatch that s/he is conducting a traffic stop, the information is digitally time-stamped into the CAD system without human input; and when the deputy clears the stop, s/he again verbally advises dispatch. During our April 2016 site visit, we had discussions with ASU and MCSO about utilizing the CAD printout instead of the TraCS data to determine stop times; we determined that utilizing the CAD system to determine stop end times created additional challenges. We raised this topic again during our July 2016 site visit; and ultimately, MCSO made a decision, beginning with the July 2016 traffic stop data collection, to use the stop times captured on the CAD system for reporting and analytical purposes. MCSO issued Administrative Broadcast 16-62 on June 29, 2016 indicating that TraCS will automatically access the CAD system and return the following fields from the Incidental Contact form, Citation or Warning through the auto-populate feature when an Event Number (MC#) is entered:

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

This change will ensure the end time of the stop from the CAD system and VSCF should match. MCSO's compliance rate is 98% for this portion of the Subparagraph.

Paragraph 54.c. requires MCSO to document the license plate and state of the subject vehicle. In our last seven quarterly 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 104 cases; in the one exception, the deputy entered the correct tag number on the VSCF and the Arizona Traffic Ticket and Complaint but queried a different tag number through the CAD system and the Intergraph I/Viewer system. We could not detect the reason for the separate query in the documentation we reviewed. Three of the stops were of vehicles titled in another state. As in our previous reports we found that many of the stops made by deputies were for speeding, invalid license plates, or expired vehicle registrations. MCSO is in compliance with this Subparagraph, with a compliance rate of 99%.

Paragraph 54.d. requires MCSO to document the total number of occupants in the vehicle when a stop is conducted. In 41 of these 105 traffic stops, more than one occupant occupied the vehicle (73 total passengers). The Vehicle Stop Contact Form, completed by the deputy on every traffic stop, is used to capture the total number of occupants and contains a separate box on the form for that purpose. There were two traffic stops where the deputy failed to complete the VSCF and therefore we do not know if any passengers were in the vehicle at the time of the stop. Both of these stops resulted in an Incidental Contact report. Policy EB-2 (Traffic Stop Data Collection

Procedures) requires deputies to collect data on all traffic stops using the MCSO VSCF; this includes incidental contacts with motorists. In another stop, the deputy ran a warrant check on the driver and two passengers, with one passenger's name not listed on the VSCF but the total number of passengers listed was correct. (See Para 54f). MCSO's compliance rate is 98% for this Subparagraph.

Paragraph 54.e. requires MCSO to document the perceived race, ethnicity, and gender of the driver and any passengers, based on the deputy's subjective impression. (No inquiry into the occupant's ethnicity or gender is required or permitted.) In 41 of the 105 stops, there was more than one occupant in the vehicle. There were three stops that resulted in an Incidental Contact form being completed; in two of those stops, the deputy failed to complete the required VSCF, which contains the race, ethnicity, and gender of the driver and any passengers. As a result, we were unable to determine the ethnicity of the driver in these two cases. In another stop, the deputy failed to document the passenger contact on the VSCF. The compliance rate for identifying the race/ethnicity and gender of the driver is 98%.

Our previous reviews of passenger contacts, drawn from the sample of 105 traffic stops, did not provide a sufficient number of cases where deputies made contact with passengers. Therefore, we requested that MCSO provide us, from the TraCS data, all cases where deputies made contact with passengers. We then pulled a sample of 10 cases per month of those stops where deputies made contact with a passenger. For this review, we included the 30 stops where passenger contact was made with the four passenger contacts from the 105 traffic stops we reviewed for the quarter. There were 41 stops where 73 passengers were identified as occupants of the vehicles. In one case, the deputy failed to identify the race/ethnicity or gender of a passenger although the drop-down box for passenger information was clearly visible on the VSCF. There were four passengers in the vehicle and the deputy identified three of those; the ethnicity and gender of the fourth passenger was listed as unknown.

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 96%.

The persons stopped included 42 white male drivers, 23 white female drivers, 17 Latino male drivers, nine Latina female drivers, three Black male drivers, six Black female drivers, one Indian/Alaskan male driver and two Asian/Pacific Islander male drivers. One of the Asian/Pacific Islander male drivers was inaccurately identified as a white male on the VSCF. We reviewed the body-worn camera recording and could clearly identify the driver as Asian/Pacific Islander. In two traffic stops, we could not identify the ethnicity or gender of the drivers due to the failure of the deputies to complete the VSCF. We did not find any indications of apparent bias in the sample of traffic stops we reviewed. In addition, when BIO conducts audits of the traffic stop data, it issues memorandums to the individual Districts so that they can learn of any deficiencies and provide corrective action. Most of the deficiencies involving identification of the race/ethnicity and gender of passengers have been corrected. We have observed continued improvement in deputies' abilities to identify the ethnicity and gender of passengers. The District Captains are required to respond to BIO with comments on violations,

or with corrective action if required. We review the internal audits and associated matrices conducted by MCSO, and occasionally we disagree with their findings. During our July 2016 site visit, we reviewed the April and May 2016 TraCS deficiencies discovered in MCSO's audits and in our review of the documentation. BIO provided us with the corresponding action forms returned by the Districts in response to those deficiencies.

There were 38 instances where deputies elected to issue warnings to drivers instead of issuing citations. Thirty-six percent of the 105 traffic stops we reviewed resulted in a written warning. The ethnic breakdown of those receiving warnings somewhat reflected the numbers indicated in the number of total stops. The breakdown of those motorists issued warnings is as follows: 17 white males (40%); 10 white females (43%); three Latino males (18%); four Latina females (44%); two Black males (67%); one Black female (11%); and two Asian/Pacific Islander males (100%). There was a significant drop in the percentage of Latino males receiving warnings during this and the previous quarter, which may possibly indicate a bias toward Latino drivers. We will continue to evaluate this trend in the next reporting period. Fifteen Latino males were stopped for traffic violations during this reporting period.

We reviewed documentation where BIO forwards 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 has made a technical change to TraCS that now includes a drop-down box on the VSCF to automatically add additional passenger fields on the form when the deputy indicates the total number of occupants in the vehicle. 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 previously achieved compliance with this Subparagraph. There were a total of 178 occupants (105 drivers and 73 passengers), with one passenger not being identified by race, ethnicity, or gender. There were two cases where the deputy did not complete the VSCF, so we are unable to verify if any passengers were in the vehicle. MCSO's compliance rate is 96%. MCSO will remain in compliance with this Subparagraph.

Paragraph 54.f. requires that MCSO record the name of any individual upon whom the deputy runs a license or warrant check (including the subject's surname). When we reviewed traffic stop documentation for our first quarterly status report, there were only two individuals identified during the 94 traffic stops that had queries (warrant checks) indicated on the CAD printout or the I/Viewer system. 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 beginning with our second quarterly report. 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 and access to the JWI in the samples we request. MCSO indicated in a memorandum dated October 8, 2014 that it would provide the documentation beginning with our October sample request. MCSO provided the Intergraph I/Viewer System and the JWI documentation for the October-December 2014 quarter for our review, and provided it in all of our subsequent monthly requests.

For this reporting period, we found that in the 105 traffic stops we reviewed, all but one of stops included a check on the license plate. There were 84 stops where the driver or passengers had a warrant check run. There were two cases where we could not determine why the deputy ran warrants check on the passengers. In one case the deputy ran a warrant check on one of the passengers and we could not determine the reason for the query. In the second case, the passenger had a warrant check run for a valid license as the driver was operating the vehicle with a suspended license. In addition to running a warrant check on the driver and one passenger, the deputy also ran a warrant check on a second passenger and did not list this person's name on the VSCF per the requirement of the Order.

The percentages of warrant checks run by deputies by ethnicity of drivers stopped for traffic violations is as follows: white males, (88%); white females, 78%; Latino males, (100%); Latina females, (44%); Black males (100%); Indian/Alaskan males (100%); and one Asian/Pacific Islander male (50%). We would note that only three Black males and one Indian/Alaskan male were stopped in the sample. We observed an increase from the last reporting period of warrant checks on Latino drivers, which may indicate biased law enforcement. We will continue to monitor this trend in the future. MCSO provided a draft of an Administrative Broadcast that will mandate deputies to run warrant checks on the driver of the vehicle in all traffic stops. MCSO subsequently disseminated this Administrative Broadcast. MCSO's compliance rate is 99%, and it is in compliance with this Subparagraph.

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

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

Simply indicating "moving violation," "non-moving violation," "contact during a traffic stop," or "investigation" as a reason for the stop describes why deputies stopped the driver, but not why they made contact with any passengers.

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

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 and reviewed 27 body-worn camera recordings from the sample of 105 traffic stops used for this review; and found that the deputies advised Communications of the reason for the stop, location of the stop, and license plate and state of registration for the 30 stops. The audio recordings we reviewed were clear, and the deputy advised of the reason for the stop in all 30 of these cases.

There were 75 instances in our sample where we did not listen to the CAD audiotapes, but reviewed the CAD printout where the reason for the stop, if advised by the deputy, is documented by the dispatcher. The VSCF and the CAD printout documents the time the stop begins and when it is concluded – either by arrest, citation, or warning. There were two traffic stops that resulted in an Incidental Contact form being completed, but deputies failed to complete the required VSCF indicating the reason for the stop. Deputies need to be precise when advising dispatch of the reason for the traffic stop and likewise entering that information on the appropriate forms. Both MCSO's internal audits and our reviews in the past have identified issues with deputies entering inaccurate information on the forms; for the most part, this issue has been corrected.

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

Paragraph 54.i. requires deputies to document the time the stop began; any available data from the E-Ticketing system regarding the time any citation was issued; the time a release was made without a citation; the time any arrest was made; and the time the stop/detention was concluded either by citation, release, or transport of a person to jail or elsewhere or the deputy's departure from the scene. In our review of the documentation provided, the CAD printouts, the Vehicle Stop Contact Forms created by MCSO along with the E-Ticketing system and the Arizona Ticket and Complaint form capture the information required. As we noted in Subparagraph 54b, the stop times on the CAD printout and the Vehicle Stop Contact Form varies slightly on occasion. We understand that this may occur due to extenuating circumstances, and we reported on those that were five minutes or more in duration from either the initial stop time or end time. We found one traffic stop where the stop or end time of the stop differed by more than five minutes between the Vehicle Stop Contact Form and the CAD printout. This case involved a white male driver who was stopped for failing to maintain lanes. During the traffic stop investigation, it was determined that the driver had a suspended driver's license; and a query also revealed an outstanding warrant out of Mesa. The deputy booked the driver on the outstanding warrant and towed the vehicle.

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

Supervisors, during their review of their subordinates' traffic stops, should correct deficiencies or ensure that additional training is provided. There were two stops where the deputies failed to complete the VSCF and thus the stop/start times of the interaction were not captured. Deputies accurately entered beginning and ending times of traffic stops in 98% of cases reviewed.

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

MCSO is in compliance with this Subparagraph.

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

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

Paragraph 54.k. requires MCSO to document whether any individual was asked to consent to a search (and the response), whether a probable-cause search was performed on any individual, or whether a pat-and frisk search was performed on any individual. In our review, we found one stop where a Latino male consented to a search. The deputy made this traffic stop for a suspended license plate due to lack of insurance on the vehicle. A warrants check also revealed that the driver was operating the vehicle with a suspended driver's license (criminal traffic offense). The driver was cited and released and the vehicle was towed. As a courtesy, the deputy offered the driver a ride to his workplace. Prior to the driver entering the patrol car, the deputy asked if he could perform a pat-down search for officer safety and the driver consented. The deputy failed to document the search on the VSCF, but our review of the body-worn camera recording clearly showed the deputy requesting the pat-down and the driver consenting. In three other cases involving two white males and an Indian/Alaskan male, the drivers were booked, the vehicles were towed, and the deputies documented on the VSCF that searches occurred incident to these arrests.

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

- Latina driving 78 mph in a 50 mph zone;
- Latina driving 60 mph in a 30 mph zone;
- Latino driving 100 mph in a 50 mph zone;
- White male driving 104 mph in a 65 mph zone;
- White male racing; and
- Black male driving with a suspended driver's license.

This is the second consecutive reporting period MCSO has not been in compliance with this Subparagraph. In the last reporting period, MCSO's compliance rate was 80% for documenting those situations where the deputy conducts a search; during this reporting period, the compliance rate is 75% and does not meet the requirement. Two consecutive quarters of non-compliance has removed MCSO from compliance with this Subparagraph.

Paragraph 54.l. requires MCSO to document whether any contraband or evidence was seized from any individual, and the nature of the contraband or evidence. During our review of the collected traffic stop data during this reporting period, we noted 10 cases where deputies made a criminal traffic arrest and seized the offending driver's license or license plate and placed it in evidence. Five of the cases involved white males, three cases involved Latino males, and two cases involved Latina females. Deputies indicated in all cases on the Arizona Traffic Ticket and Complaint when they seized a driver's license or license plate. In two of the 10 cases, deputies failed to indicate on the VSCF that these items were seized for an 80% compliance rate. There were no other stops where contraband or evidence was seized. MCSO will remain in compliance with this Subparagraph due to the previous reporting period being compliant.

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

To be in full compliance with Paragraph 54 of the Order, all Subparagraphs must be in compliance. MCSO is not in compliance with this Paragraph due to Subparagraph 54k not being in compliance for two consecutive reporting periods.

Compliance Status:

Phase 1: In compliance

Phase 2: Not 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), amended October 29, 2015, 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 MCSO implemented the CAD system in September 2013. This number provides the mechanism to link all data related to a specific traffic stop. The number is automatically generated by the CAD software and is sent to the deputy's MDT at the time of the stop. We have visited the Communications Center (Dispatch) or met with the Communications Commander in all of our previous site visits and again during our April 2016 visit. The unique identifier is visible and displayed at the top of the CAD printout and also visible on the Vehicle Stop Contact Form, the Arizona Traffic Citation and the

Warning/Repair form. During our April 2015 visit, we inquired how the CAD printout is coded if a deputy is dispatched as a back-up but is then cancelled prior to arrival. These situations do occur occasionally, and for our assessment of numbers of personnel on the scene of traffic stops, we requested clarification. Communications provided us with a code sheet for all numerical codes listed on the CAD printout.

We visited three Districts during our July 2016 site visit, and there were no indications from any personnel 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 written traffic stop 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.

To determine compliance with this requirement, we reviewed 105 traffic stop cases and reviewed the CAD printouts and the Vehicle Stop Contact Forms for all stops. We reviewed the Warning/Repair Forms, when applicable, for those stops where a warning was issued or the vehicle had defective equipment. The unique identification number assigned to each event was listed on all CAD printouts for every stop. We found the original event numbers (MC numbers) listed on the CAD printout matched the event numbers listed on the VSCF, citation, and the Warning/Repair Forms in all but one case. In this case, the event number generated by the CAD system and provided to the deputy did not match any of the TraCS data forms. In most cases, when deficiencies occur with the unique identifier, they can be attributed to the deputy inputting incorrect data. MCSO is in compliance with this Subparagraph, with a compliance rate of 99%.

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

In previous reports, we have documented that traffic stop data located at the Districts were not secure. 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. On September 8, 2015, MCSO issued Administrative Broadcast 15-96, which addressed the security of paper traffic stop forms. The new procedure requires that paper forms (prior to April 1, 2014) be kept in a locked cabinet box at the District. Any personnel who require access to those files must contact the division commander or his designee who will unlock the cabinet. Once the deputy accesses his file a TraCS file log must be completed and signed by the deputy. During our July 2016 site visit, we visited District 1, District 4, and the Lake Patrol; and inspected the written (paper) files and the TraCS file log. All records were locked and secure. We conducted a random review of written traffic stop data (dating back to 2014) in the three above-mentioned Districts to ensure that the written (paper) traffic stop data was maintained for five years. Staff was able to provide the appropriate documentation in every case we requested.

MCSO began auditing traffic stop data in January 2014; and beginning in April 2014, MCSO has conducted audits of the data on a monthly basis. After the January 2014 audit, MCSO created new forms to collect, by hand, the data required by policy until full electronic data entry began on April 1, 2014. We reviewed BIO's monthly audits of the traffic samples from April 1, through June 30, 2016, and found them to be satisfactory. To achieve compliance with this

Paragraph, MCSO provided the protocol specifically addressing the requirements for maintaining the integrity and accuracy of the written traffic stop data. EB-2 (Traffic Stop Data Collection) was amended on December 17, 2015. The approved policy also requires regularly scheduled audits on a monthly, quarterly, and annual basis. MCSO is now in compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: 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). MCSO initially developed and submitted a body-worn camera policy that did not meet all the requirements of the Order. MCSO submitted copies of the original policy to the Monitor and Plaintiffs on December 24, 2014 for comments. MCSO incorporated our comments into the new policy, GJ-35 (Body Worn Cameras), issued on June 24, 2015. GJ-35 addresses the part of the Order that requires supervisors to review the recordings to check whether deputies are accurately reporting stop length. In addition to the new policy, BIO developed a Body-Worn Camera Matrix for their inspectors to review camera recordings. It would be appropriate for supervisors conducting their reviews of subordinates’ videos 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, we reviewed 38 of 105 traffic stops where the deputy issued a warning to the motorist for a traffic violation; and in one case, the deputy failed to have the violator sign the Warning/Repair Form. The deputies wrote “SERVED” in the box requiring a signature for the warning. In another case where a warning or citation should have been issued, the deputy issued an Incidental Contact form but advised dispatch via the radio that a traffic violation occurred. We met with CID personnel during our April 2016 site visit and they advised that the policy would be amended, requiring deputies to secure a signature on every warning issued.

There were four traffic stops where the violators were issued citations and the deputy failed to secure a signature acknowledging receipt on the Arizona Traffic Ticket and Complaint. We also reviewed body-worn camera footage of a traffic stop, which captured the violator signing the citation, but the signature evidently did not scan on MCSO's copy. One traffic stop, according to the VSCF, resulted in a citation being issued. The citation was not located in this particular case file and we were unable to conduct the review of this document.

To verify compliance that the violator received the required "receipt" from the deputy, a signature is required, or, if the violator refuses to sign, the deputy may note the refusal on the form. We are unable to verify that motorists have been issued a receipt without a signature on the form or the deputy advising of the refusal of the receipt from the driver. Placing "SERVED" in the signature box without any explanation does not comply with the requirement. We acknowledge that, on some occasions during previous reviews, deputies have made an effort to document why a receipt was not obtained. In previous reports there were complaints by deputies that scanners would not scan driver's signatures on the Arizona Citation or the Warning/Repair form issued when the deputy decides a warning would suffice. For this reporting period, we did not receive any complaints that deputies' ability to scan signatures was an issue, but we did review several citations and warnings where no violator signature was captured. This may have been due to scanners not operating properly and not reported. MCSO provided three Incidental Contact forms during this reporting period. MCSO's compliance for this portion of the Subparagraph is 94%. We note that deputies have made progress completing the VSCF, Arizona Traffic Complaint, and the Warning/Repair Form; but we observed little improvement in acquiring violators' signatures on the required forms.

There were 64 citations, 38 warnings, and three Incidental Contact forms issued during this reporting period. One of those incidental contacts should have resulted in a citation or warning as the deputy advised on the radio that the violation was for speeding.

The approved policies dictate that the CAD system will be used for verification of the recording of the initiation and conclusion of the traffic stop. The deputy verbally announces the stops initiation and termination on the radio, and then CAD permanently records this information.

During our April 2016 site visit, we were informed that all deputies who conduct traffic stops have been issued body-worn cameras and they are fully operational in all but two Districts (District 4 and Lake Patrol). MCSO advised on May 16, 2016 that all deputies and sergeants who make traffic stops are now fully equipped with body-worn cameras. We verified this assertion during our July 2016 site visit. For the April-May 2016 traffic stop sample, there were 12 deputies not equipped with the body-worn cameras. For the June 2016 sample, all deputies were fully operational. We did not have a sufficient sample of body-worn camera recordings for April-May 2016 review to determine if MCSO is reviewing the body-worn camera footage to verify the duration of stop length.

Compliance with this Paragraph is dependent upon MCSO's rectifying the verification of motorist receipts of the traffic stop, and utilizing the body-worn camera recordings in all Districts to verify stop length. MCSO is not in compliance with this Paragraph.

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. The Deputy Chief indicated no unlawful intrusion into their systems had been detected during this reporting period.

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 MCSO that a previously scheduled audit of MCSO databases would not occur; and that a similar scheduled audit by Arizona DPS was also cancelled. MCSO has not been advised by either of these entities when their databases will be audited in the future. During our July 2016 site visit, we met with the Deputy Chief of Technology, who advised 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 October 1, through December 31, 2015, listing event numbers as described at the beginning of Section 8. We then requested a stratified sample from all traffic stops. All marked patrol vehicles used for traffic stops are now equipped with the automated TraCS system and all patrol deputies have been trained in TraCS data entry. MCSO has provided full access to all available electronic and written collected data since April 1, 2014. Electronic data were not collected before this time. MCSO has provided full access to the traffic stop data and is in compliance with this Paragraph.

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

We reviewed a printout of all vehicles assigned to Patrol dated June 30, 2016. There were a total of 244 vehicles assigned to the Districts. There were 174 marked vehicles equipped with the TraCS e-citation system (All marked cars are TraCS-equipped.) There are 56 unmarked vehicles equipped with TraCS and 14 unmarked vehicles not equipped with TraCS. We also inspected marked vehicles to verify that MCSO vehicles that conduct traffic stops on a routine basis are equipped with the ability to input traffic stop data electronically.

We continue to inspect units located at the Districts during our site visits that are used to conduct traffic enforcement to ensure that deputies are able to enter the data electronically from the field. 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 fluctuate from month to month.

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

MCSO has made substantial progress and is now in Phase 2 compliance with Paragraph 60.

Compliance Status:

Phase 1: In compliance

Phase 2: 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 personnel to discuss the progress of acquiring in-car video and audio equipment for all patrol vehicles used to conduct traffic stops. MCSO had initially set out to purchase fixed in-car cameras as required by the Order, but expressed an interest in acquiring body-worn video and audio recording devices for their deputies. The Court issued an Order providing an amendment/stipulation on October 10, 2014 amending the Order to incorporate on-body cameras. We believe this was a prudent decision, in that it allows for capturing additional data, where a fixed mounted camera has limitations. The transition from in-car to body-worn cameras has been documented in our previous reports.

During our October 2015 site visit, MCSO advised that the implementation of the body-worn cameras would be complete by the end of 2015. However, MCSO did not meet its target date of full implementation of body-worn cameras.

During our April 2016 site visit, the MCSO advised us that the body-worn cameras were fully operational in five of the Districts. District 4 and the Lake Patrol were experiencing connectivity issues that are affecting uploading of the recordings to the cloud (evidence.com). The captain assigned to the Lake Patrol has issued two body-worn cameras to each of the District's deputies as a partial solution until the problems can be remedied. The Deputy Chief of the Technology Bureau advised us that MCSO would resolve the connectivity issues by mid-May 2016. During our July 2016 site visit, the captains in District 4 and Lake Patrol advised that the connectivity issues have not been satisfactorily resolved. In the Lake Patrol, uploading the body-worn camera recordings remains an issue. In District 4, deputies have difficulty uploading the video and must use alternative facilities to upload. While in one of these district offices, we spoke with a sergeant who advised that during some reviews of his deputies' body-worn camera recordings, it would take one hour to review one 15-minute recording due to the constant buffering of the recording. This process is inefficient and a waste of the sergeants' valuable time.

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

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. MCSO previously 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 is now in compliance with this Paragraph but needs to address the connectivity issues in District 4 and the Lake Patrol.

Compliance Status:

Phase 1: In compliance

Phase 2: 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 selected 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 (Body Worn Cameras) along with the other requirements in this Paragraph. The policy states 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. We will review the body-worn camera recordings to ensure that MCSO follows the requirements of this Paragraph.

For our selection of a sample to review the body-worn camera videos, we used the same sample we select for the CAD audio request. There were 12 cases where the body-worn cameras were not yet implemented in all of the Districts during the quarter. Beginning on May 16, 2016, all deputies in our sample were equipped with the body-worn cameras. We reviewed 27 cases where body-worn camera footage was available. Twenty-three cases were in compliance, with the deputy activating the video and audio recording equipment as soon as the decision to initiate the stop was made and continued recording through the end of the stop. There were four cases that did not meet the requirements of the Order. In two cases, the deputy activated the body-worn recording equipment after the vehicle had come to a complete stop. In another case, the deputy's camera was completely concealed by a cloth covering (possibly in the deputy's shirt pocket). In the fourth case, a back-up deputy failed to activate the body-worn camera during the stop. There was one other case where the deputy listed on the VSCF that the Posse member riding with him possessed a body-worn camera, which is a violation of MCSO policy. Initially we expected some difficulty with deputies activating the equipment, as it will take some time for them to become accustomed to this new tool.

MCSO has already discovered the value of body-worn cameras – including in instances where community members made accusations against deputies and the recording proved to be invaluable in resolving complaints. MCSO's compliance rate for this Paragraph is 85%.

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. The retention period for body-worn camera recordings is three years in compliance with this Paragraph, subject to the same exceptions listed above (investigation or litigation).

MCSO has developed and issued a protocol and policy that requires the original hardcopy 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. During our July 2015 site visit, MCAO advised us and the Plaintiffs' attorneys that MCAO would develop an operational manual for the review and release of body-worn camera recordings; and that the draft would be completed by September 30, 2015. MCAO subsequently provided a draft of the operational manual, described below. MCSO developed and submitted a draft policy EA-4 (Body-Worn Cameras), which did not meet the requirements of the Paragraph. We, along with the Plaintiffs, provided MCSO with suggestions to correct the deficiencies in the initial draft. MCSO advised us that it incorporated our concerns into the new draft (EA-4 was renumbered to GJ-35) that was submitted and approved on June 24, 2015. The new policy governing the use of on-person cameras considers accountability measures to ensure compliance and activation of video cameras for traffic stops.

MCAO completed a draft of MCSO's Body-Worn Camera Operational Manual in September 2015 and presented it for our review. The manual requires two supervisory reviews of on-body camera recordings per deputy per month and how responses to public records requests relating to the recordings will be administered. MCSO will achieve Phase 1 compliance with this Paragraph when the Body-Worn Camera Operational Manual is finalized, approved, and issued. During our April 2016 site visit, MCSO and MCAO advised us that the Body-Worn Camera Operational Manual had not yet been approved or disseminated. During our July 2016 site visit, MCAO advised that it has made some additional amendments to the manual, and it will be submitted for approval during the next reporting period. Accordingly, MCSO will not be in Phase 1 or Phase 2 compliance with this Paragraph until the retention requirements of the written traffic stop data and the body-worn camera recordings can be verified, and the Body-Worn Camera Operational Manual is approved and disseminated.

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.*

MCSO policies and procedures pertinent to this Paragraph include 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; GH-5 (Early Identification System Policy), dated November 18, 2015 and currently being revised; and GH-4 (Bureau of Internal Oversight Policy and Procedures), dated May 29, 2015. We also reviewed EIU monthly analyses of traffic stop data for the months of April through June 2016 provided to us as part of our ongoing monthly production request.

In past reports, we have expressed concern about the lack of documentation describing how EIU established its thresholds and the methodology used to set alerts for deputies possibly engaging in racial profiling or other biased-based policing. During our July 2016 site visit, we inquired about EIU’s effort to document all the changes to the thresholds that would enable it to ensure that third parties and future leadership at EIU could understand the process of setting alerts using traffic stop data. We learned that EIU intends to develop a stand-alone document or protocol that will include all aspects of its methodology used in monthly, quarterly, and annual analyses; and clarified that its first priority is to implement the new thresholds.

To achieve Phase 1 compliance with this Paragraph, MCSO must develop a protocol for periodic analyses that is based on transparent, documented methodology to identify racial profiling or other biased-based policing. A protocol required by this Paragraph must also include documentation of thresholds, as well as the means to memorialize changes to them over time. To achieve Phase 2 compliance with this Paragraph, MCSO must use the methodology established in the protocol established for Phase 1 compliance in the monthly, quarterly, and annual analyses used to identify racial profiling or other biased-based problems in the monthly, quarterly, and annual analyses required by the Order.

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.*

MCSO issued GH-5 (Early Identification System Policy), dated November 18, 2015 (and currently under revision), that states that the EIU is part of the Bureau of Internal Oversight (BIO) and describes, among other things, the organizational structure and operational responsibilities of the EIU related to the requirements of this Paragraph. During our July 2016 site visit, EIU staff informed us that the prohibition regarding EIU review group members not being able to analyze traffic stop data or collected patrol data relating to their own activities is now incorporated into the new draft of GH-5 (Early Identification System Policy).

MCSO will achieve Phase 1 compliance with Paragraph 65 once the revised GH-5 policy is approved – and then only after MCSO has trained to this updated policy. MCSO will achieve Phase 2 compliance with this Paragraph after successful implementation of the policy and the sustained organization of EIU.

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 to check for possible individual-level, unit-level, or systemic problems. MCSO policy GH-4 (Bureau of Internal Oversight Policy and Procedures), dated May 29, 2015, 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. GH-5 (Early Identification System Policy), dated November 18, 2015, defines the responsibilities of the EIU, which includes analyzing traffic stop data on a monthly, quarterly and annual basis (section 5.J) and criteria for searching for warning signs of other indicia of possible misconduct (section 5.D). This policy has recently been revised and is under review. The categories of benchmarks pertaining to traffic stops presented in GH-5 are consistent with the requirements of Paragraph 67 below.

In May 2016, we provided the EIU with direction for new thresholds corresponding to the benchmarks in this Paragraph. (This is further discussed in Paragraph 67 below.) During our July 2016 site visit, we learned that EIU has begun implementing the new analytical thresholds.

With regard to Phase 2 compliance, MCSO contracted with ASU on April 8, 2015 to collaborate with MCSO on work pursuant to this Paragraph. The contract with ASU states that it will partner with MCSO on end-products, to include the implementation of monthly, quarterly, and annual reports.

ASU completed its work for MCSO on the first annual comprehensive evaluation in a report dated May 24, 2016 titled, "Preliminary Yearly Report for the Maricopa County's Sheriff's Office, Years 2014 – 2015," 11 months after the close of the first data fiscal year, covering July 2014-June 2015. We were concerned about the use of the term "preliminary" in the title of the report, but reviewed it with the understanding that this first comprehensive annual evaluation per Paragraph 66 of the Order was intended to be the final official draft. During our July site visit, ASU said that it used the word "preliminary" in the title in case our review prompted substantial revision to the report. EIU staff stated that the report was, indeed, final and should be treated as the first official submission of an annual evaluation as per the requirement of this Paragraph.

Since the end of the July 2014-June 2015 period, we received four SPSS data files representing this period, each designed to correct serious data problems.⁴

1. MCSO provided the first data file for our review and analysis on August 14, 2015. We conducted many simple data tabulations and simple statistical tests using these data in preparation for our October 2015 site visit. The data file did not contain a data dictionary, rendering it almost useless for basic descriptive statistics.
2. MCSO provided a second data file, to replace the first file, on October 14, 2015. A data audit conducted by ASU found several significant data problems with the traffic stop data. MCSO instructed us to disregard this data file.
3. MCSO provided the third data file on December 30, 2015. We used this data file to analyze many of the benchmarks/thresholds used by EIU in its monthly analyses – the results of which demonstrated that there was no statistical basis for the numeric values of the thresholds. Among other issues, our analysis raised questions about the estimates of the length of a traffic stop calculation. We discuss our questions and concerns about lengths of stops (LOS) below.
4. MCSO provided the final file on May 1, 2016. Our analysis of it suggests that serious problems remain with these data for this period, particularly with LOS information.

The report very accurately documents the numerous data problems that pertain to the July 2014-June 2015 period. Many of the problems were discovered by ASU data audits, our review of data in the monthly samples, and in the four different data sets provided to us containing traffic stop data for the July 2014-June 2016 period. The most significant problem discussed in the report was with missing data. The report cites the literature in stating that a researcher generally

⁴ SPSS, or Statistical Package for the Social Science, refers to a statistical software program commonly used in the social sciences.

considers data to be of high quality when no more than five percent of the data are missing. The report then notes that during the July 2014-June 2015 data period that the range of missing data fell from 10.6 percent to 11.54 percent. More simply, this finding means that the entire report is founded on data that are not of high quality.

Other data problems discussed in the report include: problems related to distinguishing unique traffic stop events (the final cleaned data file identified 27,850 unique traffic stop events, after eliminating duplicates in the original long data set containing 32,604 events); determining the location of traffic stop due to missing GPS coordinates (roughly 12% had missing GPS coordinates); and problems in estimating the LOS because of missing data for traffic stop end times (1,633 stops out of the 27,850 unique traffic stops for the July 2014- June 2015 period had missing end times).

The methodology used by ASU mostly involved using ratios comparing deputies in a unit of analysis (i.e., organizational, by district, by beats); and identifying those deputies who were outliers during the July 2014-June 2015 period. Outliers were defined under the ASU methodology as deputies whose behavior during a traffic stop (e.g., issuing a citation) was at least twice as high as the average behavior for all deputies in a similar unit of analysis. Other analyses used by ASU involved limited inferential analyses, using the Chi-Square test for independence between an event (being stopped, arrested, searched, etc.) and race/ethnicity.

One serious problem with the report is that, rather than include all deputies involved in any traffic stop, the methodology limited analyses to deputies involved in an average of 10 or more traffic stops. During our discussions of the preliminary analysis of ASU during our February and April 2016 site visits, we advised both ASU and EIU that limiting any analysis of traffic stops to deputies involved in an average of 10 or more stops per month was unacceptable for two reasons. First, there is no basis for this practice in the scientific literature on racial bias or profiling; and second, the selection of deputies involved in 10 or more traffic stops per month focuses analytic attention on only the most active deputies. In addition, our own analysis of traffic stops provided to EIU during our February 2016 site visit demonstrated that excluding deputies who had fewer than 10 traffic stops from the analysis meant that most deputies on patrol were not being reviewed to identify potential biased-based policing. During our February site 2016 visit, we instructed EIU to end the practice of selecting only those deputies with 10 or more traffic stops from its monthly analyses, as well as any other analysis of traffic stop data. We were surprised, therefore, to see this restriction of an average of 10 or more traffic stops being used in the first annual evaluation. During our July site visit, ASU informed us that it had continued this practice only because it had been the practice of EIU in EIU's analysis of monthly traffic stop data. EIU committed to ending this practice in all future analyses of traffic stop data.

Even with the data problems and the limited inferential analyses conducted by ASU, the report finds evidence of possible biased-based policing for the following areas: stop conclusion (warning, citation, incidental contact, other) and being Hispanic; being arrested and being Hispanic; being searched and being Hispanic; having contraband seized and being Hispanic; and in the average length of a traffic stop for Hispanics and Blacks compared to whites. In discussing these significant findings, the report sometimes notes that more research is warranted in certain cases where deputies have ratios suggest biased-based policing, but did not conduct this research. The executive summary of the report notes, "there may be some issues with

racially biased policing... [and that] ...continued work should examine the depth of these relationships.” Future annual evaluations must include more inferential analysis beyond the limited ratio analysis and Chi Square testing to look for possible cases of racial profiling.

Despite the data and methodological limitations highlighted herein, our review of the report found a substantial number of deputies whose traffic stop behavior identified them to be outliers when compared to their peers. At first, MCSO was reluctant to explore the activities of these outlier deputies in greater detail, citing the above-described data flaws. We advised that data flaws notwithstanding, they could not simply ignore findings that *may* be indicative of bias-based enforcement without some kind of follow-up. Once ASU personnel indicated that they could identify these deputies, we asked MCSO to provide additional information, including any indication that these deputies were the subjects of any EIS alerts. Further clarification is provided in Paragraph 70 below. We instructed EIU to include in future reports serial numbers for those deputies identified as exceeding thresholds used in ASU analyses so they can be subject to supervisory review. This data is important, in that it enables EIU to include in EIS those deputies not identified in monthly or quarterly analyses.

With regard to potential data issues for the upcoming second annual evaluation due in October 2016, during our July 2016 site visit, we discussed the status of the new data file for the July 2015-June 2016 period (the 2015-2016 data file). EIU reported that it instructed ASU to conduct a data audit similar to the audit it conducted in the fall of 2015, and to use the data-cleaning protocols that we approved during our February and April 2016 site visits. EIU expects fewer problems with the 2015-2016 data file, compared with the 2014-2015 data file, because of changes to TraCS during the 2015-2016 period. For example, missing data should be much less problematic due to the requirement incorporated into TraCS in October 2015 that deputies must complete all fields in TraCS.

The first annual evaluation released in May 2016 used basic descriptive statistics and some very simple inferential statistics (e.g., Chi Square Tests) to analyze the traffic stop data for potential cases of biased-based policing. Problems with traffic stop data (e.g., missing data) or the use of available data (e.g., selecting only those deputies who had an average of 10 or more traffic stops per month) greatly inhibited the comprehensiveness of the evaluation. In addition, the methodology fell short of what the scientific literature requires to look for racial profiling or other misconduct. While we now have MCSO’s first annual traffic stop analysis, the data and methodology issues contained therein, coupled with extreme lateness of the report, do not justify a finding of in compliance for Phase 2. MCSO still needs to address follow-up questions from us and the Parties. That said, MCSO and we learned some valuable lessons from this initial undertaking; and we believe MCSO is poised to come into Phase 2 compliance with this paragraph if the issues identified are addressed with the next issuance of the annual analysis, currently scheduled for October.

Compliance Status:

Phase 1: 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 pertinent MCSO policies and procedures, including: 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 (Significant Operations), dated September 5, 2014. We note that EB-2 (Traffic Stop Data Collection), dated September 22, 2014, uses the language of Paragraph 67 as part of its policy for periodic analyses of traffic stop data collection. GH-5 (Early Identification System Policy), dated November 18, 2015 (currently under revision), also uses the language of Paragraph 67. Therefore, MCSO is in Phase 1 compliance with this Paragraph.

Regarding Phase 2 compliance with this Paragraph, the EIU provides monthly analyses and documents describing the benchmarks used to set alerts for possible cases of racial profiling or other misconduct based on traffic stops. EIU operationalizes the benchmarks with thresholds that are defined in GH-5 as the "point at which a sufficient number of incidents have occurred to alert the Early Identification Unit of conduct or performance that could become problematic for an employee." Thresholds, in effect, are numeric values that identify outliers that warrant an alert being set in EIS. The monthly analyses and documents generated by the EIU discuss how thresholds are used for each benchmark to look for individual, unit, or systemic problems and then set alerts in EIS. The monthly report for April 2016 notes that one alert was set based on EIU's analysis of 2,486 traffic stops for that month. According to the May 2016 report provided to us by EIU as part of our regular production request, EIU's process for analyzing traffic stop data for purposes of setting alerts for deputies potentially engaging in biased-based policing had been suspended due to the new guidance from us in May 2016. That guidance included instructions for implementing new thresholds and a statistically based methodology for the Benchmarks in this Paragraph. Our instructions did not include guidance for a new threshold for Paragraph 67.b, owing to continued TraCS data problems affecting the calculation of the length of a traffic stop; instructions for that threshold are pending mutual agreement on how best to calculate the length of a traffic stop. The issuance of our guidance in May 2016 caused EIU to

discontinue its prior monthly traffic stop analysis process. Consequently, EIU's monthly reports on traffic stops ceased setting alerts in May 2016. EIU's monthly reports issued for May and June 2016 only contained descriptive statistics about monthly traffic stops, but no longer referenced the earlier thresholds that we instructed be replaced.

Paragraph 67.a. identifies three benchmarks pertaining to racial and ethnic disparities. The first benchmark references disparities or increases in stops for minor traffic violations. The second benchmark addresses disparities or increases in arrests following a traffic stop. The third benchmark addresses disparities or increases in immigration status inquiries. With regard to the threshold that EIU has established for the first benchmark in Paragraph 67.a (disparities in stops for minor traffic violations) EIU used three thresholds and applied them to only to deputies making more than 10 traffic stops in their beats. In our May 2016 guidance, we recommended that the threshold used for the first benchmark to detect racial or ethnic disparities for traffic stop violations use all traffic stop data (and end the global practice of selecting traffic stops for deputies making 10 or more stops) and employ what we call the "two-step ratio analysis methodology" (the two-step rule). The first step of the two-step rule involves calculating the ratio where the numerator is traffic stops by race/ethnicity except whites for each deputy and the denominator is traffic stops of whites for each deputy by level of analysis. We recommended that EIU set alerts for deputies at or above two standard deviations from the statistical mean calculated for the level of analysis. The second step involves calculating the ratio where the numerator is traffic stops for each deputy by race/ethnicity except whites and the denominator is traffic stops for each deputy. We further recommended that alerts be set for deputies at or above two standard deviations of the statistical mean. We also recommended that EIU conduct its analysis for this benchmark at the organizational level, by district, and by beat. During our July 2016 site visit, EIU indicated that it is working with ASU to develop the new monthly traffic stop analysis process and to further refine the methodology to distinguish between minor and non-minor traffic stops.

With regard to the second benchmark in Paragraph 67.a. pertaining to arrest following a traffic stop, our May 2016 guidance also recommended that EIU employ the two-step rule in the same manner previously described. During our July 2016 site visit, EIU indicated that it is working with ASU to build the new monthly traffic stop analysis process for this benchmark.

With regard to the third benchmark in Paragraph 67.a. assessing immigration status, EIU stated during our April 2016 site visit that it sets an alert whenever there are two or more immigration status inquiries. Our May 2016 guidance instructed EIU to set an alert whenever any immigration status inquiry occurs. EIU apprised us during our July 2016 site visit that it has adopted this recommendation. Once this change is memorialized in a protocol or manual delineating EIU's analytic methodologies, including the method it uses to use thresholds to set alerts, this benchmark and its threshold will be in compliance.

Paragraph 67.b. identifies a benchmark pertaining to evidence of an extended traffic stop involving Latino drivers or passengers. For this benchmark, EIU had used the threshold whereby deputies were selected for further review if they have a two-minute or longer civil traffic stop averaged by race/ethnicity per deputy and calculated for those deputies who make a minimum of five traffic stops per race/ethnicity. Our May 2016 guidance instructed EIU to discontinue the use of this threshold as it excluded those deputies who make fewer than five stops per

race/ethnicity. Our May 2016 guidance also noted that problems with data used to calculate the length of a traffic stop prevented us from recommending an appropriate threshold. One change being implemented by EIU to calculate the length of a traffic stop is to enable CAD to populate the contact conclusion time in TraCS. This change became effective on June 29, 2016. We noted that an alternative threshold would remain pending until a reasonable solution to the problem of calculating the length of a traffic stop could be found.

During our July site visit, EIU noted the additional problem of developing a workable definition for the term “extended traffic stop” referenced in this Paragraph to link to the language of Order Paragraph 25.g., whereby an extended traffic stop is intended to reflect the amount of time beyond the time necessary to address the original purpose for the stop. EIU stated that some traffic stops may be extended for logical reasons (e.g., a deputy may have to wait for a tow truck before concluding a traffic stop). We requested that EIU conduct an analysis to identifying factors that might reasonably lead a traffic stop being very long as opposed to a traffic stop being extended any longer than the time that is necessary to address the original purpose for the stop (per Paragraph 25.g.). EIU is working on a solution that it will propose to us to bring this Paragraph into compliance.

Paragraph 67.c. identifies three benchmarks. The first benchmark pertains to the rate of citations. Here MCSO is to identify citation rates for traffic stops that are outliers when compared to a deputy’s peers. The second benchmark pertains to seizures of contraband. MCSO is required to identify low rates of seizures of contraband following a search or investigation. The third benchmark is similar to the second, but it assesses arrests following a search or investigation. Our May 2016 guidance instructed EIU to discontinue its use of the prior thresholds and use the two-step rule employing one standard deviation from the statistical mean for the second and third benchmarks referenced in this Paragraph. EIU is to use two standard deviations from the statistical mean for the citation rate benchmark. During our July 2016 site visit, EIU indicated that it is working with ASU to build the new monthly traffic stop analysis process for the citation rate benchmark.

With regard to the remaining two thresholds for benchmarks in Paragraph 67.c, EIU raised data concerns about searches following an arrest and seizures of contraband following a search. Our May 2016 guidance had noted that arrests following a search or investigation or a seizure of contraband following a search occur with little frequency on a monthly basis, which is why we recommended that EIU adopt the one standard deviation from the statistical mean in its monthly analysis. EIU noted that searches always occur following an arrest, and seizures of contraband may occur from that search. This is standard police practice. The numbers of traffic stop events where searches or investigations precede an arrest are too few, even at the organizational level, to use in a monthly analysis involving a valid statistical mean and standard deviation. Therefore, EIU has designated the thresholds for these two benchmarks as pending until it can determine how search types (incident to an arrest versus other arrests) are captured in TraCS. In light of these data problems, none of these thresholds used by EIU to operationalize this benchmark are in compliance. During our July 2016 site visit, EIU indicated that it is working with ASU to implement the new monthly traffic stop analysis process for the citation rate benchmark.

Paragraph 67.d. establishes a benchmark pertaining to agency, unit, or deputy noncompliance with the data collection requirements under the Order. This benchmark requires that any cases involving noncompliance with data collection requirements results in an alert in EIS. As was discussed in Paragraph 64 above, EIU prepared an Administrative Broadcast instructing supervisors how to validate data in TraCS those cases involving duplicate traffic stop records to deliver timely data validation for our review. The intent is to provide ongoing review of duplicate traffic stop records so as to not adversely impact analyses in the future. We proposed that the data validation process be expanded to include supervisory review of all traffic stops with missing data. During our July site visit, EIU informed us that it had adopted our requested changes to the data validation process, and that the changes are now pending final review. Once this review is completed and the data validation procedures are approved, MCSO will be in compliance with Paragraph 67.d.

Paragraph 67.e. allows for other benchmarks to be used beyond those prescribed by Order Paragraph 67.a.-d. One benchmark pertains to the number of traffic stops. For this benchmark, EIU had used a threshold whereby all deputies making 10 or more traffic stops are subject to further review. Our May 2016 guidance instructed EIU to stop using this benchmark and threshold. During our July 2016 site visit, we confirmed that EIU had discontinued the use of this benchmark.

EIU had used two other benchmarks per Paragraph 67.e. The first pertains to searches. The second benchmark used by EIU pertains to passenger contacts. Problems with how EIU operationalized thresholds for these two benchmarks rendered them to be practically useless. Our May 2016 guidance recommended that EIU discontinue this methodology and instead use the two-step rule setting alerts for deputies one standard deviation from the statistical mean calculated for each benchmark.

During our July 2016 site visit, we met with EIU to discuss, among other issues, its progress in implementing the new thresholds for the benchmarks prescribed by Paragraph 67. We learned that EIU is now working with ASU to develop SPSS syntax (computer code) that will analyze the thresholds in the statistical manner prescribed by our instructions and automatically generate reports containing serial number of MCSO staff identified as potentially engaging in biased-based policing. The ASU computer code will enable EIU to populate Blue Team with alerts that are sent to supervisors for review. EIU reported that ASU's initial focus is with writing the computer code for the citation rate benchmark (Paragraph 67.c.). That same code will then be then modified for the other benchmarks and their corresponding thresholds delineated in our May instructions.

During our July site visit, we also expressed concern about the slowness of the implementation process. EIU responded that it is fully employing its existing resources to accomplish the task. ASU revealed that it is negotiating a modification to its contract with EIU to augment resources to expedite implementation of the new thresholds. To provide more transparency to EIU's activities, we requested that EIU prepare for our review an Implementation Plan discussing: 1) the expected dates when the new thresholds will become operational for setting alerts for deputies on patrol who may be engaging in biased-policing; 2) the plan to prepare a cleaned data file for the 2015-2016 data period for the annual study to include ASU expected data audit; and 3) the expected date for the finalization of the training plan to teach supervisors about the new

thresholds now being implemented. In addition, the Implementation Plan is to include an appendix showing an example of ASU's SPSS syntax (computer code) used for the citation rate threshold and a list of deputies that would be identified as statistical outliers corresponding to the new computer code.

To achieve Phase 2 compliance with this Paragraph, MCSO must establish and utilize benchmarks and thresholds that are not arbitrary or static, but instead are statistically based, reflect local area variation in traffic stop behavior, and are subject to Monitor approval pursuant to the process described in Section IV of the Order. Therefore, MCSO is not in Phase 2 compliance with this Paragraph.

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, MCSO is in Phase 1 compliance with this Paragraph.

We have also 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 our prior reports.

During the current reporting period, April through June 2016, MCSO responded to our monthly document request regarding significant operations with a memorandum outlining their significant operation activity. MCSO altered the way it responds to this request in May and June 2016. Previously, District command staff wrote individual memos regarding the activity in their Districts. In May MCSO began having the respective Chiefs of the Investigations Bureau and Patrol respond for their entire units. The memoranda for this period indicate that deputies and investigative personnel have not been involved in any significant operations or immigration-related traffic enforcement activity during these months. During our July 2016 site visit, both BIO and CID staff confirmed that there had not been any significant operations conducted since our last site visit in April 2016. Finally, during visits to District offices in July 2016, command staff for District 1 and Lake Patrol 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.

MCSO published GH-5 (Early Identification System) on November 18, 2015. MCSO also submitted a significant revision to GH-5 during our July 2016 site visit. Training on EIS, including orientation to the new policy, is scheduled for November 2016. Until the policy is finalized and such training is complete, MCSO is not in Phase 1 compliance with this Paragraph.

As noted in our previous quarterly reports, MCSO's response to the request for information for this Paragraph described a new drop-down menu for supervisors making notations about their subordinates that allow the supervisor to select from a list of MCSO policies regarding the notations they are making. These include: 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.

The EIS policy describes an EIPro screen allowing supervisors to review information regarding the persons under their command. One of the most recent modifications to this screen surrounds the ability of supervisors to review a synopsis of closed internal and external complaints. This feature was demonstrated during our July site visit by both EIU staff and supervisors in the field. MCSO continues to work with the software vendor, who participated in the meetings by teleconference, to provide a synopsis of open internal and external complaints regarding their

subordinates. Additionally, MCSO is working to provide an indicator in the EIS system that a deputy has made an arrest or investigatory stop. This would provide a supervisor with the ability to conduct a prompt review on key indicators of each activity and explore the complete Incident Reports in the FILEBOUND system if they wish. (Reports located in the FILEBOUND system are not currently available in the EIS database.) During our July site visit, we and the Parties were provided with a list of data elements MCSO was proposing to incorporate into the EIS system for activities that are located in another database. The elements were selected to allow supervisors to quickly assess, within the EIS environment, whether a deputy's actions might indicate bias. If there is any cause for concern, the supervisor also will have the necessary link to look at the complete reports in the database of origin. We provided comments to MCSO regarding how these elements should appear to a supervisor, as well as to ensure that analysts could use these elements to conduct future aggregate audits/investigations.

MCSO also began using the "Review" and "Discuss" fields in TraCS in June 2016. During our February and April 2016 site visits, we discussed these fields in detail. The Review field allows supervisors to note the date when they finished the initial review of individual traffic stops conducted by their subordinates. The Discuss field affords supervisors the ability to indicate when (date and time) they reviewed the traffic stop contacts of their subordinates with them. Any additional information about these meetings can be included in Blue Team Supervisory Notes. BIO and CID personnel explained how supervisors would be trained to use these fields once the EIS Training is approved. Prior to that time MCSO developed an Administrative Broadcast that described these fields for dissemination throughout the organization. The compilation of these efforts should result in a more timely review of traffic stop activity by supervisory personnel, as well as a more consistent method of checking the memorialization of the meeting between supervisors and subordinates regarding the traffic stops of their subordinates. We have begun discussions with BIO regarding the potential development of a monthly audit of these new TraCS fields. MCSO is investigating the available options, and will submit a proposal by the end of August. An audit looking solely at the "Review" field for June 2016 indicated that only 44% of supervisors were completing their review within 72 hours. However, it should be noted that June was the month of transition for documenting such review from Blue Team notes to the TraCS field.

An additional requirement of this Paragraph is that supervisors conduct a monthly review of collected data for deputies under their command. BIO conducts analyses of Supervisory Notes contained in Blue Team. As a result of the addition of the Review and Discuss fields to TraCS, the Supervisory Note inspection will also be changing. In April and May, BIO's evaluation of these notes consisted of the twice-monthly performance notes, body-worn camera review, and collected traffic data review and discussion. As of June 2016, the BIO audit of Supervisory Notes now focuses on performance notes, body-worn camera reviews and patrol activity log inspections conducted by supervisory personnel. In April, May, and June BIO reported that 100% of supervisors reviewed met the twice-monthly requirement of making performance notes on their subordinates. The review of body-worn camera footage was 85% in April, 92% in May and 97% in June. The introduction of deputy patrol activity logs during this reporting period also required that supervisors review these logs within seven days of the completion of any shift by their subordinates. In June's Supervisory Note audit, BIO reported that only 74% of supervisors completed this task. Given the introduction of new responsibilities and technologies,

introduced to supervisors through Administrative Broadcasts, these percentages should improve with time and training. BIO has notified District Commanders of the deficiencies found and recommended ways for Districts to assist supervisors to improve the oversight of their subordinates.

We have suggested in several meetings that BIO has to take a more active role when such deficiencies are found and should not rely solely on the recommendations it makes in its monthly reports. It is clear that using Administrative Broadcasts and Briefing Boards regarding supervisory responsibilities have not been sufficient. We will continue to work with MCSO to improve the consistency of these findings. A second BIO audit, June 2016, of traffic stop data indicated that 26% of the stops reviewed during this inspection included deficiencies such as failing to accurately identify back-up units, failure to provide incidental contact forms for passengers that were engaged, or failure to accurately identify seized items on the forms. Several of these deficiencies resulted in BIO sending "action forms" to the Districts along with the continued recommendations that supervisors more closely monitor their subordinates. The introduction of the new "Review" and "Discuss" fields in TraCS should improve oversight percentages as well.

In addition, the EIS system generated over 400 alerts in April, 600 in May and 500 in June. All of these alerts are reviewed by EIU personnel. Less than 20% of the alerts reviewed are sent to field supervisors for further processing. MCSO provides us with a copy of these alerts, and we generally concur that requiring supervisors to conduct investigations into all of these issues would be ineffective and overwhelming. Our examination of these records each month lead us to believe that EIU personnel, given their current established parameters, are appropriately differentiating between alerts that require further examination by supervisors and those that do not.

A second aspect of the alert process is triggered when EIU sends out alert investigations to District supervisors using Blue Team. The notification includes all document references necessary to conduct the assigned investigation. Supervisors are regularly prompted about the outstanding alerts regarding their deputies when they log in to Blue Team. Supervisors must also explain how they conducted their investigation, including documentation of conversations with their deputies, as well as how and why these alerts are closed. These reports then make their way back through the chain of command where each person must review and approve the actions taken by the line supervisor. Following this, the alert is returned to EIU. For several months, we have been requesting and reviewing a random sample of these investigations. In the majority of cases, we have been satisfied with the way supervisors have addressed a wide range of behavior, from "unexplained absences" to "traffic stops whose characteristics trigger alert thresholds." However, as discussed later in Paragraph 70, we continue to find instances where supervisors' notes closing these investigations are not thorough enough for an outside observer to be assured that enough time was spent investigating, or articulating the closure of, an alert. For example, an alert for a "use of force" allegation was closed by a supervisor with a note that stated that the deputy works in a difficult organizational role, Detention or special response team; however, the supervisor's summary fails to discuss the force issues involved. We are continuing to work with EIU personnel to refine both alert thresholds, which trigger the alert, as well as the description of the way alerts can be cleared by both EIU and supervisory personnel.

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

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 discussed 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). MCSO has also published GH-5 (Early Identification System) in the fall of 2015 and recently submitted a substantial revision of this policy during our July 2016 site visit. We have commented on the revision. However, training on EIS, including orientation to the new policy, is not scheduled until November 2016. Until such training is complete, MCSO is not in Phase 1 compliance with this Paragraph.

MCSO is making strides toward a more complete implementation of EIS processes. We have received new alert “clearance” definitions and approved an Administrative Broadcast detailing the responsibilities of supervisors regarding alert investigations as outlined in GH-5 (Early Identification Systems). The new clearance definitions appear to have reduced the number of “false” alerts. However, a small number of alert investigations each month continue to be closed by supervisors without sufficient explanation of the reasons for closure or inadequate description of the meetings they had with their subordinates. We have discussed these issues with MCSO and individual field supervisors during our April and July site visits. Several of these discussions have improved subsequent alert investigation reports provided by these supervisors. The upcoming EIS training should emphasize these new processes and roles.

As a result of our past recommendations to address the lack of specificity regarding the clearing of alerts triggered in the EIS, MCSO has improved several features of their monthly alert report. These include a more complete description of how alerts have been handled or assigned, definitions of categories of triggered alerts and improved tabular presentation of alert summaries. MCSO is continuing to work on documentation to clarify all of the agency’s activities surrounding the handling and disposition of alerts, including definitions of key terms. Due to

some of the refinements already in place, EIU personnel were able to clear over 80% of alerts in the months of April to June 2016 without having to send them to supervisors for investigation. Once training on EIS is complete we expect to see a more transparent process of alert investigation closure.

During our February and April site visits, EIU staff provided information on the methodology used to analyze traffic stop data on a weekly and monthly basis. These documents, and communication with ASU personnel, have clarified how EIU tries to identify “outliers,” “racial profiling,” and “improper conduct.” As a result of these meetings, MCSO made decisions about how to overcome the data problems that have become apparent. Following our April 2016 site visit, we requested that EIU conduct an audit of the outliers found in the initial ASU report and examine how many of those deputies had triggered alerts in the EIS system. Our reading of this report indicates that very few “outliers” from the ASU analysis triggered alerts in EIS – even when deputies were found to be outliers in several different analyses. MCSO was reluctant to conduct any formal investigations or processes because of the caution by ASU that the preliminary analysis contained data errors that may impact the results. However, we used the data problems uncovered to that point – and the fact that very few of the outliers from the ASU analysis had triggered alerts – to provide both MCSO and ASU with a recommended method to complete the final report for the traffic data from 2014-2015.

ASU provided a final version of the First Traffic Stop Annual Report from 2014-2015 on May 25, 2016. A more complete examination of this report is presented in Paragraph 66; however, there are significant issues that also apply to this Paragraph. First, because the ASU analysis focused attention on the actions of only the most active deputies – those with 10 or more stops per month – the analysis looking for “outliers” ignored the potential for biased behavior of their less active counterparts. Second, the analysis presented was largely limited to simple relationships between two variables at any one time; for example, receiving a citation and the race/ethnicity of the driver. While several of these analyses yielded significant findings there was no attempt to investigate more complex inferential models. We had suggested a means to address both of these issues during and after our February and April site visits. Third, and most important for this Paragraph, is that prior to consultation with us or the Parties, MCSO used the “analysis” from the final report to initiate a supervisor review process for those deputies found to be outliers in the report. Had we been consulted, we would have recommended training for supervisors in the basic use of statistical information, training to conduct the investigation discussions with their subordinates, and assistance in reading the technical aspects of the ASU report. MCSO instead provided the supervisors an instruction page to assist them in reading the statistical analysis, showing the outlier status of their subordinates and a copy of the ASU report. Supervisors were given 30 days to complete the discussions with their subordinates and return their closure comments through EIS. The majority of these reports had been disseminated by the first week of July 2016.

Our review of the documents that MCSO distributed raised concerns that the recipients, both deputies and supervisors, may feel as if they were being accused of being biased based upon the ASU report. We reiterated this concern during our July site visit. Since this process began prior to our site visit, we received several comments from field supervisors and command staff regarding the annual report. The majority of comments fell along two lines: First, supervisors

did not know how to read and describe the individual reports to their subordinates; and second, deputies believed that their integrity was being questioned due to the ASU analysis. MCSO also indicated that the use of these types of reports would be one of many topics covered in the upcoming EIS training.

The EIU has now produced several reports and spreadsheets pertaining to alerts during this and prior reporting periods. MCSO has now developed an approach to these alert investigations in Blue Team. When an alert is triggered, EIU personnel evaluate the issue to ensure that it has not already been handled, or falls within one of the false/artificial categories. If EIU determines that a District investigation is appropriate, EIU forwards the alert through Blue Team. When a supervisor logs in to Blue Team, the supervisor will see a notification that “x” number of incidents has been assigned to him/her for work-up. Supervisors, according to EIS policy, have 14 days to complete these assigned investigations. A description of the alert and any supporting documents are made available through this process. In the event that the alert references Incident Reports, those IR numbers are provided so that supervisors can evaluate those documents in the FILEBOUND system. At the conclusion of the investigation, following a discussion with the employee, the supervisors must document in Blue Team the actions they took in response to the alert including counseling, training, ride-alongs, etc. This information is forwarded back via Blue Team through the chain of command. Each step requires the command staff to approve the actions taken by the line supervisor. EIU closes the alert when all of these steps have been completed and the issues triggering the alert have been addressed.

The random samples of alert investigations we have requested on a monthly basis provide information about how well the Blue Team process is working, as well as how effective supervisors are in conducting their alert investigations. EIU has made the alert investigation process in Blue Team a much more transparent one than existed under the old email system. In addition, because the closure comments must be approved by District Command Staff and EIU, the accountability of the system has been improved. However, each month there are two or three investigations, out of the 15 randomly selected, that are closed without adequate details about the investigation or discussions conducted by supervisors. For example, in April, May, and June, there was at least one “use of force” alert per month that was closed with comments like “the two uses of force were not related therefore there wasn’t a problem” or “the deputy had dealings with violent suspects/inmates therefore the force used was appropriate” without any indication that the supervisor had thoroughly examined the details of those reports. In contrast, there are other examples, also involving the “use of force,” where supervisors provided a synopsis of the circumstances involved and why the use of force fell within policy. While supervisors received some overview of the issue of closing alert investigations during their recent Supervisory Training, the field supervisors contacted during our April and July site visits did not believe this was adequate. During our July 2016 site visit, we recommended that the upcoming EIS training use actual examples from the random samples drawn each month to support the instruction to be delivered beginning in November 2016. EIU personnel stated that they were working with District command staff to create such curricula.

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

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.

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

During our February site visit, ASU personnel presented tables of analyses they had completed, ranging from the processes they went through to clean the data provided by MCSO to the analysis of traffic stop data based upon the criteria provided by MCSO. All Parties were able to ask questions regarding the ongoing evaluation. During our April site visit, ASU personnel discussed at length several ongoing problems with the annual data; specifically pertaining to the start and stop times of traffic stops; duplicate cases for the same events; and other missing data elements. We discussed several strategies, and once all Parties agreed, we collectively developed a means to incorporate as much of the data as possible and address the problems of duplicate cases. Following this, ASU and EIU produced interim reports detailing how they implemented the agreed-upon strategies. In addition, we provided to ASU and MCSO our own analysis based upon the data provided by MCSO. This analysis laid out the preferred methodology for data analysis as well as a means to statistically identify outliers in these analyses.

With the publication of the First “Yearly Report for the Maricopa County Sheriff’s Office, Years 2014-2015” by ASU on May 25, 2016, the limitations of the existing databases and methodologies used during the analysis have become apparent. Plans have already begun to create new data-cleaning processes and analytic methods to address these difficulties. During our July 2016 site visit, we expressed several concerns about the methods, data criteria, and analytic models included in the final ASU report. These include, but are not limited to, the selection of deputies who have had “10 or more stops per month” during the reporting period, the lack of inferential analytic models and the discussions surrounding the chi-square models presented. MCSO is working with ASU to propose new data-cleaning processes, the development of statistically grounded methods of sample selection and threshold levels, and plans to employ more sophisticated inferential models for the yearly analysis of data for 2015-2016.

As noted in Paragraph 70, the Blue Team process set up by EIU for tracking the alert status of cases of concern has improved our ability to review and comment on the supervisory processes that exist in MCSO. Since the onset of the Blue Team alert investigation process during the fall of 2015, MCSO has clarified that if an alert investigation is sent to a supervisor that involves an Incident Report, the alert will also include a list of IR numbers, where applicable, and supervisors can pull up the full text of any IR that has been scanned into the FILEBOUND system. We have verified this process repeatedly over the past several months, through onsite inspections and document analysis of past alert investigations. As a contemporary investigative tool, this system appears to meet the needs of the organization. During our recent site visits, we found that command staff were familiar with FILEBOUND and were able to readily pull up Incident Reports involving their subordinates. We have noted continuing problems with supervisors not fully employing all tools available to them for review of their subordinates – or imprecisely closing alert investigations without a rigorous and thorough explanation regarding why these investigations were closed. The EIS training, scheduled to begin in November 2016, is expected to incorporate examples of alert cases and the proper method of investigation closure. We will continue to work with MCSO to prepare these curricula and evaluate the effect of this training on alert closures.

MCSO has begun to use two new TraCS fields that allow supervisors to acknowledge Review of traffic stops of their subordinates and the date of the Discussion that occurs between supervisors and subordinates about those stops. MCSO is currently working to develop audit processes to evaluate these fields to ensure that supervisors are reviewing and discussing the activity of their subordinates within the times required by the Order.

In addition, the inspections conducted by BIO – the Patrol Supervisory Note Inspections, Incident Report Inspections, County Attorney Disposition Inspections, among others – have been informative and raise issues that we are corroborating during our site visits. In past reports, we noted that the prior method of reporting the County Attorney Disposition Report on “turndowns” had provided limited detail. MCSO responded by providing all of the information we requested to come to a better understanding of these processes. Following our April site visit, we requested five cases of County Attorney Turndowns per month and found that the conclusions of BIO – that probable cause existed in each case – were valid. Moreover, while some of the letters from the County Attorney’s Office are vague regarding the reasons for turning down prosecution, the

documents provided by MCSO allows us to adequately review the actions of MCSO employees. In the cases from April to June, the majority of cases were turned down because the evidence available would make it difficult to prove a case beyond a reasonable doubt. There were also several cases in which the defendant was allowed to complete pre-trial programs to address their alcohol or drug addiction, which led to the arrest to begin with. In each instance, the decision to turn down prosecution was not the result of a faulty report or inadequate probable cause for the initial arrest.

The issues with the annual data report notwithstanding, to this point, we have received access to all data that we have requested. We will continue to expect 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.*

MCSO published policy GH-5 (Early Identification System) in November 2015. In July 2016 MCSO has proposed several substantial changes to GH-5, which we commented on. MCSO plans to commence training on EIS, including orientation to the new policy, in November 2016. Until such training is complete, MCSO is not in Phase 1 compliance with this Paragraph.

The Early Intervention Unit (EIU) staff continue to provide data, conduct monthly analyses, and develop an EIS system that incorporates pieces of information from across the organization. However, several technological issues have hampered MCSO’s ability to create a database that incorporates all requirements of the Order. As discussed in more detail in Paragraph 75, MCSO continues to work toward the incorporation of “ongoing” or open complaints, specific data elements for all arrests and detentions drawn from the FILEBOUND system, training history, awards/commendations, and the ability to search/query Supervisory Notes. MCSO has provided regular updates, during and between site visits, on its progress in each area.

BIO personnel also conduct audits, such as Supervisory Note Inspections, to monitor how effectively supervisors employ the tools available to them to monitor the behavior of their subordinates. While this audit is changing with the introduction of the Review and Discuss fields in TraCS, which were implemented on June 1, 2016, the outcomes vary by the dimensions being measured. For example, in April and May, the reports indicate that 100% of supervisors reviewed made notes about “performance” issues of their subordinates, while the review of “body camera” footage fluctuated from 85% in April to 97% in June. There are similar differences by month when looking at whether supervisors reviewed and discussed the traffic stops of their subordinates with them. In addition, we have seen two months of troubling deficiencies in BIO’s traffic stop data inspection. From January to April 2016, the deficiencies were generally less than 5%; however, in May and June, the deficiencies grew to 23% and 26%, respectively. While we expect some fluctuation as new technology or functions are being created, we believe that these variations are also likely due to the fact that MCSO is still planning the training for EIS to be delivered later this year.

BIO also conducts quarterly audits regarding CP-8 (Preventing Racial and Other Biased-Based Profiling) by inspecting the Supervisory Notes in Blue Team. Based upon a sample drawn at our direction, for evaluation of several Paragraphs, BIO looks for instances in which supervisors describe the briefings they conduct for their subordinates. During the second quarter of 2016, BIO found that all 40 deputies in the sample experienced discussions regarding MCSO's "zero tolerance policy" for discriminatory policing. We were able to substantiate this during our District visits in April and July 2016. Every supervisor we interviewed was able to show how s/he repeatedly delivered a message to subordinates regarding CP-8.

EIU has created a much more efficient alert investigation process for supervisors by moving from the previous email system to the current one housed in Blue Team. Once it is determined by EIU personnel that additional investigation of an alert is necessary, that alert – and any related document references – are transmitted via Blue Team to the immediate supervisor with instructions to conduct a review and report back through the chain of command. While this new process was initiated in the fall of 2015, EIU has been working to refine an Administrative Broadcast to show supervisors how to use the new Blue Team alert system. The final version of this Administrative Broadcast was approved in early May 2016. In the interim, hundreds of alert investigations have been sent out and closed. The majority of these investigations have been thoroughly and efficiently processed while others have been perfunctorily closed with boilerplate language and unclear justification. The time between dissemination of a new tool and training for that tool has been far too long, creating the possibility for misunderstanding or misuse of those new instruments. We review a random sample of closed alert investigations each month and find, on average, that two out of the 15 require additional information. We anticipate that this will improve once the scheduled EIS training is delivered later this year.

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

Our review of the documents distributed raised concerns that the recipients, both deputies and supervisors, may feel as if they were being accused of being biased based upon the ASU report. We reiterated this concern during our July site visit. Since this process began prior to our site visit, we received several comments from field supervisors and command staff regarding the

annual report. The majority of comments fell along two lines: supervisors did not know how to read and describe the individual reports to their subordinates; feedback from deputies was that their integrity was being questioned due to the ASU analysis. MCSO also indicated that the use of these types of reports would be one of many topics covered in the upcoming EIS training. We will evaluate the closed supervisor reports when they are finalized. However, this is just the latest example of initiating a process without adequately consulting us or the Parties. Our concern is that the supervisor reports will be plagued by problems due to a lack of direction, understanding of statistical information or the belief that the analysis itself proves bias exists. MCSO leadership needs to become more collaborative when it comes to the development and use of the EIS system. When new processes or responsibilities are developed, training must follow in a timely fashion or we will continue to see inadequate or fluctuating levels of compliance as we have for alert investigations, supervisor use of TraCS tools, and Traffic Stop Data Inspections. The EIS policy will be over one year old by the time training to the policy begins.

We will continue to evaluate and discuss with MCSO the sufficiency of EIS. Our ongoing evaluation will include MCSO's plans to incorporate arrests and investigatory stops into EIS as required by the Order. We will also evaluate the outcome of the supervisor reports triggered by the Traffic Stop Annual Report.

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").*

MCSO published the policy GH-5 (Early Identification System) on November 18, 2015. MCSO has recently proposed substantial additions to this policy. However, MCSO has not yet conducted training on EIS, including orientation to the new policy. Until such training is complete, MCSO is not in Phase 1 compliance with this Paragraph.

EIU personnel have introduced a more efficient way of delegating alert investigations to field supervisors through Blue Team. Subsequently, we have worked with MCSO on drafts of an Administrative Broadcast describing this system to supervisors. The Broadcast materials have now been approved and distributed. In addition, EIU has refined definitions for alert clearance types that should improve the quality of information included in their monthly reports of alerts. We will evaluate the evolution and possible implementation of these during subsequent reporting periods.

The EIU has come together well to this point. A lieutenant coordinates the unit, with three sergeants working on investigations, one analyst, and one administrative staff member under the auspices of BIO. EIU staff continue to conduct data analysis using data they have compiled from sources across the organization – including CAD, RMS, Blue Team, TraCS, EIPro, and others. These analyses look for deputies who “hit” thresholds created by EIU personnel. As discussed previously, both MCSO’s contract partner and we have conducted analyses on the annual dataset created by ASU. The ASU analyses uses the benchmarks and thresholds provided by MCSO. Our analyses use a statistically grounded mechanism to identify outliers. Following the publication of the First Traffic Stop Annual Report, both MCSO and ASU have begun to develop new processes to clean the organizational data; and plan to improve the methodology to analyze the data for monthly, quarterly, and future annual reports. MCSO is also working on new benchmarks and protocols that are also statistically grounded to replace the thresholds and protocols that are currently in use. We will continue to work with MCSO and its subcontractors as we refine these processes.

EIU personnel also regularly monitor alerts that are triggered by the thresholds they have set. MCSO has provided us with monthly reports of how these alerts are being handled. In addition, EIU has improved the alert transmission process with District supervisors by incorporating the alert investigations into the Blue Team system. This offers a tremendous advantage over the previous email system because it affords an easy way for supervisors to acknowledge receipt of alerts that they need to investigate, in the timeframe they need to be investigated, and make notations in Blue Team regarding any actions they may have taken. We have recently raised questions regarding the detail of supervisor’s concluding remarks in closing these investigations. EIU personnel also went through several iterations of definitions relevant to the EIS policy and practice. They sought our feedback and made modifications based upon this feedback. The vast majority of the recommendations we have made over the past several months have been included in the most recent redrafting of the EIS policy.

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

Full compliance with this Paragraph requires training to an approved EIS policy. Therefore, compliance for Phase 2 of this Paragraph is deferred.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Deferred

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

GH-5 (Early Identification System) was published on November 18, 2015, and MCSO recently proposed substantial additions to this policy. Training on EIS, including orientation to the new policy, is scheduled to begin in November 2016. Until such training is complete, MCSO is not in Phase 1 compliance with this Paragraph.

Beginning with our site visits in September 2014, EIU personnel have 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. EIU produces several monthly reports detailing the threshold rules they employ during these analyses. Our conclusions, since the beginning of 2015, have been that the processes employed by MCSO remain largely “qualitative” since they rely heavily on judgments of EIU personnel and there is little information as to how these thresholds were developed nearly two years ago. The First Traffic Stop Annual Report was recently published by ASU. Many of the unsubstantiated rules employed by MCSO were also used in the analysis presented by ASU in this report.

We have noted in the past that the monthly reports generated by EIU show that relatively few deputies actually reach the thresholds EIU has employed, further calling the value of these into question. Moreover, MCSO was directed to evaluate whether the outliers in the preliminary analysis of ASU, presented in February 2016, had triggered alerts in the EIS system. The result of this investigation was that very few of the deputies found to be outliers in the ASU analysis had triggered any relevant alert in the EIS system during the same time period. We had provided MCSO and ASU with a recommended method of analyzing data that is more statistically grounded and methodologically sound. Following the publication of the First Annual Report, MCSO and ASU are working to propose new protocols and benchmarks for all the analysis related to EIS. It is important to note that having an alert set, or appearing as an outlier in a statistical analysis, only triggers a closer look at the deputy’s collective stops and is not necessarily proof of bias or profiling. We want to ensure that the thresholds are not excluding a deputy from review when that review would be appropriate.

EIU personnel are also working with other units within the Organization, as well as software vendors, to ensure that all data reflected in the Order (Paragraph 75) will be included in the relational database. These include, but are not limited to, “ongoing” internal and external complaints, all arrests, training history of employees, awards/commendations and the ability to search Supervisory Notes.

During our April site visit, we, the Plaintiffs, and the Plaintiff-Intervenors provided MCSO with a list of information (data elements) that should appear in the EIS database for the relevant Incident Reports and Arrest Reports housed in FILEBOUND, as well as other relevant databases. MCSO researched how it would facilitate the inclusion of these items in the EIS system and presented a proposal at our July 2016 site visit. All Parties were allowed to comment on the proposal of MCSO as well as document their response to the data elements that MCSO proposed to include in the EIS database for activities like arrests, investigatory stops, detentions, and the like. Prior requests for information on these topics had resulted in insufficient responses from MCSO; however, it now appears that MCSO is working toward the inclusion of information in EIS that is required by the Order. MCSO is not yet in compliance with this Paragraph.

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.*

MCSO published policy GH-5 (Early Identification System) on November 18, 2015. MCSO proposed significant additions to the policy during our July 2016 site visit. We have commented on these modifications. Training to the policy is scheduled to begin in November 2016. Until such time that training is complete, MCSO will not be in Phase 1 compliance with this Paragraph.

This Paragraph outlines the minimum requirements of the database to ensure that bias and profiling do not go unnoticed. The policy modifications proposed adequately reference each of the Subparagraphs. However, not all required information is currently stored in a useable format within EIS. Nor does the EIS, as currently configured, meet the definition commonly accepted as a relational database that allows users to easily search for specific items without having to read each individual entry. Since this database is a crucial aspect of a functional Early Identification System we have been working closely with MCSO to achieve compliance. Several stumbling blocks that remain are outlined below.

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

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

The problem, according to MCSO representatives, is that supervisors would have access to all material associated with an open case, as currently there is no way to limit or redact information if one is granted the ability to see the case in the system. Additionally, in some instances, even though not initially implicated, the supervisor may later be identified as a principal or a witness in the complaint. After a lengthy discussion, MCSO and the software vendor CI Technologies agreed to investigate how simple summaries of open investigations might be made available to supervisors. MCSO will report on its progress.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.b. requires that the database include “all internal investigations of alleged or suspected misconduct.” Similar to the above discussion of complaints, internal investigations exist in the IAPro system, a management system used by EIU, PSB, and CID to track and analyze information inclusive of internal complaints and outcomes. However, for privacy concerns, there must be limited access to this information. As discussed in 75.a., supervisors can now view synopses of completed investigations but do not have the ability to view ongoing internal investigations for the reasons outlined above. MCSO will continue to work with the vendor to allow immediate supervisors access to this information without having to contact EIU or PSB.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.c. requires that the database include “data compiled under the traffic stop data collection and the patrol data collection mechanisms.” In Paragraph 54, we describe how MCSO created several electronic forms to capture all relevant data related to traffic stops: Vehicle Stop Contact Forms and Supplemental Sheets, the Incidental Contact Receipt, and the Written Warning/Repair Order. During the first year of the introduction of these electronic forms, both we and MCSO found problems with regard to data issues. Over time, most of these issues were addressed by requiring that the fields of these forms be made mandatory before a form can be closed. Most recently, MCSO programmed CAD to populate the traffic stop end time to alleviate the problem of extremely long traffic stops that were not being properly closed. While MCSO has not incorporated the required information regarding arrests or investigatory stops into the database, they continue to work on solutions that would make that possible. EIU personnel presented a diagram showing how the remote databases would interact with EIS. MCSO also provided a list of data elements that would be pulled from these databases into the EIS database. We and the Parties commented on the data elements and discussed the interface proposal presented. Once approved, CI Technologies can provide a timeline for completion of the interface.

MCSO is not in compliance with this Subparagraph.

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

code of conduct policy requires that the deputy self-report those instances. Failure to self-report would result in discipline depending upon the circumstances involved. During recent site visits, EIU personnel and District supervisors demonstrated the ability to review this information for us.

MCSO is in compliance with this Subparagraph.

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

MCSO is not in compliance with this Subparagraph.

Paragraph 75.f. requires that the database include “all arrests in which the arresting Deputy fails to articulate probable cause in the arrest report, or where an MCSO Supervisor, court or prosecutor later determines the arrest was not supported by probable cause to believe a crime had been committed, as required by law.” EIU already captures this information through Incident Report Memorialization. Supervisors must file these reports by the end of the shift in which they are recognized. These notes currently exist in Blue Team as Supervisory Notes to the actions of their subordinates. However, at present, these Supervisory Notes are “free form” entries that do not allow supervisors to search for relevant key words or issues. CI Technologies is working with EIU to develop a means by which Supervisory Notes can be searched. EIU is attempting to develop a more coordinated and consistent approach that would be useful for the field supervisor. At present, any current supervisor of a deputy can access the prior supervisor’s notes and look for references to these incidents, but there is no way to conduct a relational search for similar events. Arrests for which the prosecutor or a court determines a lack of probable cause are discussed in Subparagraph 75.i below.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.g. requires that the database include “all arrests in which the individual was released from custody without formal charges being sought.” According to EIU, the ability to capture this information depends upon what actually occurred within the context of the interaction. If the suspect was taken into physical custody but released prior to booking, there would be a JMS record as indicated in Paragraph 75.e. above. Therefore, MCSO could use the interface described earlier to pull the relevant data elements into EIS. However, if the incident does not rise to the point of physical custody and detention, then it would likely yield an Incident Report, covered under Subparagraph f. above or an Investigatory Stop under Subparagraph h. to follow. EIU is working to coordinate these processes with the assistance of the Technology Bureau. In either case, the solution would be the ability to create the interface that draws the relevant data elements from the FILEBOUND or other systems into EIS.

MCSO is not in compliance with this Subparagraph.

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

If the detention or search was the result of a traffic stop, the information will already be in the system as a result of the electronic forms described in Subparagraph c. above.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.i. requires that the database include “all instances in which MCSO is informed by a prosecuting authority or a court that a decision to decline prosecution or to dismiss charges, and if available, the reason for such decision.” Some of these already exist in the database and are indeed searchable. All cases involving the Maricopa County Superior Court system already reside in the system and are entered as a “County Attorney Action.” The employee receives a direct message once these outcomes are entered into the system. In addition, a notice is sent to the deputy’s supervisor, and both lieutenants and captains will be able to view these County Attorney Actions on their own supervisory dashboard screens. BIO already conducts monthly audits of County Attorney Turndowns to ensure that, at a minimum, probable cause existed for the initial action of the deputy. Beginning in April 2016, we have included these County Attorney Actions in our monthly document request. Each month, BIO provides a list of cases returned by the Maricopa County Attorney’s Office. From this list, we randomly select five for review. Nearly every case comes down to whether there is sufficient evidence to prove guilt beyond a reasonable doubt. In some cases, this is due to limited evidence. In others, it is the inability to gain cooperation of witnesses, and in some the defendant is assisting the prosecution in other cases or seeking treatment while their case is deferred. To this point we have not reviewed a case in which prosecution was turned down due to the deputy’s improper action.

For any cases that fall outside of the Superior Court, which can include misdemeanors, minor felonies or cases that are referred to City or Justice Courts, the dispositions are not directly communicated to MCSO. The Technology Bureau is coordinating the interaction with these Courts and is planning to implement a solution for those Courts that have agreed to share their documents.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.j. requires that the database include “all disciplinary action taken against employees.” MCSO currently tracks disciplinary actions in the IAPro system. However, MCSO is debating how to include “coaching” as an alternative that is trackable in this database. At present, coaching is incorporated into Blue Team Supervisory notes. However, these notes are not searchable after they are entered. This becomes problematic if one wants to find similar instances of coaching over time. EIU is working with the legal review unit to ensure that the policies dealing with coaching are worded appropriately. Currently, one instance of coaching is

not viewed as a disciplinary event; however, three instances of coaching for the same sort of conduct can move in to a formal disciplinary process. EIU is exploring a variety of options and will develop a proposal so that this issue can be resolved.

MCSO is not in compliance with this Subparagraph until such time as it develops and implements the issues addressed above.

Paragraph 75.k. requires that the database include “all non-disciplinary corrective action required of employees.” MCSO believes that at present, Supervisory Notes fulfill this requirement along with the bimonthly reviews of a deputy’s performance. These notes typically describe the discussions that supervisors and subordinates have about the work of a deputy. Most do not rise to the level of discipline, but there are times where Supervisory Notes are used to further examine the activity of deputies (see the instance of repeated coaching above). However, while the Supervisory Notes are found within the system, they are not searchable for similar types of notes showing how supervisors may have corrected the actions of a subordinate in the past. MCSO is working with CI Technologies to make these “free form” fields searchable.

MCSO is not in compliance with this Subparagraph, due to the fact that non-disciplinary actions cannot be queried in any substantive fashion.

Paragraph 75.l. requires that the database include “all awards and commendations received by employees.” The EIU is currently working with the Compliance Division to rework the awards policy. The categories in the current policy do not provide the guidance to create the fields necessary in EIS to provide a searchable format. Therefore, while awards and commendations are in the EIS database one would have to sift through the system entry by entry. We met with MCSO during our July 2016 site visit to provide comments on the latest revision of the awards policy. EIU is anticipating the development of the categories necessary to make these items more accessible to supervisors who might perform queries.

MCSO is not in compliance with this Subparagraph, due to the fact that awards and commendations cannot be queried in any substantive fashion.

Paragraph 75.m. requires that the database include the “[t]raining history for each employee.” MCSO uses a Skills Manager System (SMS) that is managed by the Training Bureau. According to the Technology Bureau, the SMS will not communicate with EIS. EIU has taken the initiative to retrieve the history of deputies from SMS and enter them into EIS manually. The plan, at present, is to go back to January 1, 2016 for all deputies.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.n. requires that the database include “bi-monthly Supervisory observations of each employee.” Currently, the supervisors memorialize their meetings with employees in Supervisory Notes in Blue Team. EIU demonstrated, during our July 2016 site visit, that simple word searches were possible but Boolean searches or searches involving phrases were not. CI Technologies will be working with EIU to refine these possibilities and present options that they discover.

BIO conducts monthly audits of Patrol Supervisory Notes. While these are changing due to the introduction of the Review and Discuss fields in TraCS, supervisor oversight has been measured with five indices. While we have seen improvements in the last two months, where 100% of

supervisors reviewed had made two performance entries per subordinate, there have also been reviews in the last six months where 40% of supervisors reviewed were not using the EIS tools available to them. The ability to more completely search these fields is dependent on supervisors collectively using these tools to the fullest extent. MCSO is planning to begin EIS training in November 2016, and supervisor responsibilities will be a major part of that training.

MCSO is not in compliance with this Subparagraph.

E. F. Codd, the person who coined the term “relational database,” defined it as a collection of data items organized as a set of formally-described tables from which data can be accessed or reassembled in many different ways without having to reorganize the original database tables. The above discussion of the data elements shows that MCSO is far from compliance with this Paragraph. MCSO has developed the policy (GH-5) regarding these elements and specified how deputies, supervisors, and command staff should use these data elements to fulfill their roles. However, for the most part, these elements do not exist in a manner that fits the definition of a relational database. The interface solution that MCSO has proposed would alleviate several of the problems outlined above. Specifically, it would provide a bridge between remote databases and EIS by extracting specific data elements for inclusion in the EIS database. MCSO and CI Technologies will provide a timeline for the implementation of this interface. 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. GH-5 (Early Identification System) was published on November 18, 2015. MCSO proposed significant additions to the policy during our July 2016 site visit. We have commented on these modifications. Training to EB-2 has been completed. MCSO is in Phase 1 compliance with this Paragraph.

For traffic stops, MCSO meets these requirements in several ways. For instance, EIU conducts a monthly alert analysis that indicates whether deputies are marking race as “unknown” in TraCS. This is an extremely rare occurrence. In addition, the integrity analyses conducted by our personnel have shown that this information is rarely missing from the TraCS data supplied by MCSO. Moreover, when discrepancies do arise, MCSO has developed solutions. For instance, MCSO proposed to have CAD populate the end time for traffic stops to alleviate the problem of traffic stops that were not properly concluded and appeared in the database as being over 900 minutes. We will continue to monitor the modification of TraCS, as well as the audits of this information to ensure compliance.

However, as we noted in several Subparagraphs above – 75.e.-g. (all arrests in differing contexts), and 75.h. (investigatory stops) – MCSO is still working to incorporate the necessary information in EIS to fully meet the requirements of this Paragraph. Identifying information for deputies is automatically incorporated into EIS. However, until all of the required types of records are incorporated into the system, the corresponding identifying information for the civilians contacted by deputies will be missing. During our July site visit, MCSO provided a diagram for the interface of several remote databases with EIS. The interface would provide a bridge that allows specific data elements required in this Paragraph to be represented in the EIS database. We and the Parties discussed the interface and data elements at length during our July site visit. MCSO and CI Technologies are working on the timeline to get the interface operational. MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: Not 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.

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

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

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

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.*

GH-5 (Early Identification System) was published on November 18, 2015. MCSO also provided a significant revision of GH-5 during our July 2016 site visit. Training on EIS, including orientation to the new policy, is scheduled to begin in November 2016. Until such training occurs, MCSO is not in Phase 1 compliance with this Paragraph.

Prior to the publication of GH-5, the Deputy Chief of the Technology Management Bureau provided a letter in response to Paragraph 78. On the second page of this memorandum, there is a description of the security of the database and server. This information has been reiterated in the EIS policy. MCSO has also included specific statements in the policy that limit access to individual deputy information to appropriate supervisory/administrative personnel. In addition,

the policy states that personal information will be maintained in the database for at least five years following an employee's separation from the agency. The policy also explicitly stipulates that all other information will be retained in EIS indefinitely for purposes of aggregate statistical analyses. These statements meet the requirements of the Order. Moreover, the discussion in relation to Paragraph 75.a. & b., regarding the ability to view ongoing complaints and internal investigations provides a practical example of how concerned MCSO is with the privacy of information regarding their employees. MCSO is working with CI Technologies to provide supervisor access to both closed and ongoing investigations information without allowing those without purview the ability to view this information. This is an indicator of how important security of the system is to MCSO.

MCSO has also been working with a contract partner, ASU, to ensure that the traffic stop data is in a format that allows for aggregate statistical analysis to be conducted. We have noted, particularly in Paragraphs 64-67, the problems that have arisen in conducting the first annual review of traffic stop data. In addition, we have noted the limitations of information available in several Subparagraphs of Paragraph 75 above. MCSO is working to create an interface between remote databases and EIS to pull agreed upon data elements from these remote systems and place them in the EIS data. We and the Parties have had the opportunity to review and comment on the interface proposal and the data elements MCSO is planning to include. Once finalized, we will comment on the timeline and plan for the interface.

Finally, until such time as applicable EIS Training is delivered, MCSO will not be 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.

MCSO published GH-5 (Early Identification System) on November 18, 2015. MCSO has proposed a significant revision of this policy in July 2016. Training on EIS, including orientation to the new policy, is scheduled to begin in November 2016. Until such training is complete, MCSO is not in Phase 1 compliance with this Paragraph.

MCSO does not have a fully "integrated" database. MCSO has made several modifications to TraCS over the past several months to achieve a more effective system of data collection that can also be used for data analysis. MCSO has proposed, in July 2016, an interface between remote databases and EIS for those patrol activities not captured in the TraCS system. In the interim, MCSO personnel in EIU and BIO have appropriately pulled together data to conduct analyses and inspections looking for behavior that may appear to be outside the norm. However, at present, MCSO is not in Phase 1 compliance with this Paragraph. In previous Paragraphs, we

have revealed several concerns that impact the operation of the EIS. Cumulatively, they preclude the EIS from being “fully implemented.” These include, but are not limited to: 1) the ability of supervisors to have immediate access to all complaints involving their subordinates. MCSO showed during our July 2016 site visit that supervisors can now view a synopsis of closed complaints but they continue to work with the software vendor to provide supervisors access to abbreviated descriptions of ongoing investigations; 2) the ability of supervisors to access the training history of their subordinates within EIS; 3) a means of allowing supervisors to peruse pertinent information within EIS regarding Incident Reports for arrests and investigatory stops that have been conducted by their subordinates; 4) the data necessary for analysts to evaluate whether bias occurred during arrests and investigatory stops noted in number 3 above; 5) a searchable database that allows supervisors to query on any variety of measures or incidents.

EIU personnel have incorporated the alert investigation process by District supervisors into the Blue Team system. This has created a more transparent and accountable process for tracking behaviors that might be problematic. The findings from these investigations require approval from several levels of command before they are closed. However, the lack of substantive training on EIS up to this point has resulted in a minority of supervisors closing alert investigations without adequately describing the process they employed or conducting face-to-face meetings with their subordinates.

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

EIU personnel also developed a set of self-populating tables that provided supervisors throughout the agency with the ability to review all traffic stops for a single deputy, 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. These were significant advancements for supervisory personnel. However, due to the changes that MCSO is making to the monthly data analysis conducted by EIU personnel, MCSO has discontinued the use of these tables for supervisors out of a concern that these results may be interpreted inaccurately. EIU will re-evaluate the dissemination of these tables once the new methodologies and thresholds are complete. Supervisors, during District visits in July 2016, commented that they believed the self-populating tables were instrumental in their ability to effectively oversee the activity of their subordinates.

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.

MCSO published GH-5 (Early Identification System) on November 18, 2015. MCSO has proposed substantial revisions to this policy in July 2016. Training on EIS, including orientation to the new policy, is scheduled to begin in November 2016. Until such training is complete, MCSO is not in Phase 1 compliance with this Paragraph.

In response to our request for documentation, MCSO provided a training schedule for TraCS and supervisors during the spring of 2016. More importantly, MCSO has now put into practice a mechanism to memorialize who has received this training and when. The Skills Manager System (SMS), managed by the Training Bureau, does not communicate with the EIS system. EIU personnel are manually inputting information from the SMS into EIS. They plan to incorporate material back to January 1, 2016. However, EIS Training remains under development in consultation with us and the Parties.

Finally, we have discussed in previous Paragraphs the inability of supervisors to access all complaints against their subordinates without the assistance of PSB. During our July 2016 site visit, EIU personnel demonstrated how supervisors could view synopses of closed investigations, but MCSO and CI Technologies continue to work on modifications that would allow supervisors to view details about ongoing investigations. We have also discussed the use of FILEBOUND (see Paragraph 71 and Paragraph 75. e., f., and g.) to review Incident Reports for arrests, investigatory stops, and the like. While this system is available to supervisors, and allows them to search using a variety of levels, it is an independent system that cannot communicate with EIS. We believe the FILEBOUND system meets the needs of supervisory access to both arrests and investigatory stops; however, MCSO must include in EIS sufficient information for each incident so that supervisors can evaluate whether bias may have occurred as a result of an event or series of events. MCSO and CI Technologies have proposed an interface between remote databases and EIS. We will continue to evaluate these modifications as MCSO proposes and implements them.

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.*

MCSO published GH-5 (Early Identification System) on November 18, 2015. MCSO has provided a revision of this policy during our July 2016 site visit. Training on EIS, including orientation to the new policy, is scheduled to begin in November 2016. Until such training is complete, MCSO is not in Phase 1 compliance with this Paragraph.

In the absence of comprehensive training EIU, BIO, and individual supervisors have shown the ability to conduct comparative analysis of deputies, squads, and Districts employing the traffic data incorporated into EIS. EIU has routinely conducted monthly analyses looking for racial bias and profiling. While informative, these analyses have resulted in very few alerts being sent for further investigation to be conducted by supervisors. We have provided MCSO and its subcontractor with a methodology that is more statistically grounded and will allow a more complete analysis of deputy activity. The First Traffic Stop Annual Report was published in May 2016. The methods and analysis included in this report provided a comparison of deputies who had "10 or more stops per month" during the report period. We provided ASU and MCSO with our evaluation of the first annual report. Based upon these comments, and several discussions during our July 2016 site visit, MCSO and ASU are revising the methods and protocols they use for monthly data analysis.

Once these new methods are proven to be effective, MCSO plans to also implement changes in their annual data analysis plan for the second annual report. The report provides a basic analysis of traffic functions from warnings to citations to searches and seizures, among others. ASU also analyzed these functions across race and ethnic categories. In the appendices of the report, ASU identified those deputies (by number) who were found to be outliers in citing, warning, stopping, etc. one race or ethnicity at a rate greater than their contemporaries. MCSO has sent to supervisors the original ASU annual report. In addition, for those supervisors whose subordinates were identified as an outlier, they were also given individual reports for the deputy and an instruction sheet informing them how to read the individual reports and conduct face-to-face meetings with their subordinates. Within thirty days of dissemination, the supervisors are supposed to return their completed reports to EIU after they go through the chain of command in Blue Team. We have raised several concerns with MCSO about how they have set up this

process. First and foremost, MCSO disseminated these materials before we, or the Parties, had an opportunity to provide input on the process they had created. Second, after reviewing the instruction sheet provided by MCSO, we do not believe most of the supervisors will be able to adequately complete the reports they have been assigned. We would have preferred an in-person or online training process to ensure that supervisors could comprehend the statistics and processes involved in the analysis used by ASU. We and the Parties will have access to the supervisor reports once they are reviewed by EIU.

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

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

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

However, as suggested above in the discussion of the First Traffic Stop Annual Report, we continue to question the validity of the thresholds used in some of the analyses to be discussed in the Subparagraphs to follow. The justification for the current thresholds may be moot since we have recommended that MCSO look toward more statistically grounded alert thresholds. We have provided analyses we conducted during our February and April site visits, as well as additional analyses focusing on racial profiling and biased policing. We will evaluate the modifications MCSO and ASU propose for both the monthly and annual data analysis in future reports.

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

MCSO is not in compliance with this Subparagraph.

Paragraph 81.b. requires that MCSO's EIS protocols include "identification of warning signs or other indicia of possible misconduct." MCSO published GH-5 (Early Identification System) in November 2015 after months of revision and comments. The approved policy provides significant direction for employees and supervisors alike to understand what type of behaviors will be seen as problematic. EIU collects a host of indices electronically that most individual supervisors would never be able to track themselves. While we have discussed several limitations to the information available in Paragraph 75, the EIU has created an alert investigation process that facilitates the dissemination of information to supervisors and command staff when alert thresholds are met. The policy also directs supervisors to actively oversee their subordinates' performance through mechanisms like the EIS Dashboard, where they can not only see if an employee has reached a threshold, but can keep track of how close the employee may be to the myriad of thresholds and check in with the employee before a trigger event occurs. MCSO also began using two new fields in TraCS on June 1, 2016. The review field allows supervisors to note when they made sure that the traffic stop forms of their subordinates includes all the appropriate information in the correct boxes. This review, by policy, must occur within 72 hours. Past analyses by BIO suggest that supervisors are not always meeting this requirement. The recent BIO inspection of the review field indicated that only about 44% of supervisors reviewed these citations within 72 hours. Since this is a new system, which has not yet been trained to, it may take some time to dramatically improve these percentages. The second, the discuss field, allows supervisors to note when they had a conversation with their subordinates about their traffic stops. Each individual citation requires that the supervisor sign off on this discussion. BIO has not yet conducted an inspection for this field due to the insufficient amount of time using the new field.

In addition, EIU conducts monthly analyses looking for racial bias and profiling using a variety of indicators from citation rate comparisons to passenger rate contact comparisons. The analysis that the EIU conducts uses the total organization as well as lower levels of organizational analysis like ZIP codes and beats. The analyses lead to alerts being set when deputy activity rises to a level that exceeds that of their fellow deputies. However, we believe that this occurs too infrequently, due to: 1) rules that require that the deputies will be involved in the analysis only if they make 10 or more stops in a time period; and 2) the arbitrary rate differences that are required for specific events – for example, a passenger contact rate of 30% above the comparison group when three or more passengers are contacted, among others. We have provided MCSO, the Plaintiffs, and the Plaintiff-Intervenors with a methodology we created from our own analyses. As a result of our critiques, MCSO discontinued their statistical analysis for racial bias and racial profiling. MCSO and ASU are working to develop new statistically grounded methods and protocols for the monthly data analysis conducted by EIU. We will evaluate this in future reports.

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

MCSO is not in compliance with this Subparagraph.

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

However, while the majority of supervisors appear to be using the EIS system as intended, the BIO reports on Patrol Supervisory Notes indicate that not all supervisors are using the system as required by policy. For example, in April through June, BIO reported that 100% of supervisors reviewed made the two performance notes required for their subordinates. However, more than 12% of supervisors did not complete the traffic stop discussion or body-worn camera reviews

required of supervisors in April. The review of body-worn camera segments improved in May and June – 92% and 97%, respectively. However, 26% of supervisors failed to review Patrol Activity Logs of their subordinates as required in June 2016. BIO has repeatedly sent out reports to District command staff and recommended ways to improve. We have recommended that BIO become more actively involved in this process, to the point of triggering alerts and reviews for those supervisors who fail to employ the technology appropriately. However, we also anticipate that these levels will improve following the more comprehensive EIS Training that is still being scheduled for delivery in November 2016. We will continue to evaluate these efforts in future reports.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.d. requires that MCSO's EIS protocols include "a requirement that MCSO Commanders and Supervisors initiate, implement, and assess the effectiveness of interventions for individual Deputies, Supervisors, and units, based on assessment of the information contained in the EIS." MCSO published GH-5 (Early Intervention System) in November 2015. This policy refers to supervisor responsibilities and the development of "intervention plans" to address the root cause for a threshold alert. Intervention options range from informal observation to the initiation of Internal Investigations as outlined in GC-17 (Employee Disciplinary Procedure) and GH-2 (Internal Investigations). Section 6 of GC-17 provides an effective description of early intervention for all MCSO employees as a mechanism to address inappropriate conduct and substandard job performance before it becomes an issue that may warrant discipline. In our earlier discussion of the EIS database, we addressed 75.j., Disciplinary Actions and 75.k., Non-Disciplinary Actions. We have noted that discipline is well tracked in the EIS database. However, anything short of that – such as coaching sessions, observations, ride-alongs, and the like – are entered into the EIS database as Supervisory Note in Blue Team. These notes are available for review by all in the chain of command, but according to representatives of CI Technologies, they are not searchable in the sense that one could query similar terms or concepts or conduct compound Boolean searches. Moreover, while the above policies recommend that supervisors regularly follow up their informal interventions with additional observations that can be noted through the same Blue Team process, these entries are also unsearchable notes. EIU recognizes this flaw in the system and is working with the policy division to address these issues in both the policies and the database. Finally, MCSO does not currently have an "after action evaluation" process where interventions are tracked and evaluated for their effectiveness. This may be addressed at the line level by individual supervisors, but there is no formal process in place. During our July 2016 site visit, lieutenants and captains discussed how they follow up on subordinate interventions through the Supervisory Notes made by sergeants, but they acknowledged that this is a painstaking process that requires significant attention. BIO personnel have noted these deficiencies and participated in discussions to improve both the policies and technology to track intervention practices.

MCSO is not in compliance with the Subparagraph.

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

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

EIU had been producing monthly reports looking for instances of possible racial bias and profiling through April 2016. As a result of repeated critiques of the protocols and methods they were using in these reports, MCSO, with the assistance of ASU, is investigating new statistically grounded methods and protocols to investigate racial bias and profiling by their deputies. We will evaluate these as they are made available.

Finally, during our February and April 2016 site visits, we raised the issue of threshold levels pertaining specifically to activity of deputies who may be perceived as racially/ethnically biased (ICE Contacts, Immigration Status Inquiries). The thresholds included in the Supervisors Manual for EIS indicate that an alert is triggered only if there are two such instances in a rolling 12-month period. We advised MCSO that this had to be changed so that each incident triggers an alert and both the Monitor and Plaintiffs are notified of the alert being triggered. As a result, MCSO recently released a report for April through June, showing that no deputies marked these fields on the VSCFs. Moreover, during our district site visits, command staff stated that they did not believe that deputies in their districts had any recent citations with such a notation on them. BIO also conducted an Inspection of Supervisory Notes regarding CP-8 (Preventing Racial and other Biased-Based Policing) for the second quarter of 2016. According to the report, 100% of supervisors made notations about discussing racial bias during their shift meetings or the one-on-one meetings with their subordinates.

MCSO is not in compliance with this Subparagraph.

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

MCSO has taken this into account in GH-5 (Early Intervention System). Additionally, MCSO has developed threshold levels that differ by assignment and included these in the Supervisors'

Manual for EIS in addendums A and B. In a recent revision of the policy, MCSO incorporated many portions of the Supervisors Manual into the policy. We recommended ways in which MCSO could set thresholds using a more statistically grounded methodology. MCSO is working with ASU to create new thresholds.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.g. requires that MCSO's EIS protocols include "a process for prompt review by MCSO Commanders and Supervisors of the EIS records of all Deputies upon transfer to their supervision or command." MCSO has noted the need for a prompt review in both the Supervisor and Command Staff Responsibility sections of GH-5 (Early Intervention System). The revision of GH-5 provided in July 2016 includes a requirement for prompt review of EIS data for transferees. This is a significant change, since our District visits over the past six months show a lack of uniformity. In three instances, the supervisor and two command personnel stated that they had reviewed the EIS dashboard and Supervisory Notes of transferees within the first week of their arrival. In two other instances, a lieutenant and a sergeant stated that they had not used EIS to look at the history of subordinates, but instead contacted their subordinates' last immediate supervisors. BIO and EIU personnel have recognized such disparities themselves and believe that there will be more uniformity once EIS Training is completed.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.h. requires that MCSO's EIS protocols include "an evaluation of whether MCSO Commanders and Supervisors are appropriately using the EIS to enhance effective and ethical policing and reduce risk." BIO conducts monthly audits of Patrol Supervisory Notes and Quarterly Inspections of Incident Reports to assess whether supervisors are adequately using EIS supervisory tools. We have seen improvements in the proportion of supervisors making the required 2 performance notes per month: from 87% in the beginning of the year to a consistent 100% in April, May, and June. However, the proportion of supervisors reviewing body-worn camera segments have fluctuated, as have the proportion of supervisors reviewing and discussing traffic stops with their subordinates. BIO forwards these reports to supervisors and command staff, and identifies the personnel who do not make the necessary notes. We have recommended that BIO become more active in this regard and set alerts for repeated failure to make the mandatory notes.

MCSO also introduced two new fields in TraCS to evaluate whether supervisors are adequately overseeing the actions of their subordinates. Supervisors are required to complete the review field within 72 hours. The goal of this review is that supervisors should catch any mistakes deputies may make on the VSCF and return it to them before it becomes part of the EIS database. A recent inspection of this new field shows that about 44% of supervisors conducted their review within the 72-hour period. The second field is to note the day/time that the supervisor and deputy discussed the traffic stops of the deputy. BIO has not yet conducted an inspection of this field, as it was only introduced on June 1, 2016.

BIO also conducts quarterly inspections of Incident Reports using a random sampling technique. Of particular interest for this Paragraph is that in the last inspection supervisors were in compliance regarding the memorialization of Incident Reports 98% of the time. The report also indicates that deputies often did not contact supervisors when required for Lack of Identity Reports (80%) or turning in their own memorialized IRs at the end of shift (83%).

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

MCSO is not in compliance with this Subparagraph.

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

Finally, in our discussion of ongoing internal and external complaints being visible to immediate supervisors (Paragraph 75.a.b.), MCSO expressed concerns that supervisors would have access to all material associated with an open case, as currently there is no way to limit or redact information if one is granted the ability to see the case in the system. Additionally, in some instances, the supervisor may, at some point in the investigation, be identified as a principal or a witness in the complaint. EIU continues to work with the software vendor to address the issue of ongoing investigations. We will monitor and report on these issues in future reports.

MCSO is in compliance with this Subparagraph.

MCSO published policy GH-5 (Early Identification System), but has not yet trained to this policy. Until such time as EIS Training is complete, MCSO will not be in Phase 1 compliance with this Paragraph. MCSO is meeting some requirements of Paragraph 81: security; evaluation of supervisory use of EIS; and the ability of EIU and BIO to conduct monthly analyses on existing data. However, MCSO also needs to attend to the majority of areas where it falls short: the ability to search Supervisory Notes; assessment of the effectiveness of interventions; and evaluation of comparative analytic methods that do not rely upon arbitrary thresholds. We will continue to work with MCSO in developing supervisory processes that meet the requirements of the Order.

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:*

***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.

During our July site visit, we met with the Deputy Chief of Patrol and other MCSO command staff regarding the status of ongoing projects related to compliance with this Order. We inquired about Patrol Activity Logs (PALs), and were advised that there have been no significant issues or setbacks since PALs were implemented in June. We reviewed a small sample of Patrol Activity Logs for a one-week period in June, and noted that deputies were providing very little details on activities associated with community policing. In our last report, we noted that MCSO reported that deputies in Patrol recorded over 3,000 community policing occasions. Community policing is actively working with stakeholders to address crime concerns and quality of life issues. While we presume that many of these community-policing occasions would meet the general criteria of the concept, as a result of conversations with deputies in the field, we believe that many of the claimed community-policing occasions would be better characterized as community contacts. For us to give MCSO supervisors proper credit for ensuring that deputies are complying with the requirements of this Paragraph, we have requested that MCSO have deputies provide more detail in Patrol Activity Logs for those events that are related to community engagement and community policing.

MCSO advised us that the second phase enhancements to PALs were on schedule for completion by September 30. We understand that this includes documentation of supervisory reviews of PALs. We requested that MCSO provide metadata recording of each supervisory review on each Patrol Activity Log, using the same process for recording supervisory reviews of Vehicle Stop Contact Forms (VSCFs). We were advised that MCSO's plan was to provide a spreadsheet with

documentation of supervisory reviews of PALs. We requested individual memorialization of each PAL. MCSO advised that this can be accomplished, but that this type of process requires additional programming and would need to be included in a third phase enhancement. MCSO was unable to provide a date of expected completion for this enhancement until an assessment of the work required could be completed.

We also inquired as to the implementation of a radio code to note when a supervisor responds to or actively engages with a community member who has made a complaint. We were advised that such a code is possible but would need to be part of the third phase enhancements due to the high number of projects currently being worked on. MCSO is also working on providing documentation of supervisory reviews of vehicle crash reports. The solution will include a spreadsheet showing vehicle crash reports by event number, and the date and time when the supervisor reviewed and approved the report. During our July site visit, we inquired as to the expected timeframe for completion. MCSO advised that, due to the number of other projects, it had not developed a needs assessment for the project in order to provide a timeline. We were advised that the project to convert Field Interview (FI) card tracking to TraCS has experienced some delays. Deputies are currently documenting Field Interviews on Incident Reports, which supervisors are required to review and memorialize within 72 hours.

We were advised that there has been a smooth transition to the 4/10 schedule, and there have been no issues of concern reported. MCSO reported that the supervisor-deputy ratio has improved, and has not gone above 1:9 in any District. We have confirmed that through our reviews of monthly rosters.

We conducted interviews with supervisors and commanders from two Districts during our July 2016 site visit to determine if there was compliance with MCSO policies and the requirements of the Order. We conducted interviews with a District 2 sergeant, a lieutenant, and the District 2 Commanding Officer. We were provided a demonstration of supervisory reviews of VSCFs. The supervisor who provided the demonstration gave a thorough presentation, and it was evident that he was well-informed and proficient at conducting traffic stop reviews. MCSO advised us of an apparent communication delay between the Computer Aided Dispatch (CAD) system and the Patrol Activity Logs. We were advised that the communication issue creates discrepancies between CAD and PALs. MCSO is aware of this problem. We also understand that MCSO is working to correct the 24-hour clock glitch that is affecting the Patrol Activity Logs.

MCSO supervisors are experiencing lengthy delays in reviews of traffic stop videos; they advised that it could take up to one hour or longer to review a 20-minute video of a traffic stop. The supervisor we interviewed believes that supervisors in the District are overloaded with work. Supervisors routinely come in to work on their days off and on overtime to complete administrative tasks. Supervisors in District 2 have vast distances to cover due to the geographic size of the District, but they generally try to contact their deputies at least once a day. Supervisor-to-deputy ratio is generally 1:6 during the day and 1:9 during the evening. Regarding calls for service, deputies are allowed to take calls and sign off calls via their in-vehicle mobile computer. The only exceptions are traffic stops. Deputies must announce all traffic stops on the radio.

We inquired if supervisors receive reports or have access to statistics generated by deputies, which could be used as part of assessing deputy performance and productivity. We were advised that supervisors currently do not receive this type of information, but may request special reports through the office of the Deputy Chief of Patrol. We believe that the data and statistics gathered through the Patrol Activity Logs could be useful for supervisors in assessing deputy performance. MCSO command staff informed us that this information is already available to Patrol supervisors through MCSO's Intranet. Supervisors will be instructed on how to access these reports.

We conducted a visit to District 4 and interviewed a sergeant, a lieutenant, and the District 4 Commanding Officer. The ratio of supervisors to deputies in District 4 is well within the requirements of the Order; each supervisor has six or less deputies to supervise. District 4 was one of the last Districts to convert to the 4/10 schedule. Although District 4 provides contractual services to a municipality, the contract is not as restrictive as those for other contract cities, and District 4 has not experienced any problems with the 4/10 conversion. Most MCSO deputies and supervisors we have interviewed prefer the 4/10 schedule. As with District 2, supervisors do not receive any type of productivity reports for their deputies. If supervisors wanted to compile these types of statistics, they would have to formulate their own reports. The District 4 Commanding Officer spoke well of some of the initiatives implemented. She believes that body-worn cameras have helped decrease public complaints, and that EIS/Blue Team has proven useful. District 4 has identified one deputy for intervention as a result of alerts received through EIS. The Commanding Officer believes this pattern of behavior would have probably been overlooked prior to the implementation of EIS.

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

District 4 supervisors have also experienced delays in reviewing video footage from traffic stops, due to slow downloads. The supervisor interviewed also raised the same concern with the discrepancies between CAD and the PALs. We understand that MCSO is aware of this communication problem. The supervisor from District 4 provided the Monitoring Team with a demonstration of traffic stop reviews on CAD. The sergeant was well informed and navigated through the various steps of traffic stop reviews with ease. From the demonstrations we received at Districts 2 and 4, we can unequivocally say that these two supervisors are familiar with Order requirements and are capable of conducting quality traffic stop reviews.

We reviewed a representative sample of 76 Incident Reports for **April 2016**, for the randomly selected date of April 1, 2016. Ten Incident Reports were not turned in by the end of the shift. Two Arrest Reports were not reviewed and signed by a supervisor within the required 72 hours. Five reports were not reviewed and signed by a supervisor within the required seven days. Eight crash reports contained the printed or signed name of the supervisor but no date of review. We conducted a quality review on a 10% random sample of the reports reviewed and found no significant deficiencies.

We reviewed a representative sample of 58 Incident Reports for **May 2016**, for the randomly selected date of May 11, 2016. Eight reports had timeliness issues, as they were either not turned in or approved and signed within the required timelines. One Incident Report had no supervisory review documented. MCSO provided us with a printout of vehicle crash reports that documents supervisory approval. Eight of 11 vehicle crash reports were reviewed within the required time constraints, for a 73% compliance rate. All arrest reports were reviewed and memorialized within the required 72 hours. We conducted a quality review on a 10% random sample of the reports reviewed. One Incident Report had conflicting dates of when the incident occurred. We did not note any other deficiencies.

We reviewed a representative sample of 81 Incident Reports for **June 2016**, for the randomly selected date of June 3, 2016. Two Incident Reports were not signed by a supervisor. One Arrest Report was not memorialized within the required 72 hours, and one Arrest Report had the supervisor's signature, but not the date of review. Nine vehicle crash reports had the name of the supervisor printed, but no date of review. MCSO provided us with a printout of vehicle crash reports that documents supervisory approval. Thirteen of 14 vehicle crash reports were reviewed within the required time constraints, for a 93% compliance rate. We conducted a quality review on a 10% random sample of the reports reviewed. We noted several domestic violence Incident Reports where the injuries to female victims were depicted on male diagrams. This is somewhat confusing at first glance, when an obviously male body diagram has the name of a female victim. MCSO has used both male and female body diagrams in the past. We recommend that MCSO standardize the use of body diagrams either with appropriate gender diagrams or with a generic diagram.

Paragraph 83 requires that supervisors ensure that deputies actively work to engage the community in order to increase public trust and safety. In addition to reviewing documentation provided by MCSO regarding their community policing efforts, we review Patrol Activity Logs to verify that these activities are taking place. MCSO routinely submits a list of activities related to community engagement. From our interviews with deputies during District visits, we believe that many of these activities would be considered community policing by most law enforcement circles. Some of these activities, however, would be more appropriately considered community contacts. We reviewed a sample of Patrol Activity Logs and concluded that additional details were needed for events associated with community policing. We have asked MCSO to include enough details in CAD notes, for events associated with community policing, so that we may differentiate between community contacts and Community Policing activities.

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.*

On January 12, 2016, MCSO published policy GB-2 (Command Responsibility). Paragraph 84 requires that all patrol deputies be assigned to a single, consistent, clearly identified supervisor and that first-line supervisors be assigned to supervise no more than 12 deputies. GB-2 meets the requirements of Paragraph 84. MCSO is 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 2016. We also reviewed the April, May, and June 2016 Patrol Bureau shift roster inspection summaries, which discuss the results of BIO's examination of every MCSO shift roster during those months to verify that shifts did not exceed the 1:12 supervisor-to-deputies ratio. The BIO inspection summary dated June 1, 2016, noted that there were no supervisors assigned on April 27, 28, and 29 in the Lake Patrol District. The BIO inspection summary dated July 13, 2016, noted that Lake Patrol had no supervisor on duty on June 1, 2016. MCSO has addressed this issue internally. We will monitor this situation in future audits.

During this reporting period, consistent 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 daily rosters from Districts 6 and 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 2016 site visit, we visited and interviewed supervisors and commanders from Districts 2 and 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 who report to them.

MCSO is in compliance with Paragraph 84.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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. We requested that MCSO provide copies of reports documenting that supervisors are meeting with and discussing individually the stops made by each deputy, at least once per month. We requested documentation for one randomly selected supervisor from each District, for each month of the reporting period, and the squad of deputies who reports to that supervisor.

For April, MCSO submitted 107 Supervisory Notes for 40 deputies. Twenty-four of the 40 deputies, or 60%, had Supervisory Notes that contained all the information required to meet the requirements of Paragraph 85. One deputy had no Supervisory Notes, one did not make any traffic stops, and one deputy was off on family medical leave. One Supervisory Note had conflicting names; and two notes stated that the supervisors had discussions with the deputies regarding the traffic stops, when the deputies involved actually had no traffic stops. We have previously discussed our concern with cut-and-paste comments with MCSO. The memorialization of the supervisor-deputy discussions regarding traffic stops has been transferred to TraCS, effective June. We believe this new format on TraCS should alleviate some of the workload for supervisors, and may also minimize cut-and-paste comments. In April and May, we noted three instances where supervisors indicated in Blue Team notes that the traffic stops were discussed, when there were actually no stops made by the deputies being reviewed.

For May, MCSO submitted 65 Supervisory Notes for 43 deputies. Thirty-one of the 43 deputies, or 72%, had Supervisory Notes that contained all the information required to meet the requirements of Paragraph 85. Six deputies made no traffic stops. One Supervisory Note indicated that the supervisor had a discussion with the deputy regarding traffic stops, but the deputy made no stops during the month in question.

For June, MCSO changed the documentation for proof of compliance with this Paragraph. MCSO submitted the documentation of supervisor-deputy discussions regarding traffic stops in a spreadsheet with information downloaded directly from TraCS. We received a list with the names of all the supervisors and deputies requested. The spreadsheet listed 241 Vehicle Stop Contact Forms (VSCFs) for June. The spreadsheet listed each deputy, the event number, the date and time the VSCF was generated, the reviewing supervisor, the date and time reviewed, and the status of the discussion related to the traffic stop. Each line item contained the information

related to the stop, and 238 of the 241 VSCFs were marked as having been discussed with the deputy. The spreadsheet submitted documented the date and time that the supervisor reviewed the VSCF, but we were unable to verify the date and time the discussion regarding the traffic stops occurred.

The documentation of supervisory reviews of traffic stops submitted for June indicates that in 238 of the 241 stops, supervisors had discussions with deputies regarding the stops. Further examination of the data shows that 136 of the 241 VSCFs were not reviewed within the required 72 hours. EA-11 (Arrest Procedures) requires supervisors to review VSCFs within 72 hours. Therefore, the 159 VSCFs not reviewed within the required time constraints are in violation of MCSO policy. For June, the Phase 2 compliance rate for the review and discussion of stops and detentions that meet the requirements of this Order was 44%. In addition, the Supervisory Notes submitted for April and May documented only 60% and 72% compliance, respectively. Therefore, for this reporting period, MCSO is not in compliance.

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.*

On January 12, 2016, MCSO published policy GB-2 (Command Responsibility). 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 be assigned to work the same days and hours as the deputies they are assigned to supervise, absent exceptional circumstances. GB-2 meets the requirements of Paragraph 86. MCSO is now in Phase 1 compliance with this Paragraph

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

MCSO instituted the first phase of the roll-out of Patrol Activity Logs (PALs) in June. Patrol Activity Logs will assist us in evaluating compliance with several Paragraphs of this Order. We have requested that MCSO designate a radio code to indicate, on the PAL face sheet, when supervisors make field contacts with deputies. This type of code would partly corroborate on-scene supervision, as required by this Paragraph. As noted in our review of Paragraph 84 compliance, there were four days in this quarter where one District did not have a supervisor on duty. In addition, MCSO has not yet implemented a solution to memorialize supervisory reviews of Patrol Activity Logs.

We will continue to audit Patrol Activity Logs and follow the development of the second and third phase enhancements. There were no Patrol Activity Logs generated in April and May. MCSO is not in compliance with this Paragraph for this reporting period.

Compliance Status:

Phase 1: 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 is in Phase 1 compliance with Paragraph 87.

GC-17 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. We reviewed the draft policy, and returned it to MCSO with comments and suggestions. Subsequent to the revision of GC-4, MCSO revised the Employee Performance Appraisal (EPA) form. We reviewed the revised EPA form, and returned it with comments and suggestions. During our April site visit, we met with MCSO and reviewed the revised draft of GC-4, as well as the revised EPA form. We approved the revisions to both.

GC-4 was not published during this reporting period. During our July site visit we met with MCSO and discussed the Employee Performance Appraisal process and status of implementation. As a result of the Amended Second Supplemental Permanent Injunction, MCSO postponed publication pending required revisions.

We requested the performance appraisals for all deputies and supervisors who were evaluated during this reporting period. We received and reviewed performance evaluations submitted for seven deputies and two supervisors who received evaluations in **April 2016**. Six of seven deputies' Employee Performance Appraisals (EPAs) reviewed were well-written and contained examples of behaviors documented during the rating period that supported the ratings. One performance appraisal was subpar and lacked supporting documentation. Both of the supervisors' performance appraisals reviewed were well written and documented specific behaviors that supported the ratings. However, neither of the appraisals had comments related to the supervisors' ability to identify and respond to misconduct, and only one rated the supervisor on the quality of their reviews.

We received and reviewed performance appraisals submitted for seven deputies and eight supervisors who received performance evaluations in **May 2016**. Four of the seven deputy performance appraisals were of very good quality, and two were of average quality. Four of the eight supervisors' EPAs were below the quality of work product expected from commanders. The remaining four performance appraisals were of average quality. None of the eight supervisors' performance appraisals reviewed rated the employees on the quality of their supervisory reviews, the quality and effectiveness of supervision, or the supervisors' ability to identify and respond to misconduct. Three of the supervisors' EPAs were written narrative-style and did not contain specific comments to support each rating dimension.

We received and reviewed performance evaluations submitted for seven deputies and 13 supervisors who received appraisals in **June 2016**. Three of the seven EPAs reviewed were of above average quality and four were acceptable. Three of the 13 supervisors' EPAs were of excellent quality. Three of the supervisors evaluated had no direct reports; their performance appraisals were acceptable. The remaining seven EPAs reviewed were of acceptable quality. It must be noted that none of the supervisors' EPAs reviewed rated supervisors for the quality and effectiveness of their supervision, the quality of their personnel reviews, or their ability to identify and respond to misconduct.

MCSO revised GC-4 (Employee Performance Appraisals) and has created a new format for appraisal forms that address the deficiencies noted. The draft of the revised GC-4 (Employee Performance Appraisals) was not published during the second quarter. As a result, MCSO is not in compliance with the requirements of this Paragraph for this reporting period.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

MCSO takes the position that it no longer has specialized units that enforce immigration laws. During discussions with CID and MCAO attorneys, we have recommended 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 to do so.

During our April 2015 site visit, we met with MCSO command staff to review proof of compliance that the Criminal Employment Unit (CEU) had been disbanded, as MCSO 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 would 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 disbanded, and that the Human Smuggling 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 Human Smuggling Unit’s 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 Human Smuggling 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 Operations 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.

During our October 2015 site visit, we met with MCSO staff and attorneys to discuss this issue. MCSO provided us with a copy of the Special Investigations Division’s Operations Manual. The Operations Manual now 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 narcotics, money laundering, home invasions, kidnapping, extortion, trafficking of weapons, and gang related crimes.”

MCSO removed the enforcement of human smuggling laws from the mission statement of the Anti-Trafficking Unit, and no other specialized units have this mission and part of their duties. Based on these policy modifications, MCSO is in Phase 1 compliance with this Paragraph. MCSO’s lack of specialized units that enforce immigration-related laws puts MCSO by default in Phase 2 compliance as well, but we will continue to monitor arrests and detentions as part of our review process to ensure that MCSO is in compliance with its own directives on this issue.

For April, May, and June, we received lists containing all incidents involving MCSO arrests and criminal citations. For each respective month, we requested a random sampling of arrests and criminal citations. In total, we reviewed 59 incidents involving arrest and 60 incidents involving criminal citations. We found no evidence of enforcement of immigration-related laws.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

We reviewed the following documents submitted by MCSO as policy documentation relative to Paragraph 89 requirements: EA-11 (Arrest Procedures), which was most recently revised on June 15, 2016; 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 documents. The Incident Reports submitted covered the period from April 1, to June 30, 2016. Any incident wherein a deputy requests supervisory permission to contact Immigration and Customs Enforcement (ICE) or Customs and Border Patrol (CBP), to ascertain the legal status of an individual involved in a stop, detention, or any incident being investigated by MCSO, would fall under the reporting requirements of this request. No cases involving immigration status investigations or immigration-related crime were reported.

The MCSO submission for this reporting period consisted of one incident that occurred during this time period. This incident involved a vehicle crash in which one of the drivers had a suspended driver's license. The driver who was arrested did not have a driver's license in his possession at the time of the accident. The individual also had two arrest warrants for driving with a suspended license. We reviewed the incident and found that MCSO was in compliance as to the required supervisory notification.

We also received a booking list and a criminal citation list for each month of the reporting period. From each list, we selected a 10% random sample of incidents. We reviewed 59 incidents resulting in arrest and 60 incidents involving criminal citations. None of the incidents involving arrest or criminal citations we reviewed as part of the Paragraph 93 audit involved any immigration issues, identity fraud, or lack of identity documents.

Compliance Status:

Phase 1: In compliance

Phase 2: 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 most recently revised on June 15, 2016. 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. EA-11 is in compliance with this Paragraph.

We reviewed 35 incidents involving traffic stops for **April 2016**. Seventeen citations were issued for speeding. There were six instances of criminal violations where the driver was cited and released. Two drivers were cited for driving with suspended licenses. Nine incidents involved individuals who were cited for having suspended registrations or suspended license plates. All 35 stops had Vehicle Stop Contact Forms, and all resulted in traffic citations or warnings. None of the Vehicle Stop Contact Forms contained any notations or signatures from a supervisor indicating that his/her review, 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 35 incidents involving traffic stops for **May 2016**. Out of 35 traffic stops, three resulted in arrests: one for speeding, one for driving with a suspended license, and one for driving with a suspended license plate. Twenty-two of the thirty-five traffic stops were related to speeding. All 35 stops had Vehicle Stop Contact Forms, and all resulted in traffic citations or warnings. None of the Vehicle Stop Contact Forms contained any notations or signatures from a supervisor indicating his/her review, 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 2016**. Eighteen of the 35 traffic stops were related to speeding violations. Out of 35 traffic stops, four resulted in arrest: three for speeding, and one for driving with a suspended license plate. All 35 stops had Vehicle Stop Contact Forms, and all resulted in traffic citations or warnings. Thirteen of the 35 Vehicle Stop Contact Forms had been reviewed by a supervisor within the required 72 hours. Twelve of the 35 Vehicle Stop Contact Forms had been reviewed by a supervisor, but not within the required timeline. Seven of the 35 Vehicle Stop Contact Forms did not contain any notations or signatures from a supervisor indicating his/her review, and the date of the review.

From the sample of traffic-related events submitted for June, only 13 of 35 VSCFs were reviewed within the required 72-hour period. For the last month of this reporting period, MCSO implemented TraCS recording of supervisory reviews on VSCFs. For June, there were 241 VSCFs submitted pursuant to our request for proof of compliance. Of the 241 VSCFs, 136 were not reviewed and memorialized by a supervisor within the required 72 hours. This is a compliance rate of 44%. MCSO is not in Phase 2 compliance with the requirements of this Paragraph for this reporting period

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 in compliance with the Paragraph 91 requirements.

We reviewed EA-11 (Arrest Procedures), which was most recently revised on June 15, 2016. 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 Incident Report 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. EA-11 complies with this Paragraph.

We reviewed traffic stop data reported by MCSO for its **April** inspection. The Monitoring Team randomly selected 35 traffic-related events, which the Bureau of Internal Oversight (BIO) then audited for compliance. Of the 35 traffic-related events, MCSO reported that 32, or 91%, had no deficiencies noted. The Monitoring Team reviewed the same traffic-related events, independent of BIO's audits, as part of our compliance audit of Paragraphs 25 and 54.

During this inspection, MCSO determined the following:

- All of the stops documented all license and/or warrant checks.
- Thirty-four, or 97%, of the stops documented the serial number and unit of all involved in the stop.
- All of the stops documented the time the stop began, time any citation was issued, time release was made without citation, or time the stop/detention was concluded.
- All of the stops had a receipt containing a signature when applicable or acknowledgment that the subject was served and the reason for no signature was documented.
- Thirty-four, or 97%, of the stops had the reason for the stop recorded with a description of the traffic or equipment violation observed, if any, prior to contact with the occupants, and any indicators of criminal activity developed before or during the stop.
- All of the stops had the traffic stop data matching on all TraCS forms.
- All of the stops had the license plate number and state documented.
- All of the stops had the total number of occupants documented.
- All of the stops documented the post-stop race/ethnicity.
- Thirty-four, or 97%, of the stops where contact with passenger(s) was made, the nature of the contact and the reasons for such contact was documented.
- Thirty-four, or 97%, of deputies on scene had cameras activated as per policy.
- All of the stops documented the city location of the stop on the traffic Stop Data Form.
- None of the stops involved any inquiry as to immigration status.
- None of the stops involved a consent to search.
- All of the stops involving a seizure documented the contraband or evidence seized.
- All of the stops documented the final disposition, including whether a citation was issued or an arrest was made or a cite-and-release was made.

In reviewing the 35 traffic-related incidents for this audit, MCSO listed 17 points in their Matrix Procedures. There were six open, non-validated forms in the TraCS system. BIO determined that there was a 96% compliance rate for April, an increase of 6% from the March compliance rate. The Monitoring Team reviewed the same traffic-related events, independent of BIO's audits, as part of our compliance audit of Paragraphs 25 and 54. We found an additional two incidents where we noted deficiencies. Based on our review, we believe the compliance rate was slightly lower than what BIO found.

BIO recommended that supervisors continue to provide onsite mentoring on the importance of accurately documenting all required traffic stop data on MCSO forms, and any mentoring provided should be documented in Supervisory Notes.

We reviewed Supervisory Notes for April 2016. MCSO documented 34 corrective actions related to traffic stops. Most corrective actions were due to improperly completed forms, which included missing or, incorrect information on VSCFs, citations, or written warnings. There were two Supervisory Notes submitted as corrective actions where no deficiencies were identified. For April, we reviewed 107 Supervisory Notes for 40 deputies. Twenty-four of 40 deputies had Supervisory Notes that met the requirements of Paragraph 85 with regard to review and discussion of traffic stops.

We reviewed traffic stop data reported by MCSO for its **May** inspection. The Monitoring Team randomly selected 35 traffic-related events, which BIO then audited for compliance. Of the 35 traffic-related events, MCSO reported that 27, or 77%, had no deficiencies noted. MCSO revised the format of its Traffic Stop Data Collection Report in May. The new format does not individually report the percentage of compliance with each of the points audited.

In reviewing the 35 traffic-related events for this audit, MCSO listed 17 points in its Matrix Procedures. As part of our audit process for Paragraphs 25 and 54, we reviewed the same data and found deficiencies that should have been reported as part of the BIO audit. We found two additional incidents where we noted deficiencies.

BIO found four open, non-validated forms for the period of May 1-31, 2016. Each form is required to be validated. BIO determined that there was a 77% compliance rate for the month of May, a 19% decrease from the April compliance rate; however, as a result of our review we believe the decrease in compliance to be slightly higher.

BIO recommended that supervisors discuss with deputies the errors found in this audit. Supervisors were reminded that deputies are required to complete an Additional Deputy Camera Log on TraCS when assisting other deputies in traffic stops.

We reviewed 65 Supervisory Notes for 43 deputies for May and found that 12 of 43 deputies had Supervisory Notes that met the requirements of Paragraph 85 as it relates to the review and discussion of traffic stops. One supervisor noted that he had a discussion with the deputy regarding traffic stops, but the deputy did not make any traffic stops that month. It appears that these comments may have been copied and pasted, but the supervisor neglected to revise his entry. MCSO documented 31 corrective actions related to traffic stops for May. Twenty of the corrective actions were related to incorrect or missing information on VSCFs, citations or written warnings. Five were related to mistakes in video recording procedures; two were related to procedural issues, and the remaining four had no deficiencies that we could discern.

We reviewed traffic stop data reported by MCSO for its **June 2016** inspection. The Monitoring Team randomly selected 35 traffic-related events, which BIO then audited for compliance. Of the 35 traffic-related events, MCSO reported that 26 or 74% had no deficiencies noted. The Monitoring Team reviewed the same traffic-related events, independent of BIO's audits, as part of our compliance audit of Paragraphs 25 and 54.

In reviewing the 35 traffic-related events for this audit, MCSO listed 17 points in its Matrix Procedures. As part of our audit process for Paragraphs 25 and 54, we reviewed the same data and found deficiencies that should have been reported as part of the BIO audit. We found an additional four incidents where we noted deficiencies.

MCSO also discovered during its inspection that there were three open, non-validated forms for June in the TraCS system. Each form is required to be validated. BIO determined that there was a 74% compliance rate for June, a 2% decrease from the May compliance rate. As a result of our review, we believe that the compliance rate was lower than reported. BIO recommended that supervisors work with and adopt the review process for data as outlined in Administrative Broadcast 16-56. BIO recommended that supervisors use the review process to fix errors prior to the auditing process.

For June, MCSO submitted the documentation of supervisor-deputy discussions regarding traffic stops in a spreadsheet that contained information downloaded directly from TraCS. We received a list with the names of all the supervisors and deputies requested. The spreadsheet listed 241 Vehicle Stop Contact Forms (VSCF) for June. The spreadsheet listed each deputy, the event number, the date and time the VSCF was generated, the reviewing supervisor, the date and time reviewed, and the status of the discussion related to the traffic stop. Each line item contained the information related to the stop, and 238 of the 241 VSCFs were marked documenting that the supervisor had discussed that particular stop with the deputy.

The documentation of supervisory reviews of traffic stops submitted for June indicates that in 238 of the 241 stops, supervisors had discussions with deputies regarding the stops. Further examination of the data shows that 136 of the 243 VSCFs were not reviewed within the required 72 hours. EA-11 (Arrest Procedures) requires supervisors to review VSCFs within 72 hours. Therefore, the 136 VSCFs not reviewed within the required time constraints are in violation of MCSO policy. The compliance rates for traffic data reviews reported by MCSO audits for May and June were 77% and 74%, respectively. Moreover, we found additional deficiencies in the traffic stop data reviewed. We therefore conclude from these audits that field supervisors are missing some of the deficiencies found by BIO auditors and the Monitoring Team.

For June, the Phase 2 compliance rate for the review and discussion of stops and detentions that meet the requirements of Paragraph 85 was 35%. In addition, the Supervisory Notes submitted for April and May documented only 60% and 72% compliance with Paragraph 85, respectively. Paragraph 85 requires supervisors to conduct monthly discussions with deputies to address deficiencies and violations found in stops and detentions, and is therefore interrelated to this Paragraph. As per the requirements of this Order, and MCSO policy, VSCFs must be submitted prior to the end of the shift; they must be reviewed by a supervisor within 72 hours; and supervisors must review and discuss stops and detentions with deputies under their supervision at least once a month.

We will continue to work with MCSO to improve compliance as it relates to traffic stops and detentions. For this reporting period, MCSO is not in Phase 2 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 most recently revised on June 15, 2016; 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, 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 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 still undergoing revision and will contain the requirements of this Paragraph. During our July site visit, we met with MCSO and received an update on the progress of the new Employee Performance Appraisal protocol and training. For this reporting period, and until such time as GC-4 is published, MCSO is not in compliance with this Paragraph.

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), most recently revised on June 15, 2016, 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. EA-11 is in compliance with Paragraph 93.

We reviewed a representative sample of 76 Incident Reports for **April 2016**, for the randomly selected date of April 1, 2016. Ten reports were not turned in by the end of the shift. Four reports were not signed by a supervisor within the required seven days. Ten vehicle crash reports contained the printed or signed name of the supervisor but no date of review. Two of 16 Incident Reports involving arrests were not memorialized by a supervisor within the required 72 hours. We conducted a quality review on a 10% random sample of the reports reviewed and noted no significant deficiencies related to quality. However, 26 of 76 Incident Reports, or 34%, were either not submitted or not reviewed and memorialized within the required time constraints.

We reviewed a representative sample of 58 Incident Reports for **May 2016**, for the randomly selected date of May 11, 2016. All but nine Incident Reports were turned in by the end of the shift. Eight Incident Reports were not signed by a supervisor within the required seven days. Nine vehicle crash reports had the supervisor's printed name, or signature but not the date of review. Nine of 10 Incident Reports involving arrest were reviewed and memorialized within the required 72 hours. We conducted a quality review on a 10% random sample of the reports reviewed. One Incident Report involving a criminal traffic citation had conflicting dates as to the date of the incident and when the report was completed, and was not reviewed and memorialized within the required 72 hours. We did not note any other deficiencies related to quality. Twenty-seven of 58 Incident Reports were either not submitted on time or not reviewed and memorialized within the required time constraints.

We reviewed a representative sample of 81 Incident Reports for **June 2016**, for the randomly selected date of June 3, 2016. All but two Incident Reports were turned in by the end of the shift. Two Incident Reports were not signed by a supervisor within the required seven days. One Incident Report involving an arrest was not memorialized within the required 72 hours. One Incident Report involving an arrest was signed by the supervisor but not dated, so we were unable to ascertain if it was reviewed within the required time constraints. Nine vehicle crash

reports had the printed name of the supervisor, but no date of review. We conducted a quality review on a 10% random sample of the reports reviewed. We noted some minor errors, but in general, the reports were comprehensive and well written. Six incidents involving domestic violence depicted injuries to female victims on male body diagrams. MCSO has used both male and female diagrams in the past. We recommend that correct gender diagrams be used, or that MCSO adopt a generic body diagram. For June, 15 of 81 Incident Reports, or 19% were either not submitted or not reviewed and memorialized within the required time constraints.

For this reporting period, each month we received a list of jail bookings and a list of criminal citations. From these we requested a random sample to review. In total, we examined 59 Arrest Reports and associated documents, as well as 60 criminal citations. Nineteen incidents involving arrest were drug-related, many of which were initiated by Border Patrol. Seventeen incidents involving arrests were related to domestic violence. Thirty-five incidents involving arrests were for traffic-related offenses. The remaining incidents involved a variety of felony and misdemeanor offenses. There were no immigration-related arrests. For this reporting period, we examined 215 Incident Reports. Of the 215 Incident Reports, 68 had no deficiencies related to the timeliness of submission and no deficiencies with regard to supervisory review and memorialization. This is a compliance rate of 68%. For this reporting period, MCSO is not in Phase 2 compliance.

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 EA-11 (Arrest Procedures), most recently revised on June 15, 2016. 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. MCSO is in Phase 1 compliance with Paragraph 94.

We requested all Incident Memorialization Forms for the current reporting period. MCSO's submission consisted of 12 Incident Memorialization Forms, provided as proof of compliance with Paragraph 94, for the reporting period from April 1, to June 30, 2016.

For April, MCSO submitted one Incident Memorialization Form (IMF). The incident involved an identity theft investigation in which the deputy failed to notify the supervisor prior to initiating the investigation. The deputy in question was counseled, and command review occurred within the required timeline.

For May, MCSO submitted five Incident Memorialization Forms. One incident involved an arrest that failed to properly articulate probable cause on a DUI arrest. The deputy in question was provided remedial training. One IMF was generated for an Incident Report that failed to articulate the facts of the incident. One IMF was related to a report that was turned in late. One IMF was generated for a report with missing signatures. One IMF was drafted by a commanding officer in an incident where a supervisor failed to turn on his body-worn camera during a traffic stop, and failed to provide receipts to passengers of the vehicle he had contacted. In each of these instances where deficiencies were identified, coaching was provided as a corrective measure. With the exception of one incident that occurred approximately 57 days prior to the IMF being generated, the submitted Incident Memorialization Forms had timely command review and corrective actions were documented.

For June, MCSO submitted six Incident Memorialization Forms. One incident involved an arrest where there was probable cause for arrest, but the deputy failed to articulate the probable cause on the report. One IMF was generated in an incident where a deputy arrested an individual for leaving the scene of a vehicle crash, but failed to interview a passenger who was a witness. One IMF was related to an incident where a deputy searched an abandoned vehicle without a search warrant. One IMF was generated for a deputy who issued a criminal citation to a driver with a suspended license, but erroneously impounded the license plates. Two Incident Memorialization Forms were related to Incident Reports not submitted before the end of the shift, one of which was generated for a late report (from January). All the submitted Incident Memorialization Forms had timely command review and corrective actions documented.

During our review of BIO's June inspection of County Attorney dispositions, we learned of an incident where there was insufficient probable cause for arrest. The incident number was not associated with any of the Incident Memorialization Forms submitted for June. We therefore believe that this was one incident where lack of probable cause was not flagged by the supervisory review process. We have requested additional information on this incident.

We reviewed 21 randomly selected incidents involving arrest and associated documents for April. We found no significant deficiencies in the reports reviewed, other than one Incident Report was not memorialized by a supervisor within the required time constraints.

We reviewed 20 randomly selected incidents involving arrest and 22 incidents involving criminal citations for May. We noted two incidents where deputies had articulated sufficient probable cause for arrest in the Incident Reports, but did not adequately communicate the same facts in the Form 4 charging documents. One narcotics arrest was not turned in before the end of the shift; it was signed but not dated by the supervisor, so we are unsure of the review date. Another Incident Report involving a narcotics arrest was not signed by a supervisor. In a cite-and-release

involving speeding, there was no evidence of supervisory review. In another incident involving arrest, the Incident Report described a more serious violation than what the defendant was charged with. In one Incident Report involving a disorderly conduct ejection from a stadium, and a subsequent assault, the probable cause statement in Form 4 did not establish the reason for the ejection, although it had been clearly articulated in the Incident Report. One Incident Report involving arrest was turned in nine days late, and another was turned in six days late. It is imperative that all incidents involving arrest be submitted by the end of the shift in order for supervisors to conduct timely reviews.

For June, we reviewed 18 randomly selected incidents involving arrest and 38 incidents involving criminal citations. The only issues we noted were three Incident Reports involving criminal citations that were reviewed and signed by a supervisor, but not within the required 72 hours; one was due to a late submittal. As it relates to the requirements of this Paragraph, our audits of incidents involving arrest and criminal citations revealed that 13 of 119 incidents involving arrests reviewed were found to have deficiencies related to policy violations, for a 89% compliance rate. MCSO has improved in the area of supervisory reviews of incidents related to arrests and citations, but for this reporting period, the compliance rate was short of the requirement.

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), most recently revised on June 15, 2016; 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, to identify deputies needing repeated corrective action. EA-11 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. In addition, EA-11 requires that supervisors shall track, through the Early Intervention System (EIS), each deputy's deficiencies or violations and the corrective action taken 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. We reviewed the draft policy and returned it to MCSO with comments and suggestions. During our February site visit, we met with MCSO Human Resources staff, and discussed our observations related to the proposed EPA format and review process. We recommended several modifications to the EPA form to ensure that employee performance evaluations meet the requirements of this Order, and that there is greater consistency in reviews. The suggested revisions to the EPA form required additional modifications to GC-4. During our April site visit, we met with MCSO and discussed the last proposed changes and revisions to GC-4. Following our site visit, we received a draft of the revised policy, which incorporated the modifications discussed during our April meetings. GC-4 was not published during this reporting period.

MCSO published GH-5 (Early Identification System) on November 18, 2015. Policy GH-5 does not address the requirement for documentation of violations and deficiencies in stops, detentions, or arrests in Employee Performance Appraisals. The policy does not address the assessment of the quality and completeness of the supervisor's review in Employee Performance Appraisals. These requirements will be covered by GC-4, and MCSO will achieve compliance with this Paragraph once the policy is published and training is provided.

We reviewed performance appraisals for 23 sergeants who received performance appraisals during this reporting period. Sixteen of the 23 appraisals contained comments related to the quality and effectiveness of supervision. None of the 23 appraisals contained comments regarding the supervisor's demonstrated ability to identify and effectively respond to misconduct. Four of the 23 appraisals rated the supervisors on the quality of their reviews. Three of the supervisors whose Employee Performance Appraisals were reviewed had no direct reports. The quality of supervisory reviews, a mandated area of assessment in this Order, was added to the revised performance appraisal process. The new EPA form will have a mandatory rating dimension that specifically addresses this requirement. The new Employee Performance Appraisal process is pending publication of GC-4. GC-4 was not published during this reporting period. As a result of the Amended Second Supplemental Permanent Injunction, MCSO postponed publication of GC-4, pending required revisions.

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 most recently revised on June 15, 2016; 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 current reporting period. MCSO's submission consisted of 12 Incident Memorialization Forms (IMFs), provided as proof of compliance with Paragraph 94, for the reporting period from April 1, to June 30, 2016.

For April, there was one Incident Memorialization Form submitted. The incident involved an identity theft investigation in which the deputy failed to notify the supervisor prior to initiating the investigation. Corrective action was taken. For May, MCSO submitted five Incident Memorialization Forms. One incident involved an arrest that failed to properly articulate probable cause on a DUI arrest. The deputy in question was sent to remedial training. One IMF was generated for an Incident Report that failed to articulate the basic elements of the incident. One IMF was related to a report not turned in on time. One IMF was generated for a report with missing signatures. One IMF was drafted by a commanding officer in an incident where a supervisor failed turn on his body-worn camera during a traffic stop and failed to provide receipts to passengers of the vehicle he had contacted. All the submitted Incident Memorialization Forms had timely command review and corrective actions noted.

For June, MCSO submitted six Incident Memorialization Forms. One incident involved an arrest where there was probable cause for arrest, but the deputy failed to articulate the probable cause on the report. One IMF was generated for an incident where a deputy arrested an individual for leaving the scene of a vehicle crash, but failed to interview a passenger who was a witness. One IMF was related to an incident where a deputy searched an abandoned vehicle without a search warrant. One IMF was generated for a deputy who issued a criminal citation to a driver with a suspended license, but erroneously impounded the license plates. Two Incident Memorialization Forms were related to Incident Reports not submitted before the end of the shift. All the submitted Incident Memorialization Forms had timely command review and corrective actions noted.

We reviewed 21 randomly selected incidents involving arrest and associated documents for April. We found no significant deficiencies in the reports reviewed, other than one Incident Report was not memorialized by a supervisor within the required time constraints. We reviewed 20 randomly selected incidents involving arrest and 22 incidents involving criminal citations for

May. We noted one arrest with weak probable cause, two incidents where the deputy had articulated sufficient probable cause for arrest in the Incident Report, but failed to do so in the Form 4 charging documents. In another incident involving arrest, the Incident Report described a more serious violation than what the defendant was charged with. Two Incident Reports were not memorialized by a supervisor within the required time constraints. For June we reviewed 18 randomly selected incidents involving arrest and 38 incidents involving criminal citations. The only issue we noted was that three Incident Reports involving arrest were not memorialized by a supervisor within the required 72 hours.

We have noted an improvement in the supervisory review process of incidents involving arrest. We believe that as a result of District commanders being more actively involved in reviewing Arrest Reports, supervisors have been more attentive to their reviews. All Incident Memorialization Forms audited had been reviewed and signed by commanding officers within the required 14 days.

Compliance Status:

Phase 1: In compliance

Phase 2: 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.”

MCSO submitted a draft policy on the Early Identification System (EIS) in August 2015. We reviewed and returned the policy with comments and suggestions. During our October 2015 site visit, we met with the MCSO staff and attorneys regarding the EIS policy, who advised that the policy was awaiting final approval. GH-5 (Early Intervention System) was published on November 18, 2015. We reviewed GH-5 and it specifies that supervisors are required to conduct weekly reviews of subordinates' Blue Team entries and bimonthly reviews of each subordinate's EIS Dashboard and EI Pro application; and to document the outcome of interventions. The policy also requires that commanders conduct weekly reviews of subordinate's Blue Team Supervisory Notes to ensure proper action was taken. In addition, commanders are required to conduct quarterly reviews of broader, pattern-based reports provided by EIS to assess the quality and effectiveness of interventions. GH-5 meets the policy requirements of this Paragraph. MCSO did not conduct training on the policy during this reporting period.

During our July site visit, we met with MCSO and discussed the proof of compliance requirements for this Paragraph. MCSO will document the required periodic reviews on Blue Team notes until a more efficient methodology is developed. For this reporting period, MCSO was not in compliance.

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 in the process of revision. MCSO submitted a draft of policy GC-4 in August 2015. We reviewed the draft policy, and returned it to MCSO with comments and suggestions. During our October 2015 site visit, MCSO advised us that they would be submitting the draft of GC-4 to the Plaintiffs and Plaintiff-Intervenors for review and comments. The policy is pending final review and approval.

MCSO maintains that the IAPro/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.

MCSO submitted a draft of policy GC-4 (Employee Performance Appraisals) in August 2015. We reviewed the draft policy, and returned it to MCSO with comments and suggestions. Subsequent to the submitted revision of GC-4, MCSO revised the Employee Performance Appraisal form. We reviewed the revised EPA form and returned it with comments and suggestions. During our February 2016 site visit, we met with the MCSO Human Resources staff who are revising the Employee Performance Appraisal (EPA) form. We discussed our

observations related to the proposed format, as well as concerns that arose from our past audits. We suggested several modifications to ensure that Employee Performance Appraisals meet the requirements of this Order, and that there is better consistency in performance appraisals. As a result of additional rating dimensions and other changes suggested to the new EPA form, GC-4 (Employee Performance Appraisals) required further revisions and modifications.

During our April site visit, we met with MCSO and reviewed the revised draft of GC-4, as well as the revised EPA form. We approved the revisions to both, and MCSO submitted the final draft of GC-4 to the Monitoring Team, the Plaintiffs, and the Plaintiff-Intervenors for review. We have advised MCSO that establishing an employee appraisal system that is conducive to quality performance evaluations, on a consistent basis, requires detailed direction and substantive training. In our previous reviews of Employee Performance Appraisals, we have noted a lack of consistency and quality. We believe that if supervisors make their required Blue Team entries if consistently and conscientiously, the entries will provide the documentation needed to support performance ratings. We have seen some evidence of this in our reviews of the employee performance evaluations since Blue Team notes have been in place. We have reminded MCSO that the crucial factor in improving consistency and quality in reviews is training for supervisors on the new policy and procedures. GC-4 was not published during this reporting period. During our July site visit we met with MCSO and discussed the Employee Performance Appraisal process and status of implementation. As a result of the Amended Second Supplemental Permanent Injunction, MCSO postponed publication of GC-4, pending required revisions.

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. We reviewed the draft policy, and returned it to MCSO with comments and suggestions. MCSO advised us that it would be submitting the draft of GC-4 to the Plaintiffs and Plaintiff-Intervenors for review and comments.

During our February site visit, we met with the MCSO Human Resources staff regarding the revised Employee Performance Appraisal (EPA) form. We discussed concerns that have resulted from previous reviews of completed EPAs, and made suggestions for the draft of the new EPA form. We suggested several modifications to ensure that employee performance evaluations meet the requirements of this Order, and that there is more consistency in the way performance appraisals are completed. We also emphasized that MCSO needs to provide training to all supervisors on GC-4 and the revised EPA form. As a result of additional rating dimensions and other changes suggested to the new EPA form, GC-4 (Employee Performance

Appraisals) required further revisions and modifications. During our April site visit, we met with MCSO and reviewed the revised draft of GC-4, as well as the revised EPA form. We approved the revisions to both and the final draft of GC-4 was submitted by MCSO for review by the Monitoring Team, the Plaintiffs, and the Plaintiff-Intervenors. As a result of the Amended Second Supplemental Permanent Injunction, MCSO postponed publication of GC-4, pending required revisions. Until such time as the GC-4 policy is published, and training is provided, MCSO is not in compliance with this Paragraph.

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. We reviewed the draft policy, and returned it to MCSO with comments and suggestions. MCSO advised us that it would submit the draft of GC-4 to the Plaintiffs and Plaintiff-Intervenors for review and comments. During our February site visit, we met with MCSO staff and reviewed the proposed new Employee Performance Appraisal form. We made several suggestions to facilitate compliance with the Paragraphs related to the evaluation of deputy performance. In consideration of the interdependency of the policy and the EPA form, we recommended that the modifications made to the EPA be reflected in GC-4. Consequently, GC-4 requires additional adjustments.

During our April site visit, we met with MCSO and reviewed the revised draft of GC-4, as well as the revised EPA form. We approved the revisions to both, and the final draft of GC-4 was submitted by MCSO for review by the Monitoring Team, the Plaintiffs, and the Plaintiff-Intervenors. As a result of the Amended Second Supplemental Permanent Injunction, MCSO postponed publication of GC-4, pending required revisions.

We reviewed performance appraisals for 23 sergeants who received performance appraisals during this reporting period. Sixteen of the 23 appraisals contained comments related to the quality and effectiveness of supervision. None of the 23 appraisals contained comments regarding the supervisor's demonstrated ability to identify and effectively respond to misconduct. Four of the 23 appraisals rated the supervisors on the quality of their reviews. Three of the supervisors whose Employee Performance Appraisals were reviewed had no direct reports. The quality of supervisory reviews, a mandated area of assessment in this Order, was added to the revised performance appraisal process. The new EPA form will have a mandatory rating dimension that specifically addresses this requirement. For this reporting period, MCSO is not in compliance with this Paragraph.

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 Human Smuggling 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.

During our October 2015 site visit, we met with MCSO staff and attorneys. We received a copy of the Special Investigations Division's Operations Manual. The Operations Manual now 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 narcotics, money laundering, home invasions, kidnapping, extortion, trafficking of weapons, and gang related crimes."

MCSO removed the enforcement of human smuggling laws from the mission statement of the Anti-Trafficking Unit, and no other specialized units have this mission and part of their duties. Based on these policy modifications, MCSO is now in Phase 1 compliance with this Paragraph. MCSO's lack of specialized units which enforce immigration-related laws puts it by default in Phase 2 compliance as well, but we will continue to monitor arrests and detentions as part of our review process to ensure that MCSO is in compliance with its own directives on this issue.

For each month of the second quarter, we received a list of all incidents involving MCSO jail bookings, and a list of criminal citations. For each respective month, we requested a random sampling of arrests and criminal citations. In total, we reviewed 59 incidents involving arrest and 60 incidents involving criminal citations. We found no evidence of enforcement of immigration-related laws. We will continue to monitor arrest reports and criminal citations for compliance.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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 MCSO completed during this reporting period. During this reporting period, MCSO amended and reissued CP-2 and CP-3.

During our early site visits, we noted that many MCSO supervisors were only vaguely aware of responsibilities outlined in GH-2 (Internal Investigations), and that MCSO was using inconsistent methods to conduct internal administrative investigations. We also noted that there was no checklist or investigative document protocols in place that would assist supervisory personnel charged with conducting administrative investigations.

MCSO has now implemented the checklist and investigative format to use when conducting administrative investigations. Effective June 1, 2016, all administrative cases require the use of these protocols.

During this reporting period, we reviewed 74 administrative/criminal investigations submitted by MCSO in compliance with Paragraph 32. All of these investigations involved either sworn Patrol personnel or volunteer personnel assigned to the Enforcement Support Bureau. Of these 74 investigations, 13 were initiated internally. Three of the internally generated complaints involved the operation of vehicles. The remaining 10 involved allegations including: violations of the code of conduct, property management, workplace professionalism, dereliction of duty, conformance to laws, and truthfulness. Two of these cases were unfounded, two were exonerated, two were not sustained, and four were sustained. Discipline imposed for the sustained violations included two eight-hour suspensions and two written reprimands. We are still unable to determine if the discipline outcomes were appropriate in all cases as some lack information on how MCSO arrived at the disciplinary decision. Our review of these cases indicated that in those cases reviewed, MCSO supervisors were identifying potential misconduct by employees and some action was being taken.

In addition to the internally generated investigations we reviewed under Paragraph 32, we also specifically requested nine additional internally generated investigations from the list of closed cases provided in compliance with Paragraph 102. PSB or other non-Patrol supervisors investigated all of these cases. While we found some of the same types of general concerns that we have articulated for cases reviewed under Paragraph 32, two of the cases we reviewed generated serious concerns.

In the first case, the complaint first came to the attention of MCSO in August 2014, but the investigation did not begin until May 2015. This case involved eight allegations of misconduct and 14 potential policy violations. Ten of the policy violations were ultimately sustained and four were not sustained. Allegations that the deputy had inappropriate personal relationships with three separate crime victims, had been insubordinate, and inappropriately used his email account to forward information were sustained. In our review of this investigation, we concur with the sustained allegations regarding inappropriate relationships with crime victims as well as the other sustained violations. However, these violations occurred at separate times over a two to three year period and the victims were not related in any manner. There should have been three separate investigations conducted. One of the not sustained allegations was for truthfulness. We question the not sustained finding regarding the truthfulness allegation that the Executive Chief made, and believe there was sufficient information provided in the investigation to determine that at the very least, this deputy failed to appropriately provide information to his supervisor.

The range of discipline for the sustained violations in this case was 80 hours to dismissal. At the conclusion of the Pre-Determination Hearing, the final discipline was the minimum for this category and offense – 80 hours. The appointing authority wrote that he assessed the minimum discipline after reviewing the work history and the commendations received by this deputy. While we agree that work history and commendations can, and should be considered, the fact that this deputy had 10 sustained violations in this investigation and had received previous discipline for the same type of offense, should have been considered as aggravating factors. It does not appear that the discipline imposed addressed either the seriousness or the repetitive nature of this employee's conduct.

In the second case, allegations of misconduct were made against supervisory personnel, including a lieutenant, a captain and the Chief Deputy. All of the allegations of misconduct were either exonerated, unfounded, or not sustained, except for some of the allegations against the Captain, which were sustained. We have numerous concerns, not with the investigation itself, but with the final findings of the investigation and the discipline for the involved captain.

We concur with the findings related to all employees and supervisory personnel with the exception of the findings for the lieutenant, captain, and Chief Deputy. Despite the fact that the personnel who conducted this investigation, which included a Deputy Chief, preliminarily sustained allegations against the lieutenant, captain, and the Chief Deputy, the appointing authority found that only allegations against the captain would be sustained. He determined the allegations against the lieutenant and Chief Deputy were not sustained. We believe that the preliminary findings of sustained for these two employees was supported by the investigation. Based on the final findings, it does not appear that these employees, both members of management, were held accountable for their actions.

The range of discipline for the sustained violations against the captain was a written reprimand to a 40-hour suspension. The preliminary discipline was determined to be a 40-hour suspension. At the conclusion of the Pre-Determination Hearing, the appointing authority determined that the discipline would be a written reprimand. The allegations against the captain included deficiencies in the performance of his duties, and his responsibilities to the organization and his subordinates. A written reprimand does not appear sufficient for the violations sustained, nor does it suggest that MCSO adheres to their Employee Discipline Procedure Policy, which states, "regular status exempt employees typically hold a management position, and therefore, are held to a higher standard." In this case, the employee was held to the lowest standard possible for his rank and conduct.

MCSO has made some progress in addressing the many concerns we have documented with internal investigations. The PSB checklist and investigate formats have been in use for several months; and effective June 1, 2016, all new cases are required to be completed using these protocols.

During our April and July 2016 site visits, we met with several District supervisors and command personnel who had received the PSB training. They have all expressed positive comments about the training and believed it would be helpful to them when conducting future administrative investigations.

PSB continues to have one of the bureau' lieutenants serve as a liaison with District supervisors who are completing internal investigations, and he reviews these investigations to ensure that they are completed appropriately. He emails supervisors in Districts when he notes problems or deficiencies in the District investigations. We have reviewed some of these emails and found that they provide excellent feedback and information to District personnel on investigative deficiencies.

We recognize the appreciable efforts made by PSB to improve the quality, structure, and timeliness of internal investigation. PSB's current command personnel have conducted an inventory of all administrative and criminal investigations. They are addressing numerous cases that were not properly completed as far back as early 2014. They have also assessed MCSO's Critical Incident Reviews and found them deficient. As a result, PSB has instituted new guidelines for handling the investigations of these incidents.

During the last reporting period, in an attempt to address PSB's high caseload, MCSO temporarily assigned additional personnel to PSB. Three of the sworn supervisors and one Detention supervisor temporarily transferred have now been permanently assigned to PSB and they are seeing a positive impact on their ability to complete cases.

PSB continues to send investigative personnel to training designed to enhance their skills, and we have encouraged PSB personnel to locate and attend additional training. PSB intends to provide training on completing quality investigations once new policies are written and finalized. We will continue to work with PSB personnel as they revise or rewrite policies and develop additional training for supervisors.

We will also continue to make PSB personnel aware of our concerns regarding their administrative investigations, provide them with specific case examples that illustrate these concerns, and closely assess the steps they take to improve this process.

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.*

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

Following that meeting, we reviewed GH-4 (Bureau of Internal Oversight) for its applicability to Paragraph 103, and noted that it comports with the portion of Paragraph 103 that we believe BIO can take responsibility for. We informed MCSO that it did not need to make any modifications at this time. However, MCSO will not achieve Phase 1 compliance with this Paragraph until PSB develops a policy – or devotes a section of a policy – that lays out the guidelines for targeted integrity tests, which are more suited to the function of PSB. Before our July site visit, PSB submitted a draft “Ethics Enforcement Section Operations Manual” in support of this Paragraph. We are reviewing this draft manual and will submit comments to PSB.

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

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.

In its submissions relative to this Paragraph, MCSO has been providing a list of supervisors who were notified when personnel under their supervision were summoned for an administrative investigation, but the remaining requirements of the Paragraph were not being met.

In the fall of 2015, MCSO developed a draft checklist and investigative format for administrative investigations. All of the requirements in this Paragraph were included in this protocol. After approval, MCSO began training supervisory personnel on the requirements in these documents. A Monitoring Team member attended the first training session for Patrol personnel on these forms and requirements in February 2016. After this first training, we provided suggestions for enhancing the delivery of the training. In March 2016, a Monitoring Team member attended a second training session, and found that PSB had incorporated our suggestions into the training module. MCSO personnel began using these protocols as soon as they were trained and we began seeing them in some closed investigations shortly after the training commenced.

During our July 2016 site visit, PSB reported that all training for supervisors had been completed and the checklist and investigative format is now mandatory for all administrative investigations initiated on or after June 1, 2016. During our review of administrative cases for this reporting period, which included administrative investigations closed between April 1 and June 30, 2016, we found that the checklist and reporting format were used in approximately half of the cases. None of the cases reviewed this reporting period were initiated after June 1, 2016, so the determination on whether supervisory personnel are meeting the MCSO requirements for mandatory use of the forms cannot yet be determined. We are, however, encouraged by the use of these protocols, and have heard numerous positive comments from district supervisors about the training from PSB and the development of these forms.

In addition to formalizing a consistent methodology for conducting administrative investigations, the information provided in these protocols will allow us to more fully assess compliance with the requirements of this Paragraph.

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, was not submitted for review. We consistently noted in our early reviews that PSB should have an SOP that 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 echoed this concern.

Our concerns with MCSO administrative investigations have been a recurring theme during each of our site visits and quarterly reports. We have consistently found problems with the investigations, the investigative findings, and the discipline assigned. As it relates to this Paragraph, we have noted that there has been a lack of documentation of any review and consideration of the employee work history as required by this Paragraph. During our site visits, we have provided PSB with specific examples of cases that illustrated the failure to complete or document these reviews. PSB personnel acknowledged the lack of consistency in the agency's internal investigations and the need to provide training to all supervisors.

As of June 1, 2016, all internal investigations now require that MCSO use a checklist and investigative format. The protocols require that the investigation document and include employees' work history. In the closed patrol investigations we reviewed for this reporting period, we found that 56 of the 64 cases reviewed contained some, or all, of the required information. These case reviews were for cases that were closed prior to the June 1, 2016 mandatory date. We found that some of these entries appeared to be incomplete, and we will address this with PSB during our next site visit. With the implementation of the checklist and format, the critical information needed for MCSO to make a decision regarding any kind of potential discipline, training, or other intervention necessary in a sustained misconduct investigation will be readily available to personnel making the final decision.

During our April site visit, we met with personnel from the Compliance Division to determine their role in the determination of findings and discipline. During our July 2016 site visit, we met again with personnel from the Compliance Division and with the Chiefs who have been responsible for determining final discipline in those cases involving the potential for suspension, demotion, or dismissal. We discussed with them how disciplinary decisions are made and what factors they considered when making final disciplinary decisions. While MCSO command personnel in attendance were able to articulate the general methodology for their disciplinary decisions in the case of serious discipline, and we confirmed that they are provided with the employee's work history prior to doing so, there has been no required documentation to date that would allow anyone to review or understand their decision-making. MCSO is currently reviewing and rewriting its policies involving internal affairs and disciplinary practices, and additional information and documentation will be required for disciplinary decisions.

The checklist and investigative format that has been implemented by MCSO requires that critical data is obtained, reviewed, and documented as part of the administrative investigation. A review of this documentation will allow us to more fully assess MCSO's 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. 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 had advised us during past reporting periods that MCSO had not produced certain information that they had requested on multiple occasions.

MCSO has been responsive to our requests, and the Plaintiffs or Plaintiff-Intervenors have not raised any concerns related to the requirements of this Paragraph during this reporting period. MCSO, via its counsel, distributes responses to our document and site visit requests via a document sharing website. The Plaintiffs and Plaintiff-Intervenors have access to this information at the same time as we do, including documents applicable to this Paragraph.

Phase 1 is not applicable for this Paragraph.

Compliance Status:

Phase 1: Not applicable

Phase 2: 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 opted to remove itself from having responsibility over the community engagement program as initially set out in the Order. We and the Plaintiffs’ representatives communicate regularly about innovative ways to engage community members and leaders; supporting and encouraging Community Advisory Board (CAB) members; advertising upcoming community events; providing for the development of a complaint system that goes through us to ensure 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.

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

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

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

On April 4, 2014 an amended Order (Document 670) gave us the requirement to hold public meetings. During this reporting period, we held one community meeting, on April 20, 2016, in MCSO Patrol District 1, at Frye Elementary School, located at 801 East Frye Road in Chandler. The meeting was held from 6:30 p.m. until 9:00 p.m. Approximately 30 community members attended this meeting, which was conducted in English and Spanish.

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

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

The DOJ representative was followed by a CAB member who stated that the CAB urges all Parties to communicate to the Court their frustration with the slow pace of MCSO compliance with the Court's Orders. He stated that the perception in the community is that MCSO is deliberate in its non-compliance with the Court's Orders in areas of Supervisory Training, rebuilding trust with the community, and others.

Next, a member of MCSO introduced himself as representing MCSO. He stated that MCSO personnel were at the community meeting and available to hear the attendees' comments, concerns and/or complaints they want to present to MCSO. He said that MCSO representatives are available during the meeting and after the meeting is adjourned to listen to and address the input from the attendees.

Monitoring Team representatives explained to the meeting attendees that our Team consists of 12 experts, most of whom have police backgrounds, are multicultural and, in part, bilingual. We explained that we measure compliance in both Phase 1 and Phase 2 compliance. We informed the attendees that our latest report found that MCSO is in 62% Phase 1 compliance but only 38% Phase 2 compliance, which is a matter of concern, because MCSO's level of compliance should be significantly greater after 26 months of the reform effort. We pointed out that the Order issued in October 2013 includes 89 Paragraphs on a number of topics, including training, supervision, internal affairs, body-worn cameras, and saturation patrols. We stated that the Order lists three key areas for required training: Fourth Amendment, Fourteenth Amendment, and Supervisory Training; pointing out that Supervisory Training is over a year past due. Consequently, MCSO was given a deadline that the Supervisory Training will start this summer.

We made it clear that MCSO did not have the authority to enforce immigration laws, except to the extent that it is enforcing Arizona and federal laws. We also pointed out that the Order prohibits the use of saturation patrols and that, in the 26 months that we have been working with MCSO, MCSO has not employed saturation patrols. We advised that the Order requires the implementation of an Early Identification System (EIS) designed to identify inappropriate behavior by MCSO deputies and require timely corrective action be taken to prevent recurrence of inappropriate behavior. We noted that the captain overseeing the Professional Standards Bureau has made a number of improvements, but that there remains a lot of work to be done. We added that MCSO accessibility to the community members remains a concern, especially with all District offices and MCSO Headquarters only being open until 5:00 p.m. on weekdays and being closed on weekends.

We concluded our presentation by informing the attendees that the Court did not originally expect that the Monitor would host these meetings. We stated that the Court's intention was that the Sheriff or his representatives would be holding these community meetings with the purpose of facilitating a dialogue between MCSO personnel and members of the community. We explained that, as a result of statements attributed to MCSO personnel, including the Sheriff, the Court determined that until further notice, the Monitor would conduct the meetings, rather than representatives of MCSO. We emphasized that the most important persons at the meeting are the community members and that we wished to hear from them. With that, we opened the meeting to questions and comments from members of the community.

Questions from the attendees included inquiries as to why the implementation of the requirements of the Order was taking so long, what type of training the MCSO personnel administrative sections are receiving, the number of MCSO deputies who speak Spanish and how many are bicultural, and what the consequences are for MCSO not meeting the requirements of the Order. We responded to all inquiries, as did Plaintiffs' and Plaintiff-Intervenors' representatives, or members of MCSO, as appropriate.

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

Approximately 30 community members attended the meeting in Chandler. The meeting allowed ample opportunity for attendees to ask questions or offer comments. Participants used the roving microphone we provided. Monitoring Team personnel moved throughout the meeting, providing microphones for those who wished to ask questions or offer comments. Community members asked questions and offered comments, many of which were critical of MCSO. Attendees voiced frustration with the slow progress MCSO is making in complying with the Court Order. The attendees expressed interest in MCSO's adoption of body-worn cameras and the number of

bilingual deputies in MCSO. A key objective of the meeting was to let those in attendance know that the Monitor has the authority, granted by the Court, to receive complaints about any activity involving MCSO personnel and ensure that an investigation is adequately conducted. We made forms available for this purpose. After the meeting, all Monitoring Team personnel remained behind to individually answer questions, and did so until the last attendee left the building.

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

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

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

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

Our selection of the venue for the meeting was based on accessibility, adequate meeting space, adequate parking, and ease in locating the meeting site. We widely publicized the meeting in Chandler. Advertisements, in both English and Spanish, appeared in print media with the widest circulation in the Chandler area in which the meeting was held. These ads were also included in the media outlets' Facebook pages and websites. We also ran extensive radio spots in Spanish and English, and distributed flyers in the vicinity of the meeting venue. The ACLU of Arizona also submitted the notice of the meeting to numerous online calendars and its local 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 Chandler, we and the Plaintiffs' representatives explained the breadth of the Order to the community members in attendance. The MCSO representative thanked the community members for attending the meeting, and stated that MCSO wished to hear the community members' comments and complaints. Members of the PSB attended the meeting to receive any complaints from attendees.

In order to facilitate a dialogue, we invited community members to ask any questions of these representatives directly, and gave them an opportunity to comment on the information provided by these representatives. We provided community members with forms to document any concerns or complaints about MCSO. After the meeting, members of the Monitoring Team remained and spoke to several attendees who voiced their compliments 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 closely with Plaintiffs' counsel to support and provide guidance to the three-member CAB. We have conducted planning discussions with CAB members and representatives of the ACLU of Arizona regarding scheduling small gatherings of Monitoring Team members, CAB members, ACLU of Arizona representatives, and Latino community leaders during future Monitoring Team site visits.

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

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

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

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

Members of the Monitoring Team frequently communicate with CAB members to assist in scheduling CAB meetings, identifying appropriate meeting venues, and providing appropriate logistical support. On April 19, The Monitoring Team, CAB members, and ACLU of Arizona members met with Latino and other community members associated with Living United for Change in Arizona (LUCHA) to discuss the status of MCSO reform efforts and receive their input.

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

We continue to emphasize with CAB members the issue of transmitting to us any complaints they have received that may require investigation. 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 CAB members have been advised to compile concerns regarding MCSO actions or compliance with the Order. To facilitate this effort, the ACLU of Arizona has a bilingual website, ChangingMCSO.org/CambiandoMCSO.org. The ACLU of Arizona website allows the public to gather information about the monitoring process, including the times and locations for community meetings, Monitoring Team reports, MCSO reports, and 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

We note again that the pace of MCSO's compliance with the Order's requirements remains unacceptably slow. MCSO experienced only minimal improvement in compliance percentages during this reporting period. We assess compliance with 89 Paragraphs of the Order. MCSO is in Phase 1 compliance with 50 of those Paragraphs, or 67%. In 14 Paragraphs, Phase 1 compliance is not applicable – that is, a policy is not required. MCSO is in Phase 2, or operational compliance, with 39 Paragraphs, or 44%.

As mentioned in previous reports, in July 2015, the Court granted us the additional responsibility of reviewing MCSO's Property Unit operations. Over the past year, we conducted interviews with key personnel both during and in between our site visits. We and the Parties reviewed several iterations of the three policies affecting the seizing and securing of property: GE-3 (Property Management); GJ-4 (Evidence Control); and DD-2 (Inmate Property). During this reporting period, MCSO requested approval to destroy 219 evidentiary items. We approved the request after requesting and receiving additional support documentation. MCSO has yet to confirm that these items were destroyed. We also mentioned in our last report that MCSO sold approximately 1,000 weapons in December 2015. However, MCSO was able to successfully document that these items had been set aside for auction prior to the July 2015 Order requiring our review of Property Unit Operations.

MCSO advised us that it recently completed their first-ever “inventory” of items in the Property Unit. This was not, however, an accounting of all items which according to their records should be in the unit's possession. We offered to provide a sampling methodology by which the unit could confirm with reasonable confidence that its records are accurate. The Property Unit currently houses over 400,000 items.

One of the first steps MCSO took after the Order was issued was to create an Implementation Unit, currently named the Court Implementation Division (CID), as required by Paragraph 9. We have documented in this and previous reports that CID has always been responsive to our requests and those of the Parties. For this we are appreciative. However, as is often the case in organizational reform efforts, centralizing the responsibility for compliance in a headquarters-based unit such as CID results in a capable but *small* group of personnel who are well-versed in the Order's requirements, while the vast majority of the agency lacks the depth of understanding as to why the requirements are necessary. A somewhat typical byproduct of this structure is the sense on the parts of many “field personnel” that compliance is someone else's job. While they will eventually change their work processes based on edicts from Headquarters, the requisite “buy-in” for change is not always present. During our last site visit, we discussed at length ways to involve non-Headquarters personnel in the compliance efforts normally reserved for CID and those few components – such as BIO, EIU, and PSB – who have primary responsibility for implementing the Order's requirements. Some of these suggestions, such as bringing District personnel into our site visit meetings, and holding some of our usually centralized meetings in the Districts, will commence with our next site visit.

As stated in the beginning of this report, the Court issued a Second Supplemental Permanent Injunction/Judgment Order (Second Order) on July 20, 2016. We will begin reporting on MCSO's compliance with the requirements of that Order in our next report, which covers the review period in which the Second Order was issued (July-September 2016). However, MCSO, the Parties, and we, have been engaged in great deal of activity since the issuance of the Second Order, some of which we would like to document here to provide background and set the stage for our future reports.

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

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

The Second Order requires that MCSO, prior to August 20, 2016, conduct a "comprehensive review of all policies, procedures, manuals, and other written directives related to misconduct investigations, employee discipline, and grievances, and shall provide to the Monitor and Plaintiffs new policies and procedures or revise existing policies and procedures." Prior to that deadline, MCSO provided the following policies and procedures to the Parties and us:

- GD-9 (Receipt of Litigation Notice or Subpoena)
- Complaint Intake Testing Program
- CP-3 (Workplace Professionalism)
- GA-1 (Development of Written Orders)
- CP-5 (Truthfulness)
- CP-11 (Anti-Retaliation)
- GC-7 (Transfer of Personnel)
- GE-4 (Use, Assignment, and Operation of Vehicles)
- GI-5 (Voiance Language Services)
- GC-4 (Employee Performance Appraisals)
- GC-11 (Employee Probationary Periods)
- CP-2 (Code of Conduct)
- EA-2 (Patrol Vehicles)
- GC-12 (Hiring and Promotional Procedures)

- GH-5 (Early Identification System)
- GJ-26 (Sheriff's Reserve Deputy Program)
- GJ-27 (Sheriff's Posse Program)
- GC-16 (Employee Grievance Procedures)
- GC-17 (Employee Disciplinary Procedures)
- GH-2 (Internal Investigations)
- Review of Body-Worn Video During IA Administrative Broadcast)
- GH-4 (Bureau of Internal Oversight)
- GG-1 (Peace Officer Training Administration) and GG-2 (Training Administration)
- GB-2 – Command Responsibility
- GJ-24 (Community Relations and Youth Programs)
- PSB Operations Manual
- Compliance Division Operations Manual

We and the Parties are in the process of reviewing these policies and procedures and providing our feedback to MCSO. In addition, we also reviewed and commented on the briefing prepared for all employees as required by Paragraph 273.

MCSO has added staff to CID and PSB to address the additional workload anticipated as a result of the Second Order. Paragraph 268 requires that “any transfer of sworn personnel or supervisors in or out of the Professional Standards Bureau, the Bureau of Internal Oversight, and the Court Implementation Division shall require advanced approval from the Monitor.” We established a protocol with MCSO for approving such transfers, and utilized that protocol for these additional staff members.

A major component of our compliance assessment is the review of documents generated by MCSO in the normal course of their business. We have drafted a separate monthly document request specifically geared to the Second Order, which outlines the files we are requesting from MCSO shortly after the close of every month.

Pursuant to Paragraph 139 of the First Order, MCSO requested technical assistance from our team to address some of the new requirements in the Second Order, as well as some open issues in the first Order. In early August, selected Monitoring Team members and I spent a productive two days with MCSO discussing several issues, including those described below:

- **PSB's requirements under the Second Order.** We went through the Second Order Paragraphs for which PSB personnel had questions and addressed them. In advance of the site visit, our Team members developed spreadsheets to capture all of the information required to be included in a misconduct investigation. We shared those spreadsheets with PSB and CID. We also established a regular meeting schedule between our Team members and PSB to review new investigations to determine how they should be

classified. Those meetings have commenced and we have already identified several investigations that will require additional oversight because of their nexus to the Plaintiffs' class.

- **Training issues.** We met with PSB and Training personnel and discussed the training requirements of the Second Order. Based on those discussions, the Monitoring Team will assist MCSO in developing the lesson plan for the 40-hour training block to be provided to all personnel who will be conducting misconduct investigations. Additionally, we discussed the training policies, MCSO's adoption of the 7-Step Training Cycle, the Annual Combined Training (ACT) lesson plan, and course evaluations.
- **Traffic stop analysis and EIS issues.** We met with representatives from BIO, EIU, and MCSO's contract partner Arizona State University (ASU) to discuss a variety of issues, including but not limited to:
 - MCSO's implementation plan for adopting the new monthly thresholds.
 - The classification of a "minor traffic stop."
 - The low recovery and arrests rates following searches and investigations.
 - Data entry issues in the field.
 - Data-cleaning syntax.
 - Implementation plan for monthly, quarterly, and annual reports.
 - CAD start and end times and the lengths of traffic stops.
 - Training of supervisors in the methodology used to set alerts.
 - Inferential statistical models being explored by ASU for the quarterly and annual reports.
- **Property Management Inventory Audit.** As mentioned above, we discussed the parameters for the sampling audit of the 180,000-200,000 documented items in MCSO's possession from before 2009, and the 200,000 items the property management system can document after 2009.

Our initial assessment is that MCSO is taking the requirements of the Second Order seriously. Our responsibilities and those of the Parties have increased as well, and we are heading into challenging times that require everyone's commitment to open, honest communication, and cooperation. In our next report, in addition to our compliance assessment with the First Order, we will begin our documentation of MCSO's compliance with the requirements in the Second Order.

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
DOJ	Department of Justice
EIS	Early Identification System
EIU	Early Intervention Unit
FTO	Field Training Officer
IIU	Internal Investigations Unit
IR	Incident Report
LOS	Length of stop
MCAO	Maricopa County Attorney's Office
MCSO	Maricopa County Sheriff's Office
NOI	Notice of Investigation
PAL	Patrol Activity Log
PPMU	Posse Personnel Management Unit
PSB	Professional Standards Bureau
SID	Special Investigations Division
SPSS	Statistical Package for the Social Science
SRT	Special Response Team
TraCS	Traffic Stop Data Collection System
VSCF	Vehicle Stop Contact Form

**PLAINTIFFS' COMMENTS ON MONITOR'S
DRAFT NINTH QUARTERLY REPORT
DATED SEPTEMBER 19, 2016**

SECTIONS 1 AND 2: INTRODUCTION AND EXECUTIVE SUMMARY

During this quarter, MCSO marginally improved its compliance rate. Phase 1 Compliance increased by 1% to 64% and Phase 2 compliance by 4% to 44%. This is unacceptable. MCSO should be in 100% Phase 1 Compliance by this point, which only requires development and approval of requisite policies and procedures and training on their contents. At this rate, it is impossible to accurately predict when, if ever, MCSO will attain compliance. Given MCSO's current compliance status and slow rate of improvement, Plaintiffs believe the Executive Summary is excessively optimistic.

In order for MCSO to reach compliance within a reasonable timeframe, new deadlines must be set for paragraphs for which MCSO has not achieved compliance. These deadlines must be firm, and failure to comply with them must carry coercive remedies, such as fines. Further, MCSO must be required to designate command-level employees who are responsible for meeting and maintaining compliance with all of the Court's provisions. To date, MCSO executive-level commanders have not been proactive about very serious compliance issues that have arisen.

For example, and most pressing for purposes of this report, MCSO has failed to appropriately respond to—or even take seriously—actual indicia of biased-based policing by approximately 70 of the most highly active deputies, as required under Paragraph 70 of the Supplemental Injunction. Their lack of concern about these indicia has prevailed despite the passage of six months since Plaintiffs, Plaintiff-Intervenor, and the Monitor first raised concerns during the April 2016 site visit. Needless to say, given the Court's extensive trial findings relating to MCSO's policy and pattern of discriminatory practices, it is critical that MCSO ensure that biased-based policing does not persist or recur, by identifying and correcting such conduct in a timely fashion. MCSO has now demonstrated not only its continued inability to address possible biased policing when confronted with such information but also outright resistance to doing so. This reflects fundamental flaws in both MCSO's current EIS system and the agency's commitment to rectifying its history of unlawful practices.

During this quarter, MCSO issued the final version of its first report analyzing vehicle stop data from 2014-15. The report, produced by Arizona State University (ASU), reached the same conclusions as prior versions, finding that “yearly data suggest there may be some issues with racially biased policing among some deputies, beats, and districts across the outcomes of decision to stop, type of stop, length of stop, and arrest by race/ethnicity.” As noted in Plaintiffs' comments to the Monitor's Eighth Quarterly Report, this is the same information that was presented to MCSO more than seven months ago in its initial draft report produced in February 2016. At the time of that initial report, ASU identified that specific deputies were statistical outliers in terms of potentially biased-based policing under several measures (e.g., stops, searches). ASU recommended, among other things, that the agency provide direct feedback to individual officers whose conduct was identified as out of compliance with acceptable ratios/norms. Yet, as previously explained, MCSO spent several months resisting any notion that this information should be investigated or even considered relevant, over the objections of

Plaintiffs and the Monitor team. During the April site visit, for example, MCSO refused initially to even discuss the ASU findings due to certain data flaws. In response to Plaintiffs' questions about the deputies identified as outliers, Chief Bill Knight conceded that nothing was being done with respect to those deputies and that, in MCSO's view, nothing should be done. Chief Knight insisted that this would present unspecified employment-related concerns and could even result in issues with the Merit Commission down the road. Plaintiffs objected to MCSO's concerns, noting that its request pertained to initial inquiry and follow-up and not necessarily any immediate disciplinary steps. Plaintiffs pressed MCSO to identify the outlier deputies and, at a minimum, determine whether any of them were flagged in the EIS system. The Monitor asked MCSO at least to identify the outlier deputies. ASU confirmed that MCSO could still identify which deputies are exhibiting potentially problematic patterns of behavior after any faulty data was set aside. MCSO's refusal at that point even to review the data to determine whether there might in fact be problematic policing was inexcusable.

Following the April site visit, MCSO continued to resist efforts to investigate whether there were in fact any past or ongoing problematic policing practices. As the Monitor's current report indicates, MCSO continued to cite that possible data flaws might have impacted the ASU findings and that supervisors and deputies might perceive any inquiries as the initiation of discipline. For example, MCSO's counsel, in responding to Plaintiffs' concerns, stated that this "would not be fair to deputies at this time" and that "accusing a deputy of engaging in bias-based policing is a serious matter and should only be done so [sic] on accurate data and analysis." In the report, the Monitor notes that these concerns were "without merit." As was made repeatedly clear to MCSO throughout this process, Plaintiffs and the Monitor team requested not that MCSO take disciplinary action solely on the basis of the findings made in the ASU report, but instead simply that MCSO review the data to determine whether biased policing was occurring and, if so, to take corrective steps. Moreover, the Monitor team and Plaintiffs pointed out that any disciplinary action would necessarily be based on information in a fully developed record, beyond just the ASU report, as would any internal investigation. MCSO's position again missed the point and confirmed MCSO's fundamental misunderstanding of the purpose of early intervention. MCSO's position with respect to the ASU report's initial alerts—a report MCSO itself had commissioned based upon its own traffic stop data—is indicative of a serious problem with the agency's understanding of the entire EIS process and a more general inclination to act without the appropriate level of urgency in the face of indications of biased policing.

Only at the urging of the Monitor team and the Parties did MCSO take any steps to even *identify* these deputies. Yet, it was not until July 2016—four months after ASU's initial report—that MCSO made any effort to actually follow-up with these individual deputies and their supervisors. Unfortunately, MCSO embarked on this effort unilaterally and without the input of the Monitor team or the Parties, which resulted in a predictable failure to adequately address these issues. Pursuant to Chief Knight's direction, supervisors for the 70 deputies were sent the full ASU report, the underlying statistical data, and an instruction page to assist them in reading the analysis and were given 30 days in which to discuss the information with their subordinates and report their results through EIS. Upon learning of this plan, the Monitor team raised several concerns, pointing out that supervisors had not been trained on the basic use of statistical information or on how to conduct a review of this information with subordinates and that some supervisors have routinely failed to provide adequate justification for closing out alerts on deputies under their supervision. Notwithstanding these concerns, MCSO proceeded with its

plan. As a result, MCSO not only fell short of any real effort to address this concerning information but also likely caused lasting damage to how MCSO officials from the top down perceive and respond to warning signs of biased-based policing.

Plaintiffs remained highly concerned by not only the process employed by MCSO to review this information, but by the results of the review. As predicted, the review by supervisors was a massive failure. MCSO recently provided to the Parties and the Monitor team the 70 EIS reports by supervisors following their review of the statistical information and meetings with deputies. Supervisors and their chain of command almost uniformly failed to handle this review process properly. Several alarming themes were revealed as a result of this review process:

- There was no uniform method for review by supervisors. None of the supervisors were trained or given any concrete steps for conducting the actual review with individual deputies. Supervisors were simply given the data and ordered to decipher and review it independently. As a result, the reviews lacked any consistency.
- There was a widespread failure to undertake a serious review of the identified deputies' performance. Most supervisors did not appear to review a deputy's history of alerts on EIS, traffic stop documentation, or body-worn camera footage.
- Many supervisors stated that they were not capable of interpreting or understanding the data. In some cases, supervisors attempted to conduct their own data analysis. Nonetheless, the majority of supervisors questioned and attempted to discredit the results of the ASU report.
- There was no serious organizational effort to address these indicia of biased-based policing to determine if there was in fact a problem. To the contrary, there was actual resistance on the line supervisor level to engaging any review—and to make matters worse, at the lieutenant level and higher, no action was taken to address that resistance. For example, one supervisor stated in numerous reports that, upon receiving these instructions, he “immediately began an informal investigation/inquiry into the purpose of this review” and “decided it would be unethical in [his] position to further participate.” Another supervisor stated that “many feel that such data unfairly indicates possible issues where there may be none.” No action was taken by the chain of command to correct these supervisors.
- Many supervisors and deputies mistakenly believed that the review process was disciplinary in nature.
- Many of the supervisor reviews were cursory and resulted in boilerplate summaries. Again, no action was taken by lieutenants to follow up on these problems.
- Certain supervisors relied on the deputy under review to simply confirm that he or she does not use race, ethnicity, or national origin as a factor in conducting stops. Again, no lieutenant action was taken.
- Several supervisors provided statistically incorrect justifications for outlier ratios revealed by ASU, such as that the particular deputy was “highly motivated” or very active, that the stops were in a “Latino neighborhood,” or that stops were extended because Latino surnames take longer to run through the system. Again, no lieutenant action was taken.
- Lieutenants and captains ultimately approved every inadequate review summary.

As a result of the review, there were no findings of any problematic or biased-based policing practices by any of the 70 deputies reviewed. This appears to be statistically impossible given the ASU report findings. Likewise, not one supervisor recommended any intervention or remedial measures for any deputy flagged in the ASU report.

Further, to Plaintiffs' knowledge, there has not been any engagement by leadership at MCSO on these indicia of potential biased-based policing by a large segment of patrol. During the July 2016 site visit, Plaintiffs asked Chief Knight whether the Chief Deputy, Chief Rodriguez, or other executive-level commanders were involved in the handling of the ASU report's findings. Chief Knight acknowledged that no one at command level had been directly involved in any review of the deputy-specific data or in any intervention efforts. And while the most recent production by MCSO of the deputy review summaries indicates that Chief Deputy Sheridan, Chief Trombi, and Chief Rodriguez reviewed the results, no documentation of that review has been provided.

Plaintiffs have requested that MCSO, under the guidance of the Monitor team, engage in a new review of this information and through remedial measures correct the improper conduct from supervisory staff in undertaking this review. Plaintiffs will continue to monitor this issue and take all appropriate action including requests for the Court's intervention.

SECTION 3: IMPLEMENTATION UNIT CREATION AND DOCUMENTATION REQUEST

No comments.

SECTION 4: POLICIES AND PROCEDURES

Paragraph 22: MCSO continued to publish only its own audits for this reporting period on MCSObio.org. Although there were ultimately no discrepancies between the Monitor's findings and MCSO's findings during this reporting period, Plaintiffs continue to believe that the practice of publishing only MCSO's audits can confuse or even mislead the public about MCSO's compliance rate and progress towards eliminating discriminatory policing.

Paragraph 25(b): Plaintiffs are concerned by the Monitor's report that there were stops for failure to possess a driver's license. Failure to have a driver's license (valid or not) is obviously something that cannot be determined prior to stopping a vehicle. If that is the only reason cited for a stop, it would raise the possibility that there was no lawful justification for the traffic stop.

Paragraph 25(h): Plaintiffs continue to have concerns with MCSO's ability to document the time at which the person stopped is no longer detained and is otherwise free to leave. This is the critical point for purposes of the Fourth Amendment and likewise to determine if there may be disparities in the length of time individuals are detained. MCSO appears to have been focused on the end time of the overall event (i.e., when the deputy leaves the scene), at which point the person who was stopped may have long been released. Plaintiffs have proposed that the end time of the contact with the *person* detained be called into dispatch by the deputy. Plaintiffs also

agree with the Monitor revisions to the VSCF and that improved supervision would help to more accurately record this information.

Paragraph 27: Plaintiffs are concerned that the Monitor's report reflects, without comment or criticism, MCSO's continued insistence that MCSO never had a LEAR policy but that there was instead a reference to ICE's LEAR policy in MCSO documents. The existence of the MCSO LEAR policy was a key finding of the Court's May 24, 2013 decision. As found by the Court, after DHS revoked MCSO's 287(g) authority, "the MCSO trained all of its officers on immigration law, instructed them that they had the authority to enforce it, and *promulgated a new 'LEAR' policy.*" Doc. 579 at 2 (emphasis added). This was in force until the Court permanently enjoined it. *Id.* at 141. Plaintiffs request that the Monitor note that MCSO's ongoing insistence that there was *never* a MCSO LEAR policy is simply incorrect and contrary to the Court's findings.

Paragraph 28: Plaintiffs agree with the actions taken by MCSO, and approved by the Monitor, to train deputies on administrative warrants issued by ICE, and Plaintiffs will continue to monitor this issue.

Paragraph 32: The draft report notes continued serious deficiencies with administrative investigations of alleged misconduct. Plaintiffs agree with the Monitor's assessment of the gravity and pervasiveness of the problems. Moreover, the list of deficiencies the Monitor reviews at each site visit appear to be the same problems over and over. It illustrates an unwillingness to take that feedback from the Monitor and translate that into changes in policy or practice. The redundant violations over the years can be seen as contempt for the Court's supplemental injunction.

Plaintiffs also note that while the Monitor generally approves of PSB's direct handling of internal investigations over the quarter, the Monitor's concerns about internal investigations handled by units are very serious in nature. MCSO must be held accountable for the integrity of *all* internal investigations at MCSO; if PSB is not the accountable party, then some centralized command-level personnel must be identified and held accountable for failures in District- or Bureau-conducted internal investigations.

SECTION 5: PRE-PLANNED OPERATIONS

No comments.

SECTION 6: TRAINING

Paragraph 42:

Plaintiffs observed the September 19 Train-the-Trainer (TTT) session and the September 28 Annual Combined Training (ACT) sessions and have concerns that statements made by the trainers were inappropriate and perpetuate improperly cavalier attitudes about Fourth Amendment requirements and stereotypes about members of the Plaintiff Class.

First, during a discussion about consent searches during the TTT session, the instructor stated that civilians who consent to searches are "stupid" or "dumb." Second, at the ACT session

observed by plaintiffs, the instructor—who had been trained at the Sept. 19 Train-the-Trainer session—stated that MCSO deputies ought to respond to a report of children cursing at a pool even if they recognized the tipster’s explicit bias. Third, the same ACT instructor suggested that domestic violence is prevalent in Latino culture. Plaintiffs recommend that corrective action be taken when instructors make such remarks and that instructors be removed from future trainings if they refuse to comply.

Additionally, the Monitor’s report is not entirely clear on issues concerning the selection of Field Training Officers (FTOs) at page 55. While the report indicates that the proposed FTOs were not reviewed by PSB prior to selection, as required, the report also concludes by commending MCSO for implementing a procedure for selection of FTOs. It appears that this procedure was only implemented after the Monitor called MCSO’s attention to its initial failure to comply with vetting requirements. If that is the case, Plaintiffs suggest that this paragraph be clarified to so indicate.

Paragraph 45: As stated above, Plaintiffs have concerns with the quality of instruction for both the Train-the-Trainer program and the Annual Combined Training.

SECTION 7: TRAFFIC STOP DATA DOCUMENTATION AND DATA COLLECTION

Paragraph 54 Generally: The Monitor reports that MCSO continues to fail to record all required traffic stop data. Plaintiffs again stress that additional training, further supervisory oversight, and corrective action are warranted to ensure that such data is correctly recorded.

Paragraph 54(f): The percentage of warrant checks on Latino drivers stopped for traffic violations is reported at 100% for this reporting period. Plaintiffs agree with the Monitor that this high percentage may indicate biased policing. Plaintiffs strongly recommend that MCSO immediately require that supervisors and command staff engage in a meaningful investigation of these deputies and implement corrective action as necessary.

Paragraph 54(g): Plaintiffs request further investigation of instances in which deputies do not properly list a justification for contacting a passenger. Further training appears required to address this issue and should be noted in the report.

Paragraph 54(i): Please see Plaintiffs’ comments to Paragraph 25(h). MCSO has not demonstrated a capability to properly record the requirements in this subsection—“the time the stop/detention was concluded” as to person contacted. Until they have established a system to properly and accurately record this information, MCSO should not be in Phase 1 compliance with Paragraph 54.

Paragraph 55: Plaintiffs continue to have concerns with possible duplicate event numbers being entered into CAD. Since this is manually entered by deputies, there is a risk for error, which, as explained in the ASU report, can cause significant data problems. Plaintiffs recommend that MCSO take affirmative steps to ensure there are no duplicate stop entries.

Paragraph 61: The Monitor explains that all MCSO personnel required to wear body-worn cameras have now been properly equipped. This was done by employing a temporary measure

in which all MCSO personnel assigned to the Cave Creek/District 4 and Lake Patrol areas are given two cameras until technical issues can be resolved. These issues have been ongoing since November 2015. Plaintiffs recommend that MCSO be held to a deadline for resolving the connectivity issue, to avoid the temporary stopgap from becoming a permanent state of affairs.

Paragraph 62: The Monitor reports that the MCSO's body-worn camera program is now fully operational. However, not all deputies are using the cameras properly. Plaintiffs urge MCSO to require additional training and supervisor oversight to ensure that their patrol deputies and sergeants use the cameras properly. Further, Plaintiffs request additional information for how these instances of failure to properly operate body-worn cameras will be addressed by MCSO.

Paragraph 63: MCSO has yet to complete the Body-Worn Camera Operations Manual. A first draft was completed more than a year ago. There is no excuse for any further delay and a new firm deadline should be set for its completion.

Paragraph 64: This paragraph requires MCSO to establish a protocol to look for warning signs of racial profiling and other conduct. As noted, there has been a long history of MCSO's lack of transparency with respect to the thresholds it has used for this purpose. A new firm deadline should be set for completion of this protocol.

Paragraph 65: Plaintiffs request a new deadline be set for completion of GH-5.

Paragraph 66: As noted in the introduction above, the ASU report identified several outlier deputies who may be engaging in biased policing. It has become apparent that MCSO supervisors, both at the sergeant and higher command levels, did not undertake a serious review of this information. Out of 70 identified outlier deputies, not a single one was found to be engaging in questionable police practices—a statistical impossibility. Also, many of the supervisors' final reports were largely superficial and often contained boilerplate language. Plaintiffs, along with Plaintiff-Intervenor and the Monitor, have expressed concerns with MCSO's treatment of this data. We have urged that MCSO reanalyze this data under the guidance of the Monitor.

Plaintiffs remain concerned with MCSO's prior self-imposed limitation of only reviewing deputies who conduct 10 or more stops per month on average. As a result of this limitation, MCSO has failed to review *the majority of patrol deputies* for biased policing. This is a fundamental failure to comply with the most basic purpose of the Supplemental Permanent Injunction.

Paragraph 67: Since MCSO is not in Phase 1 Compliance with Paragraph 64, the Monitor should find that it is likewise out of compliance with this paragraph for the same reasons.

Paragraph 69: Supervisors are required to review their deputies' traffic stop data on a monthly basis. These reviews often have boilerplate language, do not indicate what data was specifically reviewed, and do not explain what, if anything, was discussed with the deputy. Plaintiffs recommend that MCSO supervisors undergo additional training for this.

Paragraph 70 & 71: If any of the collected data indicates racial profiling or biased policing, MCSO is required to investigate such behavior and implement corrective action where appropriate. Similar to the monthly supervisor reviews, our assessment of immediate supervisors' responses to EIS alerts indicates that a meaningful review of such data is not being done. Many of these responses are extremely limited and contain boilerplate language. Further, most deputies are cleared of any wrongdoing even though their stop data clearly indicates otherwise. Plaintiffs also refer to the comments in the introduction above regarding the most recent review of deputies identified as outliers by the first ASU report.

SECTION 8: EARLY IDENTIFICATION SYSTEM (EIS)

In the Eighth Report, MCSO's performance in EIS actually decreased from its already dismal showing in the Seventh Report. MCSO was no longer in compliance with Paragraph 76, which requires it to include appropriate identifying information for each involved deputy and civilian. Since this was the only Phase 1 paragraph in the EIS section in which MCSO was previously compliant, MCSO was not even in Phase 1 compliance with a single paragraph pertaining to EIS.

The Ninth Report shows that MCSO has failed to make any improvement in the last quarter. It remained out of compliance with every injunction paragraph pertaining to Phase 1 of the EIS, with one paragraph "not applicable." The MCSO remained at a standstill in Phase 2 compliance. They are not in Phase 2 compliance with eight of these same nine paragraphs, in compliance with one paragraph, and one paragraph is in "deferred" status.

The only Paragraph in which MCSO is in Phase 1 or Phase 2 compliance is Paragraph 77, which requires that the MCSO have computer hardware sufficient 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." In other words, the MCSO has sufficient hardware in its EIS system, but has not complied with a single paragraph pertaining to the use of that system.

The specific details of MCSO's abysmal performance pertaining to EIS include the following:

1. MCSO failed to complete training on EIS, including orientation to the EIS policy. (Note: MCSO has now promised to complete this by November 2016). Moreover, there have been fluctuations in "deficiencies" that increased from 5% to 26% in June 2016. We agree with the Monitor that these fluctuations are likely due to the fact that MCSO has still not completed EIS training, even though it is expecting supervisors to comply with the policy for which there has been inadequate or no training. In fact, the Monitor reports that "the EIS policy will be over one year old by the time training to the policy begins." Even more troubling was MCSO's initiation of a supervisory review process based on the ASU report without prior approval or consultation with the Monitor or the Parties. This is a recurrent theme. As the Monitor notes, "This is just the latest example of initiating a process without adequately consulting us or the Parties." Paragraph 72.
2. MCSO's lack of collaboration and recalcitrant behavior is illustrated by the manner it has developed thresholds. *See* Monitor's discussion of Paragraph 74. The thresholds

developed by MCSO, largely without input from the Monitor, had the result that “very few of the deputies found to be outliers in the ASU analysis had triggered any relevant alert in the EIS system during the same time period.” *See* Monitor’s Report—discussion of Paragraph 74.

3. The MCSO is still not in compliance with a number of basic requirements for an EIS system. While EI Pro, a web-based software application that allows employees and supervisors to view information in the IA Pro case management system does include a number of misconduct complaints and allegations against deputies, a description of these complaints is not always available to a supervisor. As a result, the supervisor must contact PSB for additional details. Thus, MCSO still has not met the requirement of a computerized database in which these details can be retrieved. Supervisors can now view synopses of completed investigations, but still do not have the ability to view ongoing internal investigations. Moreover, the EIS database does not include “all arrests.” These arrests do exist in the Jail Management System, which is not directly linked to EIS. Additionally, while any current supervisor of a deputy can access the prior supervisor’s notes and look for references to other incidents, there is no way to conduct a relational search for similar events. There are still problems with MCSO’s ability to create an interface that draws the relevant data elements from FILEBOUND (the database where incident reports are maintained) or other systems into EIS. At present, the FILEBOUND system does not communicate with EIS causing MCSO to remain out of compliance with a number of requirements of Paragraph 75 of the injunction. MCSO has still not developed a system where the disposition of court cases is directly communicated to its systems outside of the Superior Court. Supervisors are still not able to effectively find similar issues of “coaching” that were given to an employee with the obvious impact on the coaching a supervisor can give a deputy who has just been assigned to his or her command. Even awards and commendations cannot be queried in any substantive fashion. The Skills Manager System (SMS), which is managed by the Training Division, will not communicate with EIS so there are still problems accessing the training history for each employee. In fact, because the SMS, managed by the Training Division, does not communicate with the EIS system, EIU personnel are being forced to manually input information from the SMS into EIS. *See* Monitor’s Discussion of Paragraph 80. This not only causes MCSO to be out of compliance with key paragraphs of the injunction requiring an automated data-base, but also injects potential for human error and deputy frustration that are totally avoidable.

In sum, data elements do not exist in a manner that fits the definition of a relational data base. MCSO claims it is working with its vendor CI Technologies to fix a number of these problems. Plaintiffs have repeatedly requested that CI Technologies attend a number of the site visits so they can hear from the Monitor and the Parties what the problems are, and develop insight into our perspective on the issues creating a relational database. After many requests, CI Technologies did participate by phone during several sessions at the July site visit. Plaintiffs still believe their actual attendance would be much more helpful.

4. As mentioned above, EIS does not have a fully integrated database and MCSO has not completed training on EIS. As referenced above, supervisors still lack the means to access the pertinent information with EIS regarding incident reports for arrests and investigatory stops that have been conducted by their subordinates and the data necessary for analysts to evaluate whether bias occurred during these arrests and investigatory stops. *See* Monitor's discussion of Paragraph 79. In addition, the lack of EIS training is undoubtedly a factor causing a minority of supervisors to close alert investigations without adequately describing the process they employed or conducting face-to-face meetings with their subordinates. Moreover, despite the fact that Supervisors have voiced support for the self-populating tables that provided supervisors throughout the agency with the ability to review all traffic stops for a single deputy, MCSO (due to changes that MCSO is making to the monthly data analysis conducted by EIU personnel) has discontinued the use of these tables for supervisors "out of a concern that these results may be interpreted inaccurately." *See* Monitor's Discussion of Paragraph 79.
5. The Monitor has legitimate criticism of the interventions conducted by MCSO supervisors. Supervisors have not been adequately trained in the EIS process; the thresholds fail to capture outliers, including outliers identified in the ASU report; and there is a woefully inadequate collaboration between MCSO, the Monitor, and the Parties. Given all these problems, it is surprising that the Monitor team has not observed any interventions conducted by MCSO supervisors and does not provide an analysis of these interventions and what could be done to improve them. Plaintiffs have repeatedly asked that at least some interventions be videotaped or that the Monitor sit in on a sample of them in person and report their findings to the Plaintiffs and the Plaintiff-Intervenor. Plaintiffs renew their request that supervisor interventions be reviewed in person by members of the Monitor team and that the Monitor report their review of these observations in future reports.

SECTION 9: SUPERVISION AND EVALUATION OF OFFICER PERFORMANCE

There has been a slight improvement in MCSO's Phase 2 compliance rate in this section. While Phase 1 compliance remains the same, MCSO has attained Phase 2 compliance in Paragraphs 89 and 96. Despite continued weak compliance rates in general, as detailed in the introduction section in these comments, two of the five paragraphs where MCSO has gone from "Not in compliance" to "In compliance" are in this section.

Paragraph 89 in part requires a deputy to notify a supervisor before initiating any immigration investigation as discussed in Paragraph 28. MCSO reported no cases involving immigration status investigations or immigration-related crime and an audit revealed no cases of this type. Paragraph 96 requires in part that command-level officials 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. In its discussion of this paragraph, the Monitor team noted that "we have noted an improvement in the supervisory review process of incidents involving arrest. We believe that as a result of District commanders being more actively involved in reviewing Arrest Reports, supervisors have been more attentive to their reviews."

Nevertheless, MCSO's overall compliance rate in this section, like most of its compliance efforts, remains unacceptable. Their Phase 1 compliance rate remains too low for the amount of time that has passed in this litigation: MCSO is in compliance with 10 paragraphs, and out of compliance with 9. Even worse, there has been no improvement in even Phase 1 compliance in this section since the Monitor's Eighth Report. In this section, pertaining to the issuance of approved policies and training, there is no good reason for MCSO not to be in 100% full Phase 1 and 2 compliance when three years have passed since the Court's Supplemental Injunction.

As stated in our Response to the Eighth Report, MCSO is in "compliance by default" with Paragraphs 88 and 101 since they have abolished the unit addressed by these sections. Thus, even with the improvements stated above, for the Ninth Report, Defendants are only in Phase 2 compliance with 3 of the remaining 16 paragraphs in Section 9. This is an unacceptable level of performance at this stage of the monitoring process and is particularly reprehensible because it involves the critical area as to how deputies are supervised and evaluated.

Some of the fundamental issues still not resolved during the reporting period include the following:

1. Paragraph 85 requires in part that first-line field supervisors shall be required to discuss individually the stops made by each deputy they supervise no less than one time per month in order to ensure compliance with this Order. It is critical that every MCSO deputy be accountable to a clearly designated supervisor and that a designated supervisor be directly responsible for that deputy. Nevertheless, the Phase 2 compliance rate for the review and discussion of stops and detentions that meet the requirement of the Court's Order was only 44%. In addition, the Supervisory Notes submitted for April and May 2016 documented only 60% and 72% compliance. The low level of compliance is partially attributable to supervisors' excessive workload and the vast distances some of them must travel in their assigned Districts. It may take more supervisors in the field to attain compliance with the requirements of the Order.
2. MCSO instituted the first phase of the roll out of Patrol Activity Logs in June 2016. There were no Patrol Activity Logs generated in April and May. There were four days this quarter where one district did not have a supervisor on duty. Therefore, MCSO was not in compliance with Paragraph 86, which requires the availability of supervisors and that they work the same days and hours as the deputies they are assigned to supervise, absent exceptional circumstances.
3. MCSO has not published its GC-4 (Employee Performance Appraisal Policy). A firm deadline should be set for completion of GC-4. While some appraisals were of good quality, an unacceptable number were below the quality of work product expected from commanders.
4. In the Eighth Report, the Monitor team was often unable to assess compliance with Paragraph 90 because they were unable to verify if Vehicle Stop Contact Forms 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. This problem remains the same in the period covered by the Ninth Report. The forms the Monitor was able to review showed a compliance rate of only 44% in June, 2016. The MCSO's extremely poor performance here is evidence of either too few supervisors, outright defiance of the Court's Order, or both.

5. Paragraph 94 is one of the most important parts of this section. In summary, it provides that supervisors shall use EIS to track each subordinate's violations or deficiencies in order to take appropriate corrective action, that PSB should be notified when appropriate, and that deficiencies must be documented. Paragraph 94 also says that supervisors will be evaluated on their evaluations of their subordinates. The current state of MCSO compliance with Paragraph 94 is as follows: The GC-4 (Employee Performance Appraisals) draft policy was still undergoing revision at the time of the period under review; MCSO is practically in total non-compliance with every injunction paragraph pertaining to EIS; and MCSO is not in Phase 1 or Phase 2 compliance with Paragraph 94.
6. Paragraph 93 calls for MCSO deputies to complete all reports by the end of their shift absent extraordinary circumstances, and further mandates that supervisors review these reports within 72 hours absent extraordinary circumstances. The Monitor did an extensive audit of this requirement: in April, they found 34% of the reports they reviewed were out of compliance; in May, 27 out of 58 were out of compliance; in June, 19% were out of compliance. This abysmal performance again calls into question whether MCSO has the necessary staffing to comply with this Paragraph, or is simply defying the Court's order.
7. In our review of the Eighth Report, we noted that a review of performance appraisals for 25 sergeants showed that none of the 25 appraisals contained comments regarding the supervisor's demonstrated ability to identify and effectively respond to misconduct. This was one of several reasons why MCSO was not in policy or practice compliance with Paragraph 95 requiring (among other things) that each violation or deficiency is noted in the Deputy's performance evaluation. In the Monitor's Ninth Report, they again reported that none of the 23 appraisals comments regarding the supervisor's demonstrated ability to identify and effectively respond to misconduct. While there were somewhat better results in other areas, MCSO was found out of compliance with this Paragraph in both Phase 1 and Phase 2.

SECTION 10: MISCONDUCT AND COMPLAINTS

Paragraph 102: The draft report reiterates the same longstanding noncompliance regarding internal investigations that MCSO has failed to correct quarter to quarter, flouting the Court's Order. The draft report notes that there were two internally generated investigations that raised serious concerns: one involving multiple allegations of misconduct that should instead have been conducted as three separate investigations, and another where the Monitor found that "it does not appear that the[] employees, both members of management, were held accountable for their actions." The first investigation involves serious allegations of inappropriate personal relationships with three separate crime victims, insubordination, and lack of truthfulness.

According to the Monitor's report, one of the sustained violations is for truthfulness. Pursuant to MCSO's disciplinary matrix a truthfulness violation is a Category 7 offense, requiring dismissal, yet the employee was not dismissed. Plaintiffs request information as to why this employee was not dismissed. The second investigation involved allegations against the Chief Deputy. Plaintiffs request further information regarding the appointment of a deputy chief to handle this investigation given the conflict of interest. Further, Plaintiffs request additional information as to why the Monitor team believes such allegations against the Chief Deputy, in particular, should have been sustained and if there were any reasons provided for why those allegations were not sustained. Given MCSO's history on these issues, particular attention should be paid to these investigations.

SECTION 11: COMMUNITY ENGAGEMENT

Plaintiffs believe that active engagement by MCSO personnel is extremely important. MCSO does provide the Monitor and the Parties with summaries of their community outreach activities. Most of these activities do not encourage discussion with the general public about the issues in this case and the Supplemental Injunction. Plaintiffs reiterate their comments to the Eighth Report and recommend that MCSO organize more events that encourage meaningful community engagement and allow the public to speak with MCSO personnel in comfortable, non-law enforcement environments.

Paragraph 111: Plaintiffs acknowledge that several MCSO personnel were in attendance at the Monitor's meeting on April 20, 2016. Although Plaintiffs' counsel have repeatedly emphasized to MCSO commanders that uniforms, marked patrol cars, and the other insignia of power are counterproductive to the purpose of community meetings, many of these commanders continue to appear in uniform and sit clustered together in the back of the auditorium. (To their credit, a few MCSO personnel have appeared at community meetings in civilian clothes.) Class members have expressed to Plaintiffs' counsel their hesitation to speak up and ask questions during these meetings because they are intimidated by the impression given off by MCSO personnel's appearance and demeanor. Plaintiffs feel that it is important that MCSO participate in these meetings, but we suggest that MCSO representatives make an effort to appear more approachable to the general public, by not wearing formal uniforms and sitting among and engaging with the audience.

Paragraph 112: The Monitor reports that there were about 30 community members at the meeting on April 20, 2016, held at Frye Elementary School in Chandler. Plaintiffs understand that, pursuant to the Court's Order, the Monitor is required to hold meetings in every MCSO district. However, many class members do not live in the areas outside of Phoenix proper, and attending meetings in the outlying areas is often difficult. Plaintiffs believe that attendance and participation at these meetings would increase if they were consistently held in more centrally based locations.

**Comments on the Draft Ninth Report of the Independent Monitor
for the Maricopa County Sheriff's Office
Provided by Plaintiff-Intervenor United States
October 14, 2016**

Pursuant to Paragraph 132 of the Court's Supplemental Permanent Injunction ("injunction") (ECF No. 606), Plaintiff-Intervenor United States writes to provide comments on the draft of the Ninth Report of the Independent Monitor for the Maricopa County Sheriff's Office ("Draft Report"), covering the second quarter of 2016. Our comments are divided into two parts: general comments about the report as a whole, and comments on specific sections.

General Comments

MCSO's delays in implementing the injunction and failures to respond to indications of possible racial profiling continue to deprive the public of a law enforcement agency that is doing everything it can to prevent unconstitutional discrimination and to forcefully respond when discrimination occurs. We cannot stand by as these delays continue quarter after quarter. If the agency cannot get itself on track, we stand ready to seek the Court's intervention.

With this report showing only slight gains in compliance by the Maricopa County Sheriff's Office ("MCSO"), the progress of implementing the Court's injunction remains unacceptably slow. As we have suggested several times in the past, we believe that MCSO could speed the pace of reform by adopting comprehensive compliance plans for areas of the injunction where progress has stalled. Such a plan would be especially appropriate for MCSO's Early Identification System, which the injunction required to be fully operational by October 2, 2014—more than two years ago. Such a plan could identify all of the specific steps that will be necessary to come into compliance, dates by which each step will be taken, and the personnel responsible for each step. This would give all involved—including MCSO—a clearer path to compliance than currently exists. We continue to encourage MCSO to make these and other reasonable efforts that will bring about reform sooner rather than later.

MCSO has finally completed its first annual comprehensive analysis of traffic stop data, which is required by paragraphs 66 and 67 of the injunction. As the comments on this report provided by the Plaintiffs describe in great detail, MCSO's management and supervisory responses to the comprehensive analysis have been unacceptable. Given indications that 70 deputies may be engaged in racial profiling, MCSO's supervisors and management found no problematic behavior among any of them—not even behavior that merited re-training or closer supervision, much less discipline. That is far from an adequate response to indications of possible racial profiling. As noted above, the Plaintiffs' comments discuss this issue in much greater detail, and we share their concerns.

The most effective way for MCSO to identify racial profiling is to collect and analyze the data of its deputies. Data collection and analysis is one of the most critical remedies ordered in the injunction. We remain concerned that MCSO has not been able to develop and implement many of the injunction's requirements to analyze data, and that MCSO has not been transparent with the parties or the Monitor about its plans to do so. Even when those systems become

operational, MCSO still has a duty to act. The Court has required MCSO to investigate and closely monitor any indication or warning sign that racial profiling is occurring within the agency. As noted above, during the last quarter MCSO faced its first real test of having to respond to indications that some of its deputies may have been racially profiling, and MCSO has so far failed to respond appropriately. MCSO must take significant steps to correct the mistakes that it made in responding to the first annual comprehensive data analysis, and to appropriately address indications of potential racial profiling by MCSO deputies, as is the agency's obligation under the injunction.

How to Read These Comments

In our comments on previous reports, we included an explanation of the purpose that these comments serve and what relevance they have to the Monitor's report. We provide an abbreviated explanation here. The United States is providing these comments pursuant to paragraph 132 of the injunction, which states:

The Monitor shall provide a copy of quarterly reports to the Parties in draft form at least 21 business days prior to filing them with the Court to allow the Parties to provide written comment on the reports. The Monitor shall consider the Parties' responses and make any changes the Monitor deems appropriate before issuing the report. The Monitor shall attach to his or her report copies of any comments submitted by the Parties.

(ECF No. 606 at 51-52.) Pursuant to this paragraph, we received an advance draft of this report, and in these comments we suggest some changes to that draft. (At times we also echo the Monitor's findings or add our own impressions.) The Monitor may agree with some of our suggestions and disagree with others. What may be somewhat confusing to members of the public is that when our comments prompt the Monitor to make changes or clarifications to a draft report, those changes will be reflected in the final version that's made available to the public. But our comments, which are appended to that final version, actually refer to an earlier draft. Because of this discrepancy, our citations to page numbers may be wrong, and any specific language we take issue with may be different in the final version.

Comments Regarding Specific Sections of the Draft Report

Section 3: Implementation Unit Creation and Documentation Requests

As we noted in an April 11, 2016 letter to MCSO and the Monitor, and in our comments on the Monitor's 8th Report, the form in which MCSO produces compliance materials to the parties has often created unnecessary complication and difficulty for the Monitor's and the parties' review of MCSO draft policies, training materials, and other documents. The Monitor proposed a reasonable protocol for the parties' review, and we are pleased to report that the protocol has been officially adopted by the Monitor and the parties. Nonetheless, these procedural problems continue, and they continue to impede the Monitor and the parties from providing meaningful and timely feedback on MCSO policies and training, including ones that directly address issues at the heart of the injunction. It is critical that the Monitor and the parties

be able to review and provide input on compliance-related documents in a timely and efficient manner, that MCSO and the Monitor consider the parties' input before revising or implementing policies and training, and that, where MCSO declines to adopt recommendations from the Monitor or the parties, that MCSO be transparent about its decisions and the underlying reasons for those decisions. As we have previously noted, if MCSO is not able to provide compliance materials in a way that is conducive to review by the Monitor and the parties, the United States may seek the Court's intervention to address these procedural limitations.

Section 4: Policies and Procedures

Paragraph 22. We concur with the Monitor's determination that MCSO is not in compliance with this paragraph, and further note that materials that we have reviewed recently, including supervisor's notes on their supervisory reviews of deputies identified by MCSO's data analysis as potentially engaging in racial profiling, indicate that MCSO management and supervisors continue to demonstrate a failure to "unequivocally and consistently reinforce to subordinates that discriminatory policing is unacceptable," as is required by this paragraph of the injunction. We are extremely troubled by the persistence of these problems, as we consider that it is essential, both to achieve compliance with the injunction and to achieve constitutional policing, for leadership to model and articulate a commitment to bias-free policing.

Paragraph 32. We concur with the Monitor's findings that MCSO is not in compliance with paragraph 32, and note that it is of critical importance that MCSO improve its internal affairs investigations and accountability procedures. In addition, at page 42 of the draft report, the Monitor states that many of the deficiencies that the BIO identified in MCSO's administrative investigation inspections "relate[d] to investigations where employees were not provided with a Notice of Investigations (NOIs) or *Garrity* warnings." Through the course of our work as Plaintiff-Intervenor in this action, we have learned that it is MCSO's practice to provide *Garrity* warnings to all deputies and witnesses involved in MCSO disciplinary proceedings. It is our position that this practice goes well beyond what is required to comply with *Garrity*, and indeed, that it could compromise the integrity and effectiveness of MCSO's disciplinary proceedings and jeopardize related criminal proceedings. We have raised this concern with the Monitor and flag it here as an issue for the parties to continue to review and consider.

Section 5: Pre-Planned Operations

We have no comments on this section.

Section 6: Training

We have no comments on this section.

Section 7: Traffic Stop Documentation and Data Collection and Review

Paragraph 54(e). This paragraph requires MCSO to document the perceived race, ethnicity, and gender of the driver and any passengers, based on the deputy's subjective impression.

As in previous reports, the Monitor has noted that, based on the samples of traffic stops reviewed, they “did not find any indications of apparent bias.” As we have explained before, it would be helpful to know how, in the monitor’s view, apparent bias would be reflected in this context.

Second, the Monitor notes a significant drop in the percentage of Hispanic males who received warnings this quarter and state that his team “will monitor this decrease in the next reporting period.” The Monitor made this same observation in its eighth quarterly report. When we provided comments to that report, we explained that it was not clear how the Monitor planned to review such “trends.” We reiterate that comment here. We also suggest that the Bureau of Internal Oversight, in designing its quarterly audits, might consider looking further into the “trends” identified by the Monitor.

Paragraph 60. This paragraph requires MCSO to develop a system by which Deputies can input traffic stop data electronically and provides that “[d]ata need not all be collected in a single database; however, it should be collected in a format that can be efficiently analyzed together.”

It is essential that the data collected by deputies during their traffic stops be available for proper analysis. This is not the case, however, with MCSO’s traffic stop data. For example, how to properly calculate the length of a stop has been the subject of much debate between MCSO, the Monitor, and the parties. Currently, MCSO includes in that calculation the time that a deputy spends waiting for a tow truck after a stop has been concluded and the driver is either free to go or has been arrested. In order to determine whether deputies are improperly extending stops—a violation of the Fourth Amendment and, potentially, the Fourteenth Amendment—the relevant variable is “the time the stop/detention was concluded either by citation, release or transport.” This is a variable that MCSO must collect under Paragraph 54(i). However, MCSO recently explained that this variable is collected as a text entry in the CAD system, and therefore not easily accessible for purposes of data analysis.

Accordingly, we submit that MCSO has not yet achieved compliance with Paragraph 54(i), which requires the electronic collection of this data, or with Paragraph 60, which requires the data to “be collected in a format that can be efficiently analyzed together.”

Paragraph 64. This paragraph requires MCSO to “develop a protocol for periodic analysis of the traffic stop data . . . to look for warning signs and indicia of possible racial profiling or other improper conduct under this order.”

Though the issue of developing thresholds for analysis has consumed many meetings and conference calls between the parties and the Monitor, MCSO continues to make very little progress in developing the protocol required by Paragraph 64. In fact, other than the annual comprehensive analysis—a study entirely outsourced to researchers at Arizona State University—MCSO currently conducts no statistical analysis of traffic stop data. At the July 2016 site visit, the monitoring team asked MCSO to provide a plan and schedule for implementing new thresholds. The plan MCSO later provided contained no information other than “projected” deadlines for implementing the thresholds. And many of the projected deadlines

are “pending” other various requirements, so it is unclear when MCSO actually expects these thresholds to be operational. We suggest the Monitor require MCSO to provide a more thorough step-by-step plan, clearly identifying deliverables and the individuals within MCSO who will be responsible for implementing each step of the plan.

Paragraph 66. This paragraph requires MCSO to conduct one agency-wide comprehensive analysis of traffic data per year. In May of 2016, MCSO provided the latest “preliminary draft” annual report analyzing traffic stop data from July 2014 to June 2015. At the July 2016 site visit, we learned that the “preliminary draft” report was in fact MCSO’s “final” report for purposes of compliance with Paragraph. We agree with the Monitor that the report—which relies almost entirely on descriptive statistics—is insufficient for compliance with the Court’s injunction. For example, though the report notes that “there may be some issues with racially biased policing” and that “continued work should examine the depth of these relationships,” the report fails to delve any deeper. We agree with the monitor that future annual evaluations must include, at a minimum, inferential analysis beyond the limited ratio analysis and Chi Square testing. Moreover, MCSO must ensure that its partners at Arizona State University are empowered to produce a thorough report that could comply with the Court’s injunction.

Paragraph 67. This paragraph describes warning signs or indicia of possible racial profiling or other misconduct that should guide MCSO’s data analysis.

First, as previously noted, we are concerned that MCSO’s approach to developing and implementing these thresholds is not transparent. Though the “implementation plan” provided states that certain thresholds will be “operational” by November of this year, the plan does not provide any detail about how MCSO expects to make that happen. In other areas of this case, MCSO has failed to meet many “anticipated” deadlines; to ensure that MCSO is successful this time, we encourage MCSO to be more transparent about its process and what is really needed to make progress.

Greater transparency would also ensure that MCSO does not waste time and resources to accomplish an end that is ultimately not sufficient for compliance under the Court’s order. As just one example, it is critical that MCSO develops thresholds that are flexible and can be adjusted once they are put into practice. We do not know if MCSO is approaching threshold development with that in mind.

Paragraph 69. This paragraph requires MCSO supervisors to 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 unlawful arrests. Each supervisor is required to report his or her conclusions based on such reviews on a monthly basis to a designated commander in the MCSO implementation unit.

We agree with the Monitor’s determination that MCSO is not in phase 1 or phase 2 compliance with this paragraph. However, the monitor bases this assessment largely on MCSO’s failure to appropriately “track” or document whether certain supervisory reviews of traffic stop data have occurred. We agree that it is important that the reviews be documented and recorded.

But we urge the monitor to develop additional mechanisms to ensure that these reviews are substantive and meaningful. The purpose of this paragraph is not to require supervisors to check certain boxes but to ensure that, in addition to all other mechanisms intended to identify questionable behavior, supervisors themselves are empowered with the skills and the responsibility to catch and correct those behaviors in the first instance. This is all the more critical when viewed in the context of MCSO's failure to appropriately respond to the results of the first comprehensive annual analysis of traffic stop data. MCSO should be focusing time and effort to ensure that supervisors are equipped to review traffic stops and data, that they know what to look for, and that they are held accountable for conducting supervisory reviews that are robust and effective.

Paragraph 70. This paragraph provides that "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 . . . MCSO shall take reasonable steps to investigate and closely monitor the situation." This paragraph is a critical part of the injunction because it gets to the heart of what this case is about. The preceding paragraphs have set up multiple systems of analysis designed to bring potentially problematic behavior to light. Paragraph 70 outlines MCSO's obligations to act when that behavior is brought to light.

For most of the life of the injunction, MCSO's obligations under Paragraph 70 have not been possible to monitor, because there was no information to assess. Systems intended to capture traffic stop data either had not yet been put into place or were not functioning. For example, MCSO initially used thresholds in its monthly and quarterly analyses of traffic stop data that were set implausibly high. As a result, no deputies were flagged as behaving in potentially problematic ways, and supervisors were not called upon to respond pursuant to Paragraph 70. At present, MCSO is not conducting any monthly or quarterly analyses of traffic stop data at all.

But ASU's first annual analysis of the traffic stop data did find evidence of possibly biased-based policing across all aspects of MCSO's traffic enforcement activities, including stops, arrests, and searches. And the analysts could positively identify those deputies involved in this potentially problematic behavior. That finding then triggered the agency's obligation to respond under Paragraph 70.

Unfortunately, MCSO failed to respond appropriately from the very beginning.

First, MCSO strongly objected to even identifying the deputies flagged as "outliers," arguing that because there were flaws in the data, the entire report's findings could not be relied upon in any way. Then, when the Monitor ordered MCSO to identify the deputies flagged in the report, and to see if they had been separately flagged in the EIS for potentially biased policing, MCSO again resisted. MCSO erroneously believed that the act of identifying outlier deputies to see if they had been flagged in the EIS (as a way of testing the validity of the two systems working together) was akin to beginning to take disciplinary action against those deputies. It is not the case that doing simple integrity checks of its systems amounts to taking disciplinary action; MCSO's conflation of the two suggests that the agency continues to resist its obligations under paragraph 70.

Next, without consulting the Monitor or the parties, MCSO decided to react to the ASU study by requiring the supervisors of 70 of the deputies flagged as outliers to respond to an EIS alert. The alert indicated to the supervisors that one of their subordinate officers may be engaged in problematic behavior. The alert included a copy of the ASU report, and an instruction page to assist supervisors in reading ASU's statistical analysis.

It is troubling that MCSO chose to rely on the EIS for this important purpose even though the Monitor and the parties have consistently criticized the EIS because it is not automated, supervisors have not been trained to use it, and commanders throughout the agency frequently approve boilerplate supervisory responses. Indeed, as the Monitor's ninth report noted, "Had we been consulted, we would have recommended training for supervisors in the basic use of statistical information, training to conduct the investigation discussions with their subordinates, and assistance in reading the technical aspects of the ASU report."

MCSO has since produced materials documenting the supervisors' EIS response to the ASU study. Instead of intervening, the supervisors questioned the data, questioned their own chain of command, and generally refused to engage in the proactive supervision that the Court's injunction requires. Not a single supervisor who reviewed subordinates' indicia of racial profiling determined that any kind of intervention was necessary, much less corrective or disciplinary action.

The United States is very concerned with this response and finds it wholly inadequate under Paragraph 70 of the injunction.

Section 8: Early Identification System (EIS)

Paragraph 72. On page 109 of the draft report, the Monitor writes:

MCSO published policy GH-5 (Early Identification System) in November 2015. In July 2016 MCSO has proposed several substantial changes to GH-5, which we commented on. MCSO plans to commence training on EIS, including orientation to the new policy, in November 2016. Until such training is complete, MCSO is not in Phase 1 compliance with this Paragraph.

We note that on September 1, the United States provided substantial comments on this policy, as well, and the Monitor recently provided MCSO comments on the policy that indicated his agreement with nearly all of the United States' recommendations. As the draft report notes, MCSO's EIS is far from being fully operational for a variety of reasons. Because it does not include many required data elements and cannot yet conduct many required data analyses, GH-5 is itself incomplete—it cannot cover aspects of the EIS that do not yet exist. The same can be said for training on the EIS: training on an incomplete system is incomplete training. We therefore recommend holding any "Phase 1" compliance finding for the EIS in abeyance until the system is fully operational and both policy and training have been updated to reflect the functionality of the completed system. This is not to say that MCSO should forego policy or training development in the meantime; rather, it should—as it has—implement a policy and

training program that reflect the current capabilities of the EIS, and it should update both policy and training as new requirements of the Court's order are met.

On pages 110-111 of the draft report, the Monitor writes:

[W]e were also surprised by MCSO's initiation of a supervisory review process based on [the Traffic Stop Annual Report] without prior approval or consultation with us or the Parties. . . . [T]his is just the latest example of initiating a process without adequately consulting us or the Parties.

MCSO's decision to engage in significant compliance-related activities without first consulting with and obtaining the approval of the Monitor and parties is part of a long-standing pattern, as the Monitor has noted in previous reports and the parties have noted in their comments to the Monitor's reports. In this instance, MCSO's failure to involve the Monitor and parties has done real harm. As we expect the Monitor's next report to describe in greater detail, the supervisory review process that MCSO undertook without consulting the Monitor and parties was a failure. As the Monitor, parties, and MCSO *all* foresaw, supervisors were at a loss about what to do with the information they received. They reacted by doubting the veracity of the data, engaging in armchair re-interpretations of the statistics, and even questioning the ethics of their own chain of command and MCSO's leadership for asking them to look into possible instances of racial profiling. Not a single supervisor found that his or her subordinate's conduct merited any form of intervention. It is highly likely that at least some of the deputies flagged for possible racial profiling were actually engaged in problematic behavior of some sort. But when those deputies' supervisors told them the opposite, any unlawful conduct not only went undetected but was actually affirmed as lawful and appropriate by the agency. This failure to identify and correct deputies' unlawful conduct in turn allows the recurrence of similar unlawful conduct in the future.

We have seen echoes of the supervisors' intransigence before, such as when Chief Deputy Sheridan referred to the Court's findings of fact from trial as unconstitutional, "ludicrous," and "crap," and when Sergeant Tennyson engaged in willfully inadequate investigations of possible criminal misconduct and expressed the view that such investigations should never have occurred in the first place. Set against the backdrop of the recent contempt findings—which one would expect to have set a new tone inside the agency—a picture emerges of widespread, ongoing defiance of the Court's orders within MCSO.

Paragraph 75(n). On page 115 of the draft report, the Monitor writes:

[N]ot all required information is currently stored in a useable format within EIS. Nor does the EIS, as currently configured, meet the definition commonly accepted as a relational database that allows users to easily search for specific items without having to read each individual entry.

MCSO's EIS is facing two major obstacles: the system does not include all of the raw data that the Court's order requires, and the system is not capable of performing all of the analyses of that data that the Court's order requires. Because of these obstacles, MCSO's EIS does not provide

supervisors the tools that they need to be proactive in identifying possible issues among their subordinates, which likely has led and will continue to lead to problems that could have been prevented had the EIS been fully functional. We note that the Court's order was issued three years ago, that the order set a one-year deadline for the EIS, and that MCSO is therefore two years behind schedule. Worse still, it is not at all clear when the EIS will be fully functional.

In light of these issues, which the Monitor has described in a number of past reports, the United States has previously recommended, and continues to recommend, that MCSO develop a comprehensive compliance plan for its EIS. This plan should identify: (1) all data elements required by the Court's order; (2) the data systems that are or will be used to collect that data; (3) the steps necessary to incorporate those data systems into the EIS, broken down by data element and data system; (4) the personnel responsible for each step; (5) the date by which each step will be taken; (6) the data analyses required by the Court's order; (7) the steps necessary to incorporate those data analyses into the EIS, broken down by type of analysis and the data system that will conduct the analysis; (8) the personnel responsible for each step; and (9) the date by which each step will be taken. MCSO should create a timetable for compliance that incorporates all of this information and sets monthly goals. MCSO should then report on a monthly basis on progress made and whether all goals were met, making adjustments to its overall timetable as necessary. The reports should also identify the specific personnel who were not able to meet specific deadlines and set forth an explanation of why that occurred. The parties should move for the comprehensive compliance plan to be entered as an order of the Court so that the Court is kept apprised of MCSO's expected timetable and can hold personnel accountable if they fail to take reasonable steps to meet their obligations.

Paragraph 75(j). On page 118 of the draft report, the Monitor writes:

MCSO currently tracks disciplinary actions in the IAPro system. However, MCSO is debating how to include "coaching" as an alternative that is trackable in this database.

As we have noted in comments to MCSO's discipline policy, GC-17, coaching is not an appropriate response to misconduct, and any policy permitting coaching to take the place of discipline where policies have been violated would not comply with paragraph 220(h) of the Court's second supplemental permanent injunction. That said, as long as coaching is not used in lieu of discipline, MCSO should track all instances of coaching in its EIS so that patterns of behavior will be detectable.

Paragraph 81(c). On pages 130-131 of the draft report, the Monitor writes:

[W]hile the majority of supervisors appear to be using the EIS system as intended, the BIO reports on Patrol Supervisory Notes indicate that not all supervisors are using the system as required by policy. For example, in April through June, BIO reported that 100% of supervisors reviewed made the two performance notes required for their subordinates. However, more than 12% of supervisors did not complete the traffic stop discussion or body-worn camera reviews required of supervisors in April. The review of body-worn camera segments improved in May and June – 92% and 97%, respectively. However, 26% of supervisors failed to review Patrol Activity Logs of their subordinates

as required in June 2016. BIO has repeatedly sent out reports to District command staff and recommended ways to improve. We have recommended that BIO become more actively involved in this process, to the point of triggering alerts and reviews for those supervisors who fail to employ the technology appropriately.

We note that, in those instances in which supervisors' failures amount to insubordination, inconsistency in appropriate supervisory use of the EIS should be addressed through the discipline system; it is insufficient in such instances to solely respond with recommendations from BIO to district command staff or through triggering alerts and reviews for supervisors who fail to use EIS.

Paragraph 81(d). On page 131 of the draft report, the Monitor writes:

Section 6 of GC-17 provides an effective description of early intervention for all MCSO employees as a mechanism to address inappropriate conduct and substandard job performance before it becomes an issue that may warrant discipline.

We have previously provided comments on this section of GC-17, a policy on the subject of employee discipline, and noted our concerns with these provisions of the policy. It is, at a minimum, confusing for a policy on discipline to include extensive discussion of nondisciplinary responses to issues of concern. That material should be included in the early intervention policy. We are also concerned that GC-17's discussion of nondisciplinary interventions frequently suggests that such interventions are an appropriate response to instances of misconduct, which flatly contradicts paragraph 220(h) of the Court's second supplemental permanent injunction.

Section 9: Supervision and Evaluation of Officer Performance

Paragraph 88. In our comments on the Monitor's last report and its assessment of MCSO's compliance with paragraph 88 of the injunction, we recommended that the Monitor seek additional information and assurances from MCSO that it has no intention of resuming identify theft enforcement operations. We make this recommendation again.

Section 10: Misconduct and Complaints

Paragraph 102. On page 165 of the draft report, the Monitor describes a misconduct investigation in which ten separate misconduct allegations were sustained against a deputy. The Monitor notes that the deputy received the minimum discipline under the matrix—an 80-hour suspension. The Monitor also notes, however, that the underlying incidents occurred over a two- to three-year period and that the victims were not related in any manner. The Monitor notes that at least three separate investigations should have been opened, likely because, in the Monitor's view, the incidents occurred within three distinct courses of conduct. The Monitor questions the discipline imposed and suggests that the number of sustained allegations should have been considered as aggravating factors. It seems to us that the separate courses of conduct should also have resulted in progressive discipline under the disciplinary matrix—that the starting point on the matrix should have been for the third offense of the highest-category offense among the sustained allegations.

On page 167 of the draft report, the Monitor finds MCSO in Phase 1 compliance with paragraph 102, but just pages before the report noted that the monitoring team, Plaintiffs, and Plaintiff-Intervenors had recommended significant changes to GH-2, the cornerstone policy for MCSO's internal affairs system. We would submit that the deficiencies that have been identified in GH-2 should render MCSO not in Phase 1 compliance with paragraph 102. We recognize that this point may be moot, given that the second supplemental permanent injunction requires additional changes. Even then, however, in future reports we would advise against finding this policy in compliance for the purposes of paragraph 102 but not in compliance for the purposes of, for example, paragraph 167 of the second supplemental permanent injunction. For the purposes of the internal investigations policy, both of these paragraphs are aimed at the same end—a policy that provides adequate guidance on thorough, fair, and impartial misconduct investigations. It would be confusing to find that purpose served for paragraph 102 but not for paragraph 167.

Paragraph 105. On page 169, of the draft report, the Monitor writes:

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, was not submitted for review. We consistently noted in our early reviews that PSB should have an SOP that 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 echoed this concern.

We agree with the concern regarding MCSO's need to adopt a policy that provides guidance to investigators on how to consider the data noted in paragraph 105 of the supplemental permanent injunction. Due to this deficiency in MCSO's policy, we submit that the appropriate finding for Phase 1 compliance on page 170 for paragraph 105 should be not in compliance.

Section 11: Community Engagement

We have no comments on the Monitor's description of the community engagement efforts under taken by MCSO, the Monitor Team, and the Community Advisory Board over the past quarter. As we have noted in our comments to the Monitor's previous reports, however, attention to community engagement is essential to MCSO achieving compliance with the injunction and to restoring and promoting relations between MCSO and the Latino community. To that end, we would encourage MCSO to organize more community events and take steps to promote active participation by the community in such events, including providing adequate advance notice of the events and locating the events in areas and facilities that are inviting and easily accessible to the Latino community.

Paragraph 107. On page 173 of the draft report, the Monitor writes, in describing a community meeting held on April 20, 2016, that the Monitor team "made it clear that MCSO did

not have authority to enforce immigration laws, except to the extent that it is enforcing Arizona and federal laws.” We note that it would be more accurate to state that MCSO does not have authority to enforce federal immigration laws, without exception.

Paragraph 118. On page 178 of the draft report, the Monitor describes his continued efforts to encourage the Community Advisory Board to “transmit[] to [the Monitor] any complaints they have received that may require investigation.” It would be helpful for the parties, and for the public, to know if the Community Advisory Board has transmitted any such complaints to the Monitor and, if so, to have some information about the number and nature of such complaints. In addition, we would welcome the Monitor’s impressions and recommendations as to what steps might be taken by the Monitor and the Community Advisory Board to inform members of the public about the option of submitting complaints to the Community Advisory Board and to facilitate the submission of such complaints to the Community Advisory Board.

Maricopa County Sheriff's Office Comments on
Monitor's Draft 9th Quarterly Report

MCSO filed with the Court, MCSO's 9th Quarterly Report which delineates the steps that it has taken to implement and achieve full and effective compliance with the Court's Orders, its plans to correct encountered difficulties, and its responses to concerns raised in the Monitor's previous quarterly report. MCSO requests that the Monitor to consider this document as comments to the Monitor's draft 9th Quarterly Report as it contains relative feedback.

On page 54 of the draft 9th Quarterly Report, in relation to Paragraph 43, MCSO contends that it should be rated "deferred" for Phase 2 Compliance, as it has met the requirements of this Paragraph. As noted in MCSO's 9th Quarterly Report, ***"MCSO believes it currently meets the requirements of Paragraph 43 and asks that it be placed in a deferred status for Phase 2 Compliance. MCSO complies with the Order requirements that Order related Training consists of no less than 60% Live Training and no more than 40% online training. All Order related Training has included a testing component."***

On page 55 of the draft report, in relation to Paragraph 44, MCSO contends that the Monitor should acknowledge that MCSO is in deferred status for Phase 2 Compliance. In the 8th Quarterly Report, the Monitor wrote, ***"The inaccuracy of the Master Training Calendar is troubling and will continue to adversely affect compliance determinations for this Paragraph."*** In the Monitor's 9th Quarterly Report Draft, the Monitor writes, ***"During this reporting period, we continued to receive a 12-month version of the Master Training Calendar projected into 2017 that included projected delivery dates for several training programs. The inaccuracies in the Master Training Calendar that we previously identified appear to have been addressed."*** For this reason MCSO feels it should be rated "deferred" for Phase 2 Compliance with Paragraph 43.

On page 135 of the draft report, in relation to Paragraph 83, the Monitor notes that MCSO supervisors reported to them they do not have access to reports or statistics that could be used to assess deputy performance and productivity without making a special request to the Chief of Patrol. MCSO believes that this is a communication issue as opposed to an actual lack of access. MCSO notes that supervisors have 24 hour access to statistical reports that would assist supervisors to assess deputy performance. These statistical reports are readily available on MCSO's intranet. MCSO will instruct patrol supervisors as to where to locate these reports for their future use in evaluating deputy performance.

On page 138 of the draft report, in relation to Paragraph 83, for the months of May 2016 and June 2016, the Monitor indicates the Monitor Team reviewed crash reports which contain a supervisor's printed signature, but not the date of review/approval. ***MCSO explained to the Monitor Team in the past that Arizona Crash Report is a form controlled by the State of Arizona that MCSO cannot change.*** Unfortunately, this State generated form does not have a field that allows MCSO to demonstrate the date/time that the supervisor reviewed a crash report. Despite the fact that it cannot alter this State of Arizona form, MCSO has provided the Monitor Team with an alternative to satisfy the Monitor's desire to know that a supervisor has reviewed and either approved or rejected a Crash Report. In May 2016, MCSO began providing the Monitor Team a Crash Report Log in its response to the Monitor's monthly

document request. MCSO generates this Crash Report Log from the TraCS system, which specifically indicates when a reviewing supervisor has accepted or rejected an Arizona Crash Report. *Please see Example A from the May 2016 monthly document production and Example B from June 2016 monthly document production for Paragraph 83.*

The Monitor Team has expressed a similar concern with respect to the date and time when a supervisor has reviewed and either approved or rejected a Crash Report. On page 153 of the draft report, in relation to Paragraph 93, for the months of May 2016 and June 2016, the Monitor indicates that the Monitor Team has reviewed crash reports which contain a supervisor's printed signature, but not the date of review/approval. *MCSO explained to the Monitor Team in the past that Arizona Crash Report is a form controlled by the State of Arizona that MCSO cannot change.* Despite the fact that it cannot alter this State of Arizona form, MCSO has provided the Monitor Team with an alternative to satisfy the Monitor's desire to know the date and time when a supervisor has reviewed and either approved or rejected a Crash Report. In May 2016, MCSO began providing the Monitor Team a Crash Report Log in its response to the Monitor's monthly document request. *While the form does not have a field that allows MCSO to demonstrate the date/time that the supervisor reviewed a crash report, MCSO's Crash Report Log contains this desired information..* MCSO generates this Crash Report Log from the TraCS system which indicates when a reviewing supervisor accepted or rejected an Arizona Crash Report. *Please see Example C from the May 2016 monthly document production and Example D from June 2016 monthly document production for Paragraph 93.*

The following addresses the paragraphs of the October 13, 2014 Supplemental Order ("Order") which specifically relate to EIS. Hopefully, this will shed light on the status of EIS as it relates to MCSO's compliance with the following paragraphs of the Order: 54, 63-67, 72-79, 80, and 81. Recently, MCSO's counsel has shared this information with regard to compliance with these paragraphs with Plaintiffs and Plaintiff Intervenor.

As the Monitor Team is aware, development of EIS is a "massive undertaking" which involves MCSO's role and responsibilities, the roles and responsibilities of other involved parties, and what MCSO is awaiting to enable it to move closer to and to achieve "EIS compliance".

MCSO is actively working on the development of EIS with the Monitor Team's technical assistance. Certainly, the parties are not privy to all efforts of MCSO on this and other issues between site visits. But as the Monitor knows, however, MCSO is not idle between visits. MCSO is working to achieve compliance. There are other players in the mix, namely: ASU, the Monitor Team, EIU and MCSO personnel, CI Technologies, and the parties.

Moreover, during the last Monitor Site Visit and our September 26, 2016 telephone conference, Plaintiffs urged MCSO to contact Oakland, Detroit, and/or their vendors Microsoft and Sierra Systems for assistance to accelerate the speed of EIS development. But as Monitoring Team Member, Dr. Carnevale explained during the last site visit, while well intentioned, Plaintiffs suggestion is not a solution. As Dr. Carnevale explained, the system that MCSO is developing is simply different from what

Detroit and Oakland have. Input from these entities would not increase the pace of development and compliance.

Paragraph 54

Paragraph 54 and its subparts (a-m) detail what information MCSO shall collect during/after every traffic stop. MCSO collects the information identified in this paragraph; this information is captured in what is known as the Vehicle Stop Contact Form within our TraCs program. This form has been in existence for over two years now and is the focal point for all analysis that MCSO and ASU conducts.

In addition, MCSO adopted language from the paragraph in Policies EB-1, EB-2, EA-5, and CP-8. The Monitor has reviewed and approved these policies as of September 2014. MCSO believes that the Monitoring Team also recognizes that 99% of all sworn staff and existing posse members have received Training on these policies during the 4th and 14th Amendment Annual Training.

MCSO was in Phase 2 compliance with this paragraph since October, 2015. MCSO has adopted the Court's language into the policies noted above and provided training to its personnel on these policies.

While, MCSO had been in Phase 2 compliance since October 2015, it appears that MCSO may have fallen out of Phase 2 compliance with Paragraph 54 because one subparagraph (54.k). Subparagraph 54.k requires MCSO to document searches related to consent, probable cause, or pat and frisk. For the quarter under review for the Monitor's 9th Quarterly Report, the Monitor reviewed only 4 searches, 3 of which were documented on the vehicle stop contact form. Because one search was not documented, MCSO fell to a compliance percentage of 75%. Regardless of the fact that the Monitor believes that this search was legal and appropriate per body camera footage, because the search was not on the vehicle stop contact form, MCSO did not receive credit and its compliance percentage fell by 25%. Dr. Carnevale has commented recently regarding this low number of searches and the effect that it could have on MCSO's compliance. In a September 6, 2016 letter, Dr. Carnevale stated, "Given the low number of cases (searches), we need to re-examine the use of the statistical mean/standard deviation rule". In fact, Dr. Carnevale has recently suggested to EIU staff that it might be appropriate to track and report searches monthly, but that analysis of these searches might only be appropriate on a quarterly or annual basis.

Paragraph 63

Paragraph 63 requires the retention of traffic stop data and body worn camera recordings to be formalized in a policy. MCSO policies governing these requirements are included in EB-2 and GJ-35. According to the Monitor Team, the only item holding MCSO out of Phase 1 and Phase 2 compliance is the approval and dissemination of the Body Worn Camera Operations Manual. MCSO is working on these policies right now, specifically on rectifying the comments received from the Monitor and the parties. MCSO is committed to finalizing this Manual as quickly as possible.

Paragraph 64 (& Paragraph 67)

Paragraph 64 requires MCSO to develop a protocol for periodic analysis of the traffic stop data described in Paragraphs 54-59. The monitoring team states that Phase 1 compliance will be achieved once the protocol is established and documents not only methodologies applied during the analysis, but also thresholds to identify outliers. Phase 2 will be obtained when MCSO performs the analysis identified in the protocol.

Please note that EIS staff is drafting the protocol not only to cover the requirements of Paragraph 64, but also to function as an operations manual for all EIS activities/duties. Some of this protocol, however, hinges on issues that still need to be resolved related to Paragraph 67.

One issue is how MCSO would handle the subject of extended stops under Paragraph 67.b. MCSO received support from the Monitoring Team to proceed with MCSO's recommended methodology and definition of what constitutes an extended stop. The ACLU requested that MCSO consult with its IT staff to see if CAD could capture the time when the Deputy releases the subject from the scene. That consultation occurred. MCSO drafted a production request to address this issue.

Another issue is MCSO's proposed definition of what constitutes a minor traffic violation. The idea of minor traffic stop disparities surfaces in paragraph 67.a. MCSO is consulting with Dr. Carnevale to resolve this issue. Nevertheless, MCSO is still uncertain as to how the Monitoring Team wants it to handle low rates of seizures or arrests following searches as mentioned in paragraph 67.c. Dr. Carnevale originally developed a methodology and threshold values to perform the analysis, but when he realized the low number of searches and seizures arising from traffic stops, he stated he would have to reexamine this position. For now, Dr. Carnevale wants MCSO to keep track of the numbers and report the information to the Monitor Team via a monthly document request to determine how best to analyze the limited data. As a result, the EIU is not able to finalize the SPSS syntax and analyze the data because the exact methodology is not known, and ultimately MCSO cannot write a protocol for something not yet determined.

Nevertheless, EIU has already developed an implementation plan for the development, testing and deployment of the methodologies and thresholds presented to MCSO by the monitoring team. The parties and the Monitor Team are in possession of this document. The timeline for deployment, however, depends on the remaining issues noted above. Clearly, this reveals steps that MCSO has taken, as well as what is necessary, but out of its hands.

Paragraph 65

Paragraph 65 requires MCSO to designate a specific group to analyze the traffic stop data; review group members cannot analyze their own activities. The Monitor Team has indicated that MCSO will be in Phase 1 compliance once the updated version of the EIS policy is approved and associated training occurs. The Monitor Team has also indicated that Phase 2 compliance under this paragraph will be achieved when the policy is successfully implemented.

The EIS policy was submitted for review and MCSO received combined comments back from the Monitor on October 03, 2016. MCSO will expeditiously address any outstanding comments and re-submit the policy for the final round of evaluation.

EIU has also drafted the EIS lesson plan to mirror the new EIS policy but cannot finalize the lesson plan until the new policy is approved for dissemination. MCSO has identified and is taking the steps necessary on its part to achieve compliance under this paragraph.

Paragraph 66

Paragraph 67 requires MCSO to conduct one agency wide analysis of traffic stop data annually with the assistance of an outside vendor. MCSO has contracted with an outside vendor, specifically, criminal justice professors from the Arizona State University. The monitors currently hold MCSO is in Phase 1 compliance under this paragraph. Phase 2 compliance has not been achieved yet due to the issues that the Monitor Team has identified in the first annual analysis that MCSO/ASU conducted. This issue had been thoroughly discussed during conference calls, Monitor technical assistance site visits, and Monitor quarterly site visits. It appears that the Monitor Team is satisfied with the direction in which MCSO and ASU are going in light of their comments and suggestions, and has indicated in the draft 9th Quarterly Report that MCSO is poised to achieve Phase 2 compliance when these issues are addressed.

Paragraph 67

Paragraph 67 and its subsections (a-e) outline what the Court defines as possible warning signs or indicia of possible racial profiling or other misconduct as it relates to the analysis of traffic stop data. On May 18, 2016, as a result of significant discussion between the MCSO, the Monitor Team, and the parties, the Monitor Team provided MCSO with a list of ten defined benchmarks pursuant to Paragraph 67.

MCSO drafted Implementation Plan 1.0 which listed deliverable deadlines for each of the 10 benchmarks identified by the Monitor Team. The Monitor provided the methodology for 8 of 10 benchmarks. This implementation plan was submitted for processing to the Monitor Team and Parties on July 27, 2016 under document request JSVR 10.

When MCSO began working with ASU to build the SPSS syntax and to conduct the analysis for the Monitor identified benchmarks, additional questions/concerns surfaced pertaining to the methodology provided by the Monitor Team. Specifically, an issue arose regarding defining what the Court Order refers to as a "minor traffic stop" and the understanding of the different types of searches as they were proposed in the methodology for two of the benchmarks. The definition of the types of searches hinged around the understanding of what a "search incident to arrest" actually involved when trying to measure the Court Order requirements of an event occurring (seizure of contraband or arrest) following a "search and investigation."

Recently, MCSO worked with the Monitor Team during the Technical Assistance meetings and formulated solutions for these issues. MCSO submitted solutions with accompanied proposed methodology to the Monitor Team for review. These solutions increased the number of benchmarks to

11 to appropriately analyze the traffic stop data on a monthly basis. Implementation Plan 1.0 has been updated to reflect the additional benchmark.

The methodology pertaining to the “minor traffic stop” analysis was submitted for processing to the Monitor Team on August 17, 2016 under JSVR 10 ADDL 3. MCSO discussed this methodology with Dr. Carnevale on September 27, 2016 and received verbal approval to move forward with this solution. Thereafter, official, formal approval was received on September 28, 2016. Accordingly, MCSO is proceeding with this change in methodology.

In addition, MCSO submitted the methodology pertaining to the “search incident to arrest” issue to the Monitor Team on August 18, 2016 under JSVR 10 ADDL 5. A discussion between MCSO and Dr. Carnevale occurred on September 27, 2016 in which Dr. Carnevale indicated he needed to further evaluate this issue before officially responding to this process. What’s more, during the Monitor’s Technical Assistance meeting in August and in a letter sent to MCSO from the Monitor Team dated September 06, 2016, Dr. Carnevale acknowledged that his previous suggested methodology for the two benchmarks associated with the “search incident to arrest” issue (67.c) still need to be re-evaluated. These are all examples of things not in MCSO’s control. But MCSO is doing what is necessary on its end.

Furthermore, MCSO submitted the methodology pertaining to the “extended” stop issue which was also the source of significant debate during the July 2016 Monitor Site Visit to the Monitor Team on August 18, 2016 for processing. In a conference call on September 26, 2016 MCSO received verbal approval from the Monitor to move forward with its proposed methodology, with an addition of a data collection point. MCSO is proceeding forward with this change.

Over the last two Monitor Site Visits, MCSO proposed methodology for the benchmark pertaining to identifying indicators that deputies are not complying with required data collection requirements (67.d). This involved changes to the EIS, multiple administrative broadcasts, and changes to the TraCS system. The Monitor Team posed several concerns/comments with one of the administrative broadcasts suspending the roll out of these specific TraCS changes which were scheduled to occur in September 2016. At this time, MCSO is researching these comments/concerns of the Monitor Team to respond.

As outlined in MCSO Implementation Plan 1.0 and within the Monitor’s draft 9th Quarterly Report, MCSO has had a formal process in place to address the benchmark involving immigration status inquiries with the thresholds listed in documents that Dr. Carnevale provided MCSO on May 18, 2016. This methodology and the requested thresholds have been in place since May 31, 2016.

In reviewing the Monitor’s draft 9th Quarterly Report, the Monitor indicates that MCSO is in Phase 1 compliance with Paragraph 67. However, Phase 2 compliance is dependent on the development and implementation of Monitor Team approved benchmarks and thresholds.

While MCSO has listed targeted deliverable deadlines within Implementation Plan 1.0 pertaining to Paragraph 67, MCSO is reluctant to provide specific, targeted deadlines. Clearly, MCSO is not the sole player in this process. The process of putting all subsections into practice, building SPSS syntax, and

building monthly reports for Paragraph 67 are contingent on outside entities, approval, and feedback not within MCSO's control.

Paragraph 70

Paragraph 70 pertains to the requirements that MCSO must take reasonable steps to investigate and closely monitor situations in which traffic stop data analysis indicates that a particular deputy may be engaging in racial profiling, unlawful searches or seizures, or unlawful immigration enforcement.

MCSO Policy GH-5, Early Identification System, was previously approved by the Monitor Team and the parties, and published in the fall of 2015. MCSO, in accordance with recommendations from the Monitor Team and the parties, also drafted a major revision to the EIS 2 Lesson Plan. The EIS 2 Lesson Plan is the foundation for the required Court Ordered EIS Training for supervisors. This lesson plan is currently on the fourth round of comments which MCSO received on October 03, 2016. MCSO is currently addressing the most recent comments and will resubmit the policy for review/approval.

Incorporated into this Lesson Plan were substantial changes which mirrored the changes submitted in the revised EIS Policy. The most recent revision of the EIS 2 Lesson Plan was received back from the Monitor Team with comments on June 14, 2016. This is the version that was submitted for processing to the Monitor Team on April 23, 2016. It is important to note that several of the comments listed within the EIS 2 Lesson Plan pertain to its not matching the current MCSO version of the EIS Policy (GH-5). As a result, a substantial revision to the EIS Policy was drafted and submitted to the Monitor Team and the parties on July 18, 2016.

The EIS Policy (GH-5) was subsequently returned to MCSO for review for possible revisions pursuant to the Second Amended Supplemental Permanent Injunction/Judgment Order. MCSO added additional language (one additional line) to the policy to address issues presented under Paragraph 175 of the new Order. MCSO submitted EIS Policy (GH-5) to the Monitor Team for review on August 09, 2016. MCSO received the combined comments from the Monitor Team on October 03, 2016 and is the process of addressing those comments and will resubmit the policy to the Monitor for review as soon as possible. The modifications to the EIS 2 Lesson Plan are contingent on the finalization of the EIS Policy to be in compliance with the Court Orders.

MCSO has previously identified and acknowledged the limitations of the processes by which supervisors are addressing alert and traffic stop data information. The cause of these limitations and the inability to meet compliance requirements of this paragraph (70) is due to the need to finalize EIS training. Once the EIS Policy (GH-5) is finalized, MCSO is committed to resolving the concerns from the Monitor Team and the parties pertaining to the EIS 2 Lesson Plan.

It is also important to note that MCSO has also acknowledged, and discussed with the Monitor Team during the July Monitor Site Visit and the August Technical Assistance Meeting, the need for additional training specifically pertaining to the how to review/analyze/interpret the new monthly, quarterly, and annual traffic stop data analysis. While this analysis is being completed in stages, once a couple of the processes are established, MCSO will develop associated training. While this training will be conducted

for sworn personnel in concert with the EIS 2 Lesson Plan, in the interest of efficiency, MCSO will create a separate standalone lesson plan with feedback/assistance of the Monitor Team and ASU staff.

MCSO submitted an explanation of the projected training regarding traffic stop data analysis under TSAR 6 that had been submitted for processing to the Monitor Team on September 06, 2016. MCSO originally projected the training on EIS and this addition to begin in November 2016. However, it appears that those prospective training dates will need to be pushed back as MCSO awaits the Monitor's finalization of the monthly analysis reports and Monitor's approval of the EIS Policy. In fact, the Monitor's draft 9th Quarterly Report indicates that MCSO is not currently in compliance with Phase 1 or Phase 2 due to the need to finalize training, policy, and practice.

Paragraph 72, 73, 74, 78, 80, and 81

Paragraphs 72, 73, 74, 78, 80, and 81 all involve the concepts and compliance issues pertaining to the EIS System. Upon review of the Monitor's draft 9th Quarterly Report, it is indicated that MCSO will be in compliance with these paragraphs once the EIS Policy revision and the EIS Training are finalized and delivered. The current status of those two issues is outlined above.

Paragraph 75

Subsections a-n of Paragraph 75, relate to the requirements of various information which must be incorporated into the EIS computerized relational database. There are 14 different categories of information which are listed within Paragraph 75. As previously noted above, on July 19, 2016, MCSO submitted significant changes to EIS Policy (GH-5) which account for all of the requirements listed in Paragraph 75; on August 09, 2016 MCSO also submitted a revision to this policy which reflects the new Order. MCSO received the combined comments from the Monitor on October 03, 2016. MCSO will address the comments and resubmit the EIS Policy GH-5 to the Monitor for review/approval. This policy revision is the foundation for the EIS 2 Lesson Plan; approval of this policy is necessary so that MCSO can work on implementing the processes to achieve compliance.

The draft Monitor's 9th Quarterly Report indicates that MCSO is not in compliance with any of the subsections of these paragraphs. During the July 2016 Monitor Site Visit, MCSO proposed an integration process to resolve concerns and questions with respect to including all of the required information into a relational database known as the EIS. MCSO received feedback from the Monitor Team regarding a formal proposal pertaining to the minimal data elements. MCSO is in the process of drafting a response to the comments/concerns from the Monitor Team and the integration proposal which has already been drafted with the vendor, CI Technologies. This integration process will address all of the Monitor Team's most recent comments and concerns. MCSO is also in the process of building a mock example of the integration process and anticipates presenting a demonstration of this process to the Monitor Team and the parties during the October 2016 Monitor Site Visit. Furthermore, MCSO continues to work with the vendor to build the actual interface process which has an expected development phase beginning in October 2016 and an initial, completion phase of the interface process expected in December 2016. However, MCSO is not in the position to guarantee any completion date, which is the province of CI Technologies and driven by factors out of its control.

Following the development and testing of the interface process, MCSO must then subsequently introduce each, additional, incident type with the appropriate information required to make the EIS a relational database. In the interim, the EIU continues to work with the MCSO Technology Bureau to draft these multiple incident types. This process is further complicated because modifications are still being made to the Vehicle Stop Contact Form, the IR process, and the FI Card process, as well as several other procedural adjustments, all of which need to occur before the data required under this paragraph is collected and accessible in a format that makes it eligible for introduction to integration process.

Furthermore, some of the data elements and information are not currently housed within the control of the MCSO. For example, information pertaining to Paragraph 75, subsection i, is exclusively within the control of the Maricopa County Superior Court and various Maricopa County Municipal Courts. While communication and cooperation with these Courts has been ongoing and cooperative, the timetable for further progress is contingent on these entities which are outside the control of MCSO.

With regard to Paragraph 75, subsection a and subsection b, MCSO has been exploring a solution to overcome the reoccurring obstacle of allowing open complaint information to be viewable/accessible to supervisors. Working with the vendor and PSB, MCSO has identified a solution to this obstacle and submitted a formal proposal to the Monitor Team under document request JSVR 6 ADDL 1 on September 26, 2016. If and when this proposal is approved, MCSO can continue with the development of this process, which as indicated in the document request, would require a transition process to put the functionality into practice. Since May 18, 2016 MCSO supervisors have had access to view information pertaining to closed internal and external complaints via the EIS. This functionality was announced agency wide on August 24, 2016 via an Administrative Broadcast that was approved by the Monitor Team and Parties.

Subsection l is the requirement of MCSO to incorporate all awards and commendations received by employees into the EIS. The EIU submitted a proposal under a revision to the MCSO Awards Policy in March 2016. The policy revision was forwarded to the Monitor Team for review. In July 2016 MCSO received comments back from the Monitor Team regarding this policy. MCSO met with the Monitor Team during the July Monitor Site Visit and addressed all concerns and issues pertaining to this policy. This policy was published by MCSO on August 26, 2016. The subsequent modifications are being made to the EIS to incorporate these policy changes. The EIU anticipates this process to be completed prior to the October Monitor Site Visit and, therefore, to fulfill the requirements of this subsection.

The Monitor's draft 9th Quarterly Report also makes reference to this paragraph and the requirement to allow search functionality by the supervisor of the various information housed within the EIS for his/her subordinates via the EI Pro software. MCSO has worked with the vendor, CI Technologies, on this issue and a software update has been developed. The software allows for this functionality which was referenced and discussed during the July Monitor Site Visit. MCSO has been working on a testing process of this update, but has experienced some complications upon initially attempting to apply it to production. These complications were immediately rectified and MCSO has resumed a testing phase for this update.

The EIU has also drafted Implementation Plan 3.0 which outlines each of the specific items outlined within Paragraph 75. This plan outlines the current status of, and/or projected timelines within which MCSO anticipates accomplishing these tasks. It is important to note that while there are dates listed in this implementation plan, these processes are still contingent upon responses and/or entities outside the control of MCSO. Several of these changes are outlined within the submitted MCSO EIS Policy on which MCSO has not yet received comments/feedback, as previously noted.

Paragraph 76 and 79

Paragraphs 76 and 79 all involve the requirements of specific types of incidents to be incorporated into the EIS under Paragraph 75. Upon review of the Monitor's draft 9th Quarterly

Report, it is indicated that MCSO will not be in compliance with these paragraphs until MCSO fulfills the requirements of the data elements necessary under Paragraph 75. Please refer to the comments above regarding Paragraph 75 above.

Paragraph 77

Paragraph 77 requires MCSO to maintain computer hardware and equipment with ready and secure access to permit the timely input and review of EIS information. In the Monitor's draft 9th Quarterly Report, the Monitor indicates that MCSO is and has been in compliance with Paragraph 77.

Example A

UserID	FormNumber	FormName	LogDate	LogTime	ActionName	Description
S1342	IR16012495	Arizona Crash Report	5/10/2016	21:14:16	Accept	S1578: Accept Form
S2060	IR16012581	Arizona Crash Report	5/19/2016	18:05:41	Accept	S1839: Accept Form
S1645	IR16012597	Arizona Crash Report	6/20/2016	11:13:05	Accept	S1521: Accept Form
S1928	IR16012608	Arizona Crash Report	5/12/2016	10:11:31	Accept	S1299: Accept Form
S1114	IR16012614	Arizona Crash Report	5/13/2016	17:59:06	Accept	S1417: Accept Form
S2021	IR16012620	Arizona Crash Report	5/18/2016	4:45:30	Accept	S1285: Accept Form
S1355	IR16012621	Arizona Crash Report	5/12/2016	7:34:38	Edit	S1639: Supervisor Needs to Validate for deputy who is not present
S1355	IR16012621	Arizona Crash Report	5/12/2016	7:40:03	Reject	S1639: Confirm if the vehicle which was avoid was turning left or right. Add SRP pole info
S1355	IR16012621	Arizona Crash Report	5/14/2016	19:21:31	Accept	S1639: Accept Form
S2056	IR16012622	Arizona Crash Report	6/20/2016	11:11:23	Accept	S1819: Accept Form
S1917	IR16012626	Arizona Crash Report	5/13/2016	3:12:42	Accept	S1678: Accept Form

Example B

UserID	LocationID	formnumber	FormName	LogDate	LogTime	ActionName	Description
S1620	5042	IR16014937	Arizona Crash Report	6/10/2016 0:00	5:15:29	Accept	S1131: Accept Form
S1864	5042	IR16014940	Arizona Crash Report	6/10/2016 0:00	5:17:48	Reject	S1131: Deputy advised of correction needed.
S1864	5042	IR16014940	Arizona Crash Report	6/10/2016 0:00	5:33:07	Accept	S1131: Accept Form
S1114	5056	IR16014942	Arizona Crash Report	6/3/2016 0:00	10:59:44	Accept	S1927: Accept Form
S1684	5056	IR16014946	Arizona Crash Report	6/3/2016 0:00	11:50:56	Accept	S1927: Accept Form
S1114	5056	IR16014974	Arizona Crash Report	6/3/2016 0:00	16:25:54	Accept	S1927: Accept Form
S2080	5044	IR16014975	Arizona Crash Report	6/8/2016 0:00	8:46:38	Accept	S1826: Accept Form
S1684	5056	IR16014976	Arizona Crash Report	6/3/2016 0:00	17:34:00	Accept	S1927: Accept Form
S1794	5044	IR16014982	Arizona Crash Report	6/8/2016 0:00	8:45:22	Accept	S1826: Accept Form
S2054	5043	IR16014989	Arizona Crash Report	6/10/2016 0:00	7:05:18	Accept	S1773: Accept Form
S1946	5042	IR16014998	Arizona Crash Report	6/7/2016 0:00	1:59:27	Accept	S1896: Accept Form
S2009	5042	IR16014999	Arizona Crash Report	6/4/2016 0:00	8:28:45	Accept	S1896: Accept Form
S1939	5043	IR16015006	Arizona Crash Report	7/15/2016 0:00	9:47:19	Accept	S0969: Accept Form
S2000	5043	IR16015007	Arizona Crash Report	6/5/2016 0:00	5:37:44	Accept	S1665: Accept Form

Example C

UserID	LocationID	FormNumber	FormName	LogDate	LogTime	ActionName	Description
S1168	5056	IR16011847	Arizona Crash Report	5/6/2016	8:57:35	Accept	S1417: Accept Form

Example D

UserID	LocationID	formnumber	FormName	LogDate	LogTime	ActionName	Description
S2067	5041	IR16014742	Arizona Crash Report	6/11/2016 0:00	13:34:03	Accept	S1252: Accept Form
S1168	5056	IR16014855	Arizona Crash Report	6/3/2016 0:00	11:17:13	Accept	S1927: Accept Form
S2075	5042	IR16015390	Arizona Crash Report	6/14/2016 0:00	0:15:30	Reject	S1465: Clerical errors in the narrative boxes reference the status of vehicle removal need to be complete
S2075	5042	IR16015390	Arizona Crash Report	6/14/2016 0:00	4:07:41	Accept	S1465: Accept Form