

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



Reporting Period – Second Quarter 2017
Chief (Ret.) Robert S. Warshaw
Independent Monitor
November 19, 2017

Table of Contents

Section 1: Introduction.....	3
Section 2: Methodology and Compliance Summary.....	5
Section 3: Implementation Unit Creation and Documentation Request.....	8
Section 4: Policies and Procedures.....	12
Section 5: Pre-Planned Operations.....	42
Section 6: Training.....	47
Section 7: Traffic Stop Documentation and Data Collection.....	58
Section 8: Early Identification System (EIS).....	94
Section 9: Supervision and Evaluation of Officer Performance.....	119
Section 10: Misconduct and Complaints.....	141
Section 11: Community Engagement.....	145
Section 12: Misconduct Investigations, Discipline, and Grievances.....	152
Section 13: Community Outreach and Community Advisory Board.....	224
Section 14: Supervision and Staffing.....	225
Section 15: Document Preservation and Production.....	229
Section 16: Additional Training.....	234
Section 17: Complaints and Misconduct Investigations Relating to Members of the Plaintiff Class.....	235
Section 18: Concluding Remarks.....	253
Appendix: Acronyms.....	255

Section 1: Introduction

This is the thirteenth report issued in my capacity as the Court-appointed Monitor in the case of *Manuel de Jesus Ortega Melendres, et al., v. Paul Penzone, et al.* (No. CV-07-02513-PHX-GMS), and documents activities that occurred during the second quarter of 2017. 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. Recent Orders from the Court have reduced my responsibilities in the areas of community engagement and Property Unit operations, as described in this report.

On May 13, 2016, the Court issued its Findings of Fact in the civil contempt proceedings that commenced in April 2015. This led to the issuance of a Second Supplemental Permanent Injunction/Judgment Order (Second Order) on July 20, 2016, significantly expanding the duties of the Monitor. Our reports now cover the additional requirements of the Second Order while continuing to document MCSO's compliance efforts with the First Supplemental Permanent Injunction/Judgment Order (First Order) issued in October 2013. We will provide summaries of compliance with both Orders separately, as well as a summary of MCSO's overall, or combined compliance.

The compliance Paragraphs of the Second Order commence where the First Order ends, and they are numbered from Paragraph 160 through and including Paragraph 337. Not all are subject to our review. For example, the Second Order outlines the duties of the 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.

This report covers the period from April 1-June 30, 2017 – the second quarter of Sheriff Penzone's administration. We continue to enjoy a close working relationship with the Sheriff and his upper command staff. Unlike the prior administration, they participate fully in our site visits and actively communicate with us between our site visits. As mentioned in our last report, the Maricopa County Attorney's Office (MCAO) has taken over exclusive representation of MCSO as it pertains to compliance. MCAO has also established a collaborative and collegial working relationship with the Parties and my Team. We continue to note that the majority of the issues identified in this report have their genesis under the previous administration – and some date back years. These systemic issues will not be resolved in a matter of months.

During this reporting period, MCSO finalized incorporating the elements required by the First Order into its Early Identification System (EIS). At the end of the last reporting period, only three EIS items remained outstanding, and the Parties entered in an agreement as to when the items would be incorporated, and when the required training would commence. MCSO met the target date for including these items – June 1, 2017 – but two items were run in a test environment through the month of June before becoming fully operational.

Just prior to our April site visit, MCSO discovered a serious flaw in its traffic stop data, which highlighted the need for greater data quality assurance procedures. The Parties discussed this issue at length during a status conference held during our April site visit; and subsequently agreed upon – and filed with the Court – target dates to resolve this issue. During this reporting period, MCSO, in consultation with us and the Parties, conducted a rigorous review of its data-handling and data-cleaning procedures. MCSO also verified the accuracy of each of the data elements used in its traffic stop analyses – and in particular, the annual analysis, which needed to be completely rerun because of the discovered data flaw. MCSO must still complete the memorialization of these processes and procedures so that they are performed in the same way each time, regardless of whether the personnel involved change over time. The rerun of the annual traffic stop analysis was completed just prior to our July site visit, and we discussed it at length during that visit. In essence, the findings of systemic bias on an organizational level did not change.

As noted in our last report, during a status conference on April 18, the Parties committed to finalizing and publishing the key policies governing the disciplinary process within 30 days of that hearing. That target date was met during this reporting period. This allowed for the finalization of the 40 hours of comprehensive training on conducting employee misconduct investigations, which, pursuant to the Second Order, must be provided to all supervisors and all personnel assigned to the Professional Standards Bureau (PSB). The train-the-trainer sessions for this training have been completed with technical assistance from our Team. Similarly, we assisted with the train-the-trainer session for the EIS Training, which must be delivered by November 1, 2017 pursuant to a stipulation of the Parties. We have also continued to provide technical assistance, with the participation of all of the Parties, regarding the processes for addressing outliers identified in MCSO's second Traffic Stop Annual Report (TSAR).

Section 2: Methodology and Compliance Summary

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

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

We use four levels of compliance: In compliance; Not in compliance; Deferred; and Not applicable. "In compliance" and "Not in compliance" are self-explanatory. We use "Deferred" in circumstances in which we are unable to fully determine the compliance status – due to a lack of data or information, incomplete data, or other reasons that we explain in the narrative of our report. We will also use "Deferred" in situations in which MCSO, in practice, is fulfilling the requirements of a Paragraph, but has not yet memorialized the requirements in a formal policy.

For Phase 1 compliance, we use "Not applicable" for Paragraphs where a policy is not required; for Phase 2 compliance, we use "Not applicable" for Paragraphs that do not necessitate a compliance assessment.

The tables below summarize the compliance status of Paragraphs tracked in this report.¹ As noted above, this is our fourth quarterly status report in which we report on MCSO's compliance with both the First and Second Orders. During this reporting period, MCSO's overall Phase 1 compliance rate with the **First Order** increased by nine percentage points, from 79% to 88%; and MCSO's overall Phase 1 compliance rate with the **Second Order** increased by 60 percentage points, from 12% to 72%. These improvements are in large part due to the publication of GH-2 (Internal Investigations) and GC-17 (Employee Disciplinary Procedures). MCSO committed to finalizing GH-2 and GC-17 within 30 days of the April status conference, and published both policies on May 18, 2017. This is a significant milestone, as Phase 1 compliance with numerous Second Order Paragraphs was contingent on the publication of these policies. We have been working for nearly one year providing technical assistance on the development of the misconduct investigations training required by the Second Order – training

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 179 for Phase 1. The number of Paragraphs included in the denominator totals 202 for Phase 2.

that will include the content of these two policies. As this training is now set for delivery, we are granting MCSO Phase 1 compliance with these two policies where applicable. If the misconduct investigation training is not completed by the publication of our next report, we will revisit this compliance ruling.

We also note that on August 3, 2017, pursuant to a request from MCSO, the Court returned the community engagement responsibilities outlined in Section XII of the First Order from the Monitor to MCSO. Consequently, in our next quarterly status report, we will transition from reporting our activities in this area to commenting on MCSO's compliance with these new responsibilities. Therefore, the number of Paragraphs being monitored for agency compliance will change.

During this reporting period, MCSO's overall Phase 2 compliance rate with the **First Order** increased by 10 percentage points, from 57% to 67%; and MCSO's overall Phase 2 compliance rate with the **Second Order** increased by three percentage points, from 60% to 63%.

Thirteenth Quarterly Report First Order Summary		
Compliance Status	Phase 1	Phase 2
Not Applicable	14	1
Deferred	0	3
Not in Compliance	9	26
In Compliance	66	59
Percent in Compliance	88%	67%

Thirteenth Quarterly Report Second Order Summary		
Compliance Status	Phase 1	Phase 2
Not Applicable	19	9
Deferred	1	9
Not in Compliance	28	33
In Compliance	75	72
Percent in Compliance	72%	63%

Thirteenth Quarterly Report Overall Summary		
Compliance Status	Phase 1	Phase 2
Not Applicable	33	10
Deferred	1	12
Not in Compliance	37	59
In Compliance	141	131
Percent in Compliance	79%	65%

MCSO's Compliance with the Requirements of the First Order (<i>October 2, 2013</i>)													
	Report 1	Report 2	Report 3	Report 4	Report 5	Report 6	Report 7	Report 8	Report 9	Report 10	Report 11	Report 12	Report 13
Phase 1	4%	10%	44%	40%	51%	57%	61%	60%	67%	60%	63%	79%	88%
Phase 2	0%	0%	26%	25%	28%	37%	38%	39%	44%	49%	50%	57%	67%

MCSO's Compliance with the Requirements of the Second Order (<i>July 20, 2016</i>)													
	Report 1	Report 2	Report 3	Report 4	Report 5	Report 6	Report 7	Report 8	Report 9	Report 10	Report 11	Report 12	Report 13
Phase 1	N/A									1%	10%	12%	72%
Phase 2	N/A									43%	46%	60%	63%

First Supplemental Permanent Injunction/Judgment Order

Section 3: Implementation Unit Creation and Documentation Requests

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

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

Phase 1: In compliance

- Court Implementation Division Operations Manual, currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: In compliance

To verify Phase 2 compliance with this Paragraph, we reviewed monthly rosters for this reporting period.

As of this reporting period, CID has the following personnel: two lieutenants; six sergeants; two deputies; one management assistant; and one administrative assistant. Since our July site visit, we learned that three sergeants were transferred out of CID while two new sergeants were transferred into the division. CID continues to be supported by MCAO attorneys, who frequently participate in our meetings and telephone calls with division personnel.

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

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

Phase 1: In compliance

- Court Implementation Division Operations Manual, currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: In compliance

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

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

Phase 1: In compliance

- Court Implementation Division Operations Manual, currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: In compliance

On September 11, 2017, CID published its most recent quarterly report as required by this Paragraph. The report covers the period from April 1-June 30, 2017, the second quarter of compliance activity under Sheriff Penzone. The report is divided into the Order sections, which in turn are divided among the numbered Paragraphs. For each section, MCSO provides an overview of the agency's activities working toward compliance. For each Paragraph, MCSO offers comments on the compliance status and provides responses to concerns raised in our previous quarterly status report, published on July 28, 2017. MCSO's report, as in the past, includes a table developed with the information provided in our previous quarterly status report.

During this reporting period, MCSO, via MCAO, began working with the Parties to amend the First Order in order to reclaim the community engagement requirements that had been delegated to the Monitor. On August 3, 2017, the Court granted MCSO's request that it take on the responsibility for planning, organizing, advertising and hosting the community meetings. We supported MCSO's initiative on this section of the Order; and moving forward, we will assess MCSO's compliance with the community engagement requirements.

The report documents in detail the steps MCSO has taken to implement the requirements of both Orders. MCSO achieved two significant accomplishments during this reporting period. First, two major policies on internal investigations were approved: GH-2 (Internal Investigations) and GC-17 (Employee Disciplinary Procedures). Second, training efforts continued during this quarter, with 98.6% of all MCSO supervisors attending the Employee Performance Appraisal Course. Finally, although MCSO has faced multiples challenges with the EIS-related requirements, MCSO reported that during this quarter it incorporated all the data requirements within the EIS relational database, as required by the First Order.

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

Phase 1: In compliance

- Court Implementation Division Operations Manual, currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: In compliance

See Paragraph 13.

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

Phase 1: In compliance

- Court Implementation Division Operations Manual, currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: In compliance

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

Consistent with this agreement, on September 15, 2016, MCSO filed with the Court its 2016 Annual Compliance Report in compliance with this Paragraph. During our July 2017 site visit, we discussed the annual report requirement with the new administration.

Section 4: Policies and Procedures

COURT ORDER V. POLICIES AND PROCEDURES

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

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

Phase 1: In compliance

- GA-1 (Development of Written Orders), most recently amended on November 3, 2016.

Phase 2: Deferred

MCSO has taken steps toward a comprehensive review of its Patrol Operations Policies and Procedures in four phases. First, on December 31, 2013, prior to my appointment as Monitor, MCSO filed with the Court all of its policies and procedures, with amendments, that MCSO believed complied with the various Paragraphs of the First 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 maintains are applicable to the First 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 the policies to be disseminated in Detentions, Arrests, and the Enforcement of Immigration-Related Laws Training; and the Bias Free Policing Training (often referred to as Fourth and Fourteenth Amendment Training) that commenced in early September. We reviewed MCSO's updated policies and provided our approval for several on August 25, 2014.

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

In its response, MCSO noted that several policies were currently in compliance with the First and Second Orders. However, MCSO also determined that several policies required changes to comport with the First Order, Second Order, or both. MCSO continues to make the necessary revisions on these policies. There are two that are currently outstanding: ED-3 (Review of Cases Declined for Prosecution) and GJ-3 (Search and Seizure). Once MCSO publishes ED-3 and GJ-3, it will achieve compliance with this Paragraph.

In the meantime, we are continuing to defer our compliance assessment with Paragraph 19 for this reporting period.

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

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

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

Phase 1: In compliance

- CP-2 (Code of Conduct), most recently amended on January 6, 2017.
- CP-8 (Preventing Racial and other Bias-Based Policing), most recently amended on August 2, 2016.
- EA-5 (Enforcement Communications), most recently amended on December 8, 2016.
- EA-11 (Arrest Procedures), most recently amended on June 15, 2016.

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- GJ-33 (Significant Operations), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: Not applicable

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

MCSO's implementation of these policies is covered in the other Paragraphs of the Order.

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

Phase 1: In compliance

- CP-8 (Preventing Racial and other Bias-Based Policing), most recently amended on August 2, 2016.
- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: In compliance

BIO has made some changes and adjustments in the way it captures and reports information related to sworn and Detention supervisors reinforcing the prohibition against discriminatory policing. In the first quarter of 2016, we agreed to MCSO's methodology that randomly selects the personnel to be inspected during the first month of the reporting period. MCSO then inspects the Supervisory Notes on these same employees 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 methodology facilitates the improved review and evaluation of supervisors' interactions with employees, as it relates to the reinforcement of policies prohibiting racial and bias-based profiling. We also continue to remind MCSO that compliance with this Paragraph is dependent on specific and articulated reinforcement from supervisors – not merely an entry that there is no indication of any discriminatory policing.

For the audit of Supervisory Notes of sworn personnel for this reporting period, we selected a random sample of 37 employees. MCSO then audited the Supervisory Notes pertaining to the selected employees. In its inspection report for the second quarter of 2017 BIO reported a 100% compliance rate. We reviewed the same Supervisory Notes and affirmed BIO's findings.

For the audit of Detention Supervisory Notes for this reporting period, the Monitoring Team randomly selected 35 employees. We reviewed the Supervisory Notes submitted for each month of the quarter, and found that 33 of the 35 employees had an appropriate supervisory entry reiterating that discriminatory policing is unacceptable. For the period in review, the compliance rate for Detention was 94%. MCSO is now in compliance with Paragraph 22.

We recognize MCSO's efforts, as MCSO achieved compliance with the requirements of this Paragraph, for both sworn and Detention, during this reporting period. Also 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 audits and inspections are covered in Paragraph 23.

Paragraph 23. *Within 30 days of the Effective Date, MCSO shall modify its Code of Conduct to prohibit MCSO Employees from utilizing County property, such as County e-mail, in a manner that discriminates against, or denigrates, anyone on the basis of race, color, or national origin.*

Phase 1: In compliance

- CP-2 (Code of Conduct), most recently amended on January 6, 2017.

Phase 2: In compliance

BIO uses a randomizing program to select samples for each inspection. BIO reviews CAD messages in an effort to identify compliance with MCSO policies CP-2 (Code of Conduct), CP-3 (Workplace Professionalism), and GM-1 (Electronic Communications and Voicemail). In its submission, 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 mechanics involved in conducting these audits. For CAD and email audits, we receive copies of the audits completed by BIO, the details of any violations found, and copies of the memoranda of concern or BIO Action Forms that are completed.

During this reporting period, MCSO conducted three CAD and Alpha Paging audits. BIO inspected 26,808 CAD/Alpha Paging messages for April 2017 and reported a 100% compliance rate. BIO inspected 21,774 CAD/Alpha Paging messages for May 2017 and reported a 100% compliance rate. BIO inspected 27,678 CAD/Alpha Paging messages for June 2017 and reported a 100% compliance rate.

During this reporting period, MCSO conducted three email audits. For April 2017, the BIO Inspection Report (BI2017-0050) stated that there were a total of 6,972 emails, of which 5,874 were reviewed. The number of emails reviewed is generally less than the total number of emails due to the elimination of routine business-related and administrative emails generated by the Office, such as training announcements and Administrative Broadcasts. The BIO Inspection Report for April 2017 states that BIO found that 5,874 of the inspected emails were in compliance, for a 100% compliance rate. BIO inspected 8,353 of 10,797 emails for May 2017 (Inspection Report BI2017-0062), and reported a 100% compliance rate. BIO inspected 7,729 of 9,559 emails for June (Inspection Report BI2017-0077), and reported a 100% compliance rate, finding no deficiencies.

During this reporting period, BIO conducted three facility inspections: one in April; one in May; and one in June. These inspections were conducted at the District 2 facility, the Food Services Division, and the Enforcement Support Facility.

On April 26, 2017, BIO conducted an inspection of the District 2 facility. The inspection of the District's property and evidence procedures showed 48 items in the "submitted" section were waiting for review, pick-up, and transport to Property and Evidence. The inspection failed to locate 13 of the 48 property items. One BIO Action Form was issued in response to the items that were unaccounted for. No evidence was discovered that the facility, or any equipment therein, was being used in a manner that discriminates or denigrates anyone on the basis of race, color, or national origin. During our July site visit, we conducted an inspection of the District 2 facility and noted no issues of concern.

On May 9, 2017, BIO conducted an inspection of the Food Services Division. The Food Services Division is responsible for the preparation of all meals for inmates being held at Maricopa County Jails. BIO found that all of the areas, documents, and records it inspected were in compliance with applicable policies and directives. As a result of the inspection's 100% compliance rating, no BIO Action Forms were issued.

On June 26, 2017, BIO conducted an inspection of the Enforcement Support Facility, and noted one deficiency. During the inspection, BIO personnel found an Arizona identification card in a desk drawer. The improper seizure of identification documents, and related recordkeeping, was a previous area of concern. We requested and received additional information regarding this case. The license belonged to a teenaged applicant to the Explorer program, and was left behind when he applied to the program. MCSO's attempts to contact the applicant were unsuccessful. It appears that the license was not improperly seized or confiscated. No evidence was discovered that the facility or any equipment therein was being used in a manner that discriminates or denigrates anyone on the basis of race, color, or national origin.

All three audits found that there was no evidence indicating that any of the facilities were 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 2017 site visit, we visited Districts 2 and 7, and Lake Patrol, and found no signage, pictures, or other indication of County property used in violation of this Paragraph.

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

Phase 1: Not in compliance

- GI-7 (Processing of Bias-Free Tips), currently under revision.

Phase 2: Deferred

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. During this reporting period, the Judicial Enforcement Division reported that it received 48 tips. MCSO did not conduct any operations that were relevant to this Paragraph.

Enforcement Support receives tips that are not all tracked or recorded. The information received is related to arrest warrants. A unit member tracks the tips that are distributed on a spreadsheet. During this reporting period, Enforcement Support reported that it received 352 tips. There were no operations conducted that were relevant to this Paragraph.

The Major Crimes Division manages one active hotline and an associated electronic mailbox that community members can use to report complaints of suspected animal abuse. Both are advertised on MCSO's website. During this reporting period, the Major Crimes Division reported that it received 137 tips related to animal abuse. MCSO did not conduct any operations that were relevant to this Paragraph.

Special Investigations maintains a Drug Line Report. This report contains information provided by callers regarding possible drug activity. The form includes fields for a call number, call time, category of possible offense, reported details, and disposition. The Special Investigations Division reported that it received 58 tips via its drug tip-line. We reviewed these and found no evidence of bias or requests for law enforcement based on race or ethnicity. MCSO did not conduct any operations that were relevant to this Paragraph.

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.

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 us 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. During this reporting period, District 1 did not report any activity relevant to this Paragraph, and no operations were conducted.
- 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, and no operations were conducted. During our July site visit, we verified that District 2 does not generally receive tips directly from the public.
- District 3 reported that it accepts complaints from community members regarding potential criminal activity via mail, email, telephone, and walk-up traffic. It does not track actions taken regarding these complaints, but reported that they are generally assigned to the supervisor most able to respond to the complaint. During this reporting period, District 3 received three drug-related tips and two tips regarding suspected criminal activities. A supervisor was assigned to corroborate the information, but no enforcement actions were taken, and no operations relevant to this Paragraph were conducted.
- 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 via mcsso.org (forwarded to the captain from Headquarters). During this reporting period, District 4 reported receiving 17 traffic- and parking-related complaints and one report of a vehicle vandalism. None of the reported complaints resulted in any operations that were relevant to compliance with Paragraph 24.

- District 6 reported that it serves the town of Queen Creek pursuant to a law enforcement contract. As Queen Creek's primary law enforcement entity, it is responsible to police town ordinances and codes, as well as applicable state law. District 6 reported that it has a web-based application that is used by community members to report local issues related to town services. District 6 received seven concerns from the public during this reporting period – three of which were traffic complaints. The remaining four concerns related to poor lighting on a dead-end street, code questions, suspicious activity in the neighborhood, and runaway juveniles.
- 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 keep any documentation as to what follow-up is completed. District 7 also reported that it participates in "Text-A-Tip" in Fountain Hills. Tips generated in this program are completely anonymous. District 7 investigates the tips whenever possible, but reports that the tips are not always entered into the website. District 7 received 40 "Text-A-Tips" during this reporting period. We reviewed the documentation submitted and did not find any tips or information that was relevant to compliance with Paragraph 24.
- 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 is forwarded to Lake Patrol via the MCSO Communications Division. Lake Patrol reported that it had not received any information from community members regarding criminal activity during this reporting period. During our District visit in July, we also verified that Lake Patrol did not receive any information from the public regarding criminal activity.

During this reporting period, none of our reviews, including visits to the Districts, revealed any tips or public complaints that could be perceived as racially biased. However, MCSO has not employed a consistent methodology or tracking system for tips or requests for enforcement action. The present system used does not effectively track tips and outcomes in a commonly used format.

The Sheriff's Intelligence Leads and Operations (SILO) Unit was created in the first quarter of 2016. During our subsequent site visits in April, July, and October 2016, we met with MCSO personnel to discuss the progress of the SILO Unit and the development of relevant policies. The unit's guiding policies are GI-7 (Processing of Bias-Free Tips); and GN-1 (Criminal Intelligence Operations), which establishes guidelines on the collection, evaluation, and dissemination of criminal intelligence. During these visits, MCSO routinely advised us that the database the SILO Unit was using to track tips had several issues that needed correction.

Since our initial meeting in February 2016, the SILO Unit has undergone several stages of hiring and losing personnel, but it has never reached full staffing. During our January 2017 site visit, we met with MCSO staff to inquire on the progress of the SILO Unit. MCSO personnel advised us that the blueprint for the unit remained the same, and that the plans were moving forward. At that time, the staffing for the SILO Unit was projected to include five management assistants and a unit supervisor. At that time, the SILO Unit had recently lost two employees; and at the time of our January 2017 site visit, the captain was actively recruiting new analysts.

During our April 2017 site visit, we again met with MCSO staff to discuss the progress of the SILO Unit. We learned that between our site visits, the SILO Unit had lost three of its Intelligence Research Analysts, but was able to replace two. MCSO advised us that it had interviewed several potential candidates to fill the three vacant positions. We learned that the SILO Unit had purchased a new database, TipSoft, to track incoming tips. During our April site visit, we also learned that the captain assigned to ACTIC (SILO unit commander) was reassigned to Patrol District 2.

During our July 2017 site visit, we learned that a new captain had been assigned to ACTIC and was overseeing SILO Unit operations. MCSO informed us that two additional Intelligence Research Analysts had been hired, bringing the total to four; and a fifth analyst was undergoing the background process. MCSO reported that it expected all analysts to be fully trained by the end of July. MCSO also advised us that the SILO Unit had installed the recently acquired TipSoft application, and that MCSO was considering adopting the Text-a-Tip application on an Office-wide basis. During our July site visit, the SILO Unit Commander advised us that he expected the SILO Unit to be operational by mid-September at the latest. The SILO Unit became operational on September 11, 2017.

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

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

- a. prohibit racial profiling in the enforcement of traffic laws, including the selection of which vehicles to stop based to any degree on race or ethnicity, even where an officer has reasonable suspicion or probable cause to believe a violation is being or has been committed;*
- b. provide Deputies with guidance on effective traffic enforcement, including the prioritization of traffic enforcement resources to promote public safety;*
- c. prohibit the selection of particular communities, locations or geographic areas for targeted traffic enforcement based to any degree on the racial or ethnic composition of the community;*
- d. prohibit the selection of which motor vehicle occupants to question or investigate based to any degree on race or ethnicity;*
- e. prohibit the use of particular tactics or procedures on a traffic stop based on race or ethnicity;*

- f. require deputies at the beginning of each stop, before making contact with the vehicle, to contact dispatch and state the reason for the stop, unless Exigent Circumstances make it unsafe or impracticable for the deputy to contact dispatch;*
- g. prohibit Deputies from extending the duration of any traffic stop longer than the time that is necessary to address the original purpose for the stop and/or to resolve any apparent criminal violation for which the Deputy has or acquires reasonable suspicion or probable cause to believe has been committed or is being committed; h. require the duration of each traffic stop to be recorded;*
- i. provide Deputies with a list and/or description of forms of identification deemed acceptable for drivers and passengers (in circumstances where identification is required of them) who are unable to present a driver's license or other state-issued identification; and*
- j. instruct Deputies that they are not to ask for the Social Security number or card of any motorist who has provided a valid form of identification, unless it is needed to complete a citation or report.*

Phase 1: In compliance

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

Phase 2: Deferred

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

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

Paragraph 25.a. prohibits racial profiling in the enforcement of traffic laws, including the selection of which vehicles to stop based to any degree on race or ethnicity, even where a deputy 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 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 2017 site visit, we met with the commanding officers from Districts 2, 3, 4, 6, and 7 and Lake Patrol, who advised us that they had not received any complaints during this reporting period from Latino drivers alleging racial profiling. We interviewed the District Commanders and inquired if their respective Districts had received any complaints alleging selective enforcement targeting specific communities or enforcement based on race. None of the District Commanders were aware of any complaints alleging racial or ethnic-based traffic enforcement. Paragraphs 66 and 67 require an annual comprehensive analysis of all traffic stop data, which will more accurately determine if MCSO is meeting the requirements of this Paragraph. The first comprehensive analysis completed by ASU was issued during the second quarter of 2016, and MCSO and ASU presented a draft of ASU's Second Annual Report during our October 2016 site visit. There were some data issues with this report; and during our January 2017 site visit, MCSO advised us that a final draft would be forthcoming in early 2017. MCSO personnel subsequently advised us that they discovered a serious data flaw just prior to our April site visit, calling into question MCSO's and MCSO's contractor's data quality assurance practices, and indicating that some parts of the analyses included in the annual reports needed to be adjusted. During our July 2017 site visit, MCSO presented results from its reanalysis of the data used in the second annual report. A rewrite of the second annual report is pending. While that process continues, MCSO's compliance with this Subparagraph is deferred.

Paragraph 25.b. requires MCSO to provide deputies with guidance on effective traffic enforcement, including the prioritization of traffic enforcement resources to promote public safety. MCSO policy EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), Sections A-E, address these concerns. The policy specifies that driving under the influence and speeding are the main causes of accidents, and should be the focus of traffic enforcement. Based on our review of the data provided for the reporting period, the most common traffic stop violations are as follows: 60 stops for speed above the posted limit (57%); 19 stops for equipment violations (18%); 13 stops for failing to obey official traffic control devices (12%); eight stops for failure to possess valid registrations or tags (8%); and five stops for other moving violations (5%).

As the policy specifically identifies speeding violations as one of the contributing factors of traffic accidents, MCSO deputies have targeted this violation. In our review, we break down the specific traffic violation for each stop and use each traffic stop form completed by deputies during the stop to make a determination if the stop is justified and fulfills the requirements of this Paragraph. When we review the sample traffic stops from across all Districts during the reporting period, we note 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 that 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. During our July 2017 visits to Districts 2, 3, 4, 6, and 7 and Lake Patrol, we inquired if the District Commanders had received any complaints from the public, regarding MCSO enforcement activities in their communities. None of the Districts had received any complaints with regard to racial or ethnic-based targeted enforcement.

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 reporting period's review of the traffic stop data, we reviewed 30 instances where the deputy contacted passengers. In 16 cases, the contact with passengers was due to the driver being arrested. In many of the cases, the drivers were found to be driving with either no license or a suspended license or for driving under the influence. In these cases, the passengers were contacted to either explain the arrest procedures or the vehicle impound process or for the purpose of identifying a person with a valid driver's license. In the remaining instances where MCSO made contact with passengers, the following occurred:

- In three cases, the deputies requested and obtained identification from the passengers. In each of these cases, there was no explanation provided for the request. One case involved a white female passenger and white male driver; another involved a Black female passenger and a Black male driver; and another involved a white female passenger and a white female driver. During our next site visit, we will follow up with MCSO on these cases to ascertain the reasons for the contacts.
- In two cases, the passenger initiated the contact to assist with interpretation for the driver regarding the stop. One case involved a Latina driver, with a Latina passenger; and the other case involved a Latino driver with a Latina passenger.
- In one case, the deputy, assisting another deputy on a traffic stop, approached the passenger side of the vehicle and observed the passenger reaching into his pocket and directed him to stop. The passenger stated he had a pocket knife. The deputy directed him to refrain from reaching for anything in his pockets. The case involved a white female driver and white male passenger.
- In one case, the deputy, assisting another deputy on a traffic stop, was standing on the passenger side of the vehicle and the passenger provided his identification to the deputy although it was not requested. The case involved a Latino driver with a Latino passenger.
- In one case, the deputy investigated the sound of squealing tires in the area and located a juvenile Latino driver who admitted he had been squealing his tires. The deputy investigated the driver for reckless driving. The driver did not have a valid license. The deputy allowed a family member to respond to pick up the vehicle. The passenger was a juvenile Latina. The deputy contacted the passenger to inquire whether the passenger had contacted a parent to pick her up.
- In one case, a deputy stopped a Latina for driving with no license plate affixed to the rear of the vehicle. The driver was test-driving the vehicle; and the dealership representative, a Latino, was seated in the vehicle. The representative stated he placed the license plate on the front dashboard.
- In one case, the deputy stopped a commercial vehicle due to the license plate being obscured. The deputy discovered that the American Indian male driver did not have a current medical card, which is required to operate a commercial vehicle. The deputy asked the passenger, a Latino, if he had a medical card to operate the vehicle.
- In one case, the deputy stopped a white male driver for excessive speeding and attempting to elude a law enforcement officer. During the stop, the driver stated he had marijuana in his backpack. The Black female passenger handed the backpack to the deputy.
- In one case, the driver was stopped for disregarding a red light. During the stop, the passenger, who appeared highly intoxicated, initiated contact with the deputy. This case involved a white female driver and a Black male passenger.

- In one case, the deputy stopped a vehicle for making an improper left turn. This case appears to be a pre-textual stop in order for the deputies to investigate whether there may be narcotics in the vehicle. The deputies on the scene contacted the passengers. A drug detection canine unit responded to the scene. There were no drugs located. This case involved a white male driver with white one male passenger and one white female passenger.
- In one case, the deputy stopped a vehicle for speeding. The deputy detected a strong odor of marijuana emanating from the vehicle. A drug detection canine unit responded to the scene. Further investigation resulted in one of the passengers, a Latino, being cited for possession of marijuana. This case involved a Latina driver, two Latina passengers, and two Latino passengers.

We reviewed the demographic data of Maricopa County (according to 2014 U.S. Census data, 30.3% of the population is Latino), and found that the ratio of Latino drivers stopped during this reporting period was higher than in past reporting periods in comparison to the ethnicity of the population in the County. (See Paragraph 54.e.) Fourteen (47%) of the 30 stops where passenger contacts occurred involved Latino drivers. A review of citizen complaints for the reporting period did not reveal any accusations against MCSO personnel that would indicate that 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. MCSO has fully implemented body-worn cameras, and we review a sample of the recordings each reporting period to verify if deputies are questioning occupants to determine if they are legally in the country.

During our previous ride-alongs with deputies during daylight hours, there were many instances where, at the time of the stop, we could not determine the ethnicity or gender of the driver or passengers until the vehicle was approached. During this reporting period, we observed that 49 of the 105 stops occurred during nighttime hours. During our visits to Districts 2, 3, 4, 6, and 7 and Lake Patrol in July 2017, we inquired if any Latino drivers or passengers made any complaints regarding deputies using particular tactics or procedures to target Latinos. None of the personnel we interviewed were aware of any complaints alleging discrimination or the targeting of Latinos in traffic enforcement. Our review of the sample data indicated that traffic stops generally were not based on race or ethnicity and reflected the general makeup of the population of the County. MCSO is in compliance with this Subparagraph.

Paragraph 25.e. requires MCSO to prohibit the use of particular tactics or procedures on a traffic stop based on race or ethnicity. We reviewed a sample of CAD audio recordings and CAD printouts where the dispatcher entered the reason for the stop when advised by the deputy in the field. We also reviewed body-worn camera recordings of deputies making traffic stops. The methodology that we employed to select our cases is described in detail in Section 7. In the cases we reviewed, the CAD audio recordings and the body-worn camera video revealed that deputies were not making traffic stops using tactics based on race or ethnicity. We continue to find traffic-related events wherein deputies are classifying Latino drivers as white on the VSCFs. We will follow up on the cases that we identify with MCSO during our next site visit. Supervisors are generally performing timely reviews of VSCFs, but they must be more attentive to the deficiencies we have noted in our reviews. (See Subparagraph 54.e.) MCSO remains 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 Communications. When the deputy advises Communications of the location, tag number, and reason for the stop, this information is digitally logged on the CAD printout and it is audio recorded. (See Subparagraph 54.e.) We reviewed 30 CAD audio recordings and the CAD printouts; in each, the deputy advised dispatch of the reason for the stop. Through our reviews of BWC recordings and CAD printouts, we verified that the reason for the stop was voiced prior to making contact with the drivers in the 30 cases we reviewed. For the 75 other cases that were part of our sample, we reviewed the VSCFs and the CAD printouts to ensure that deputies properly advised dispatch of the reason for the stop prior to making contact with the violator. In all 75 stops, the deputy properly advised dispatch the reason for the stop. 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 15 stops were extended and justified due to the circumstances of the stops. The particulars of these extended stops are as follows:

- A white female was stopped for speeding. The deputy involved in the stop was new and in training and indicated on the VSCF that she is learning to use TraCs. The driver was issued a citation and released.
- A white male was stopped for speeding. He was unable to produce documents for the vehicle. He was issued a citation and released.
- A Latino, with a Latina passenger, was stopped for no license plate light. The driver's license was suspended. The driver was arrested and the vehicle was impounded.
- A white male driver was stopped for speeding. During the stop, the deputy requested a backup unit to respond and assist, as the driver would not stay in his vehicle. The driver was issued a citation and released.

- An Asian Pacific Islander female driver was stopped for speeding. The deputy documented problems with the printer during the stop on the VSCF. The driver was issued a citation and released.
- A white male operating a motorcycle, with a white female passenger, was stopped for a suspended license plate. The driver's license was suspended. The vehicle was impounded.
- A white male, with a white female passenger, was stopped for speeding. The driver was unable to produce a valid registration for the vehicle. The driver was issued a citation and released.
- A Latina was stopped for driving with an invalid license plate. She was unable to produce documents for the vehicle that were scan-able. The deputy had to verify the vehicle identification number of the vehicle. The license plate was seized. The driver was issued a citation and released.
- A white male was stopped for speeding. The driver was unable to produce the proper documents for the vehicle. The driver was issued a citation and released.
- A Latina driver was stopped for a stop sign violation. The vehicle was occupied with one Latina and three Latinos. The deputy was unable to get the scanner to scan the driver's license and manually entered data into the computer. The deputy then experienced computer problems. The driver was issued a warning and released. The deputy advised the driver that she was free to leave, yet she remained on the scene for over one minute.
- A Latina driver was stopped for a stop sign violation. The driver's license was suspended. The deputy impounded the vehicle. The driver was issued a citation and released.
- A Latina driver, with a Latino passenger, was stopped for a stop sign violation. The passenger interpreted for the driver. The driver's license was suspended. The driver was issued a citation and released.
- A Latino driver, a juvenile, was stopped for excessive speeding, a misdemeanor offense. The deputy suspected he may be under the influence of marijuana or drugs and investigated further. The deputy assessed the driver's ability to operate a motor vehicle. The driver was issued a citation and released.
- A white male driver was stopped for no license plate light. The driver had no identification on his person and the vehicle's license plate was expired. The passenger, who was not wearing a seat belt, was contacted. The passenger was arrested for an outstanding warrant. The license plate was seized and the driver was released upon being issued a citation.

- A white male driver was stopped for excessive speeding, a misdemeanor offense. The driver was unable to produce paperwork for the registration and insurance. The driver was able to access the insurance information via his cellular telephone. The deputy then contacted a supervisor and received approval to cite and release the driver. The driver was issued a citation and released.

MCSO is in compliance with this Subparagraph.

Paragraph 25.h. requires the duration of each traffic stop to be recorded. The time of the stop and its termination is now auto-populated on the VSCF by the CAD system. To ensure data entry accuracy, MCSO implemented a technical change to the TraCS system on November 29, 2016. The change will automatically create a red field in the stop contact times if the deputy manually changes these times on the VSCF. In our review, we determined that the duration was recorded accurately in 104 of the 105 traffic stops. In the remaining case, the stop time did not apply due to the event involving a fleeing driver who was not apprehended. MCSO is in compliance with this Subparagraph, with a 100% 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's 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 amended 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's licenses, with three exceptions (drivers did not have a valid license on his/her person), were presented to deputies in all of the cases provided in our sample. One of these exceptions involved a Latina driver. The three cases are described in detail below:

- A white male driver was stopped for no license plate light. He did not have any identification on his person. The driver was cited and released.
- A Latina driver was stopped for failing to stop at a stop sign. The driver did not have a valid driver's license on her person. The driver was cited and released.
- A white male driver was stopped for driving with no headlights. The driver did not have a driver's license on his person. The driver was issued a warning 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 any instances where a deputy requested, or was provided with, a Social Security Number by the driver or passengers. We reviewed 30 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. We did not find any evidence of deputies asking for Social Security Numbers or Social Security cards, with the exception of those persons who were arrested, where it was part of the booking process.

MCSO is in compliance with this Subparagraph.

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

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

- 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).*

Phase 1: In compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EA-11 (Arrest Procedures), most recently amended on June 15, 2016.

Phase 2: In compliance

During this reporting period, MCSO again reported that there were no immigration-related arrests or investigations. There was one case in which an individual was charged with homicide and misconduct with weapons, and the codefendant was charged with homicide and aggravated assault. There was one investigation involving an identity theft. We reviewed these cases and found no issues of concern. All arrests submitted by the Fugitive Apprehension Investigative Team (FAIT) were made pursuant to warrants. We reviewed 24 FAIT cases submitted for this reporting period and found no evidence of immigration-related arrests.

This Paragraph requires that a deputy notify his/her supervisor of any arrest of a vehicle passenger for any crime related to the lack of an identity document. MCSO reported the arrest of one individual for not having a valid driver's license. There were no reported arrests of passengers for lack of identify documents. We reviewed the information provided and found no issues of concern.

For April, May, and June 2017, we received lists containing all incidents involving MCSO arrests and criminal citations. For each month, we requested a random sampling of arrests and criminal citations. In total, we reviewed 67 incidents involving arrests and 101 incidents involving criminal citations. We also reviewed a random sample of 252 Incident Reports for this reporting period. We found no evidence of enforcement of immigration-related laws.

Based on our review of the above incidents and the documentation provided by MCSO, the actions of deputies at each scene appear to be consistent with acceptable law enforcement practices. There was no indication that race or ethnicity was a factor in determining any law enforcement action that MCSO personnel took in any of these investigations or arrests.

During our reviews of Supervisory Notes relative to Paragraph 91, we noted five instances where supervisors wrote that deputies failed to conduct "the required two traffic stops per month." We agree that supervisors should be aware of, and accountable for, the productivity of their subordinates. This dimension is also part of Employee Performance Appraisals, and consequently, the amount of work performed and quality of work performed should be assessed. However, supervisors must be careful with their choice of words to avoid the appearance of any quotas on traffic stops, formal or informal. We will further discuss this issue with MCSO during our next site visit.

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

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

Phase 1: In compliance

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

Phase 2: In compliance

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

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

suspicion to believe the person is in the country unlawfully and reasonable suspicion to believe the person is engaged in an Immigration-Related Crime for which unlawful immigration status is an element, so long as doing so does not unreasonably extend the stop in violation of Paragraph 25(g) of this Order;

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

Phase 1: In compliance

- CP-8 (Preventing Racial and other Bias-Based Policing), most recently amended on August 2, 2016.
- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EA-11 (Arrest Procedures), most recently amended on June 15, 2016.

Phase 2: In compliance

During this reporting period, MCSO did not report any instances of deputies having contact with ICE/CBP for the purpose of making an immigration status inquiry, and there were no reported arrests for any immigration-related investigations, or for any immigration-related crimes. For this reporting period, MCSO reported a homicide case in which ICE/CBP was involved. The date of the original incident was on or about October 19, 2016. Four armed men confronted six individuals transporting narcotics across the border. Two of the six individuals were killed in an attempted robbery. There were two arrests for First Degree Murder, one of which included a charge of misconduct with weapons. In our reviews of Incident Reports, Arrest Reports, and traffic stops, we did not note any other contacts with ICE/CBP, and we have not observed any evidence of any immigration-related arrests.

We have been following the progress of an incident that occurred on October 15, 2016, in which an individual was stopped for a traffic-related event. The individual did not speak English, and the deputy who made the stop requested Customs and Border Patrol (CBP) to assist with the interpretation. The individual was subsequently turned over to CBP, detained, and eventually deported. The incident has been under investigation by the Professional Standards Bureau. The investigation has been completed; however, the case file was pending final review as of this writing. We will discuss this case in our next quarterly status report.

e. Policies and Procedures Generally

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

Phase 1: Not applicable

Phase 2: In compliance

See Paragraph 30.

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

Phase 1: Not applicable

Phase 2: In compliance

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

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

Phase 1: In compliance

- GA-1 (Development of Written Orders), most recently amended on November 3, 2016.

Phase 2: In compliance

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

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

We have advised MCSO that in 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, MCSO issued (or issued revisions of) eight Order-related policies, including: EA-3 (Non-Traffic Contact); GC-7 (Transfer of Personnel); GC-17 (Employee Disciplinary Procedures); GC-22 (Critical Incident Stress Management Program); GG-1 (Peace Officer Training Administration); GG-2 (Detention/Civilian Training Administration); GH-2 (Internal Investigations); and GI-1 (Radio Communications, Call Signs, and Phonetic Alphabet).

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

During our July 2016 site visit, we first learned that MCSO, as part of a Countywide initiative, intended to replace its E-Policy System with a new online software program, Cornerstone. Maricopa County now refers to Cornerstone as “the HUB,” for it is the “center” for learning and performance activity. Training Division personnel have consistently noted that the HUB/Cornerstone would be more user-friendly and offer more features than E-Policy.

During our last site visit, we learned that, after several delays related to licensing and other technical issues, on July 5, 2017, MCSO began its first phase of using the HUB. Under the new system, users can, for instance, enroll in courses, view their schedules, and complete online courses. (The second phase of implementation, projected for January 2018, is scheduled to include testing, test analysis, and evaluations of both course content and instructor deliveries.) Yet MCSO personnel informed us that, at least for the time being, MCSO continues to use E-Policy for all training mandated by the Orders, and it has not placed any non-Court-mandated training in the HUB.

We continue to follow these developments closely. In the meantime, we will continue to review MCSO's records in E-Policy for the training of relevant personnel on its published policies.

Paragraph 32. *The MCSO shall require that all Patrol Operation personnel report violations of policy; that Supervisors of all ranks shall be held accountable for identifying and responding to policy or procedure violations by personnel under their command; and that personnel be held accountable for policy and procedure violations. The MCSO shall apply policies uniformly.*

Phase 1: In compliance

- CP-2 (Code of Conduct), most recently amended on January 6, 2017.
- CP-3 (Workplace Professionalism), most recently amended on December 15, 2016.
- CP-5 (Truthfulness), most recently amended on December 21, 2016.
- CP-11 (Anti-Retaliation), most recently amended on December 1, 2016.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

Since we began reviewing internal investigations conducted by MCSO, we have reviewed more than 540 administrative investigations involving Patrol personnel. During our reviews, we have observed deficiencies in both the investigations and the associated documentation.

During each site visit, we meet with PSB personnel and provide them with information regarding the cases that we find to be deficient in structure, format, investigation, or reporting requirements. PSB has developed and implemented the use of an investigative checklist and specific format for the completion of internal investigations. These protocols have resulted in improvement in the structure and procedural completeness of the investigations. All supervisors who conduct investigations were trained in the use of these documents. Effective June 1, 2016, use of these investigative protocol documents is required for all administrative investigations. During this reporting period, the revised policies related to internal investigations and discipline process were finalized and implemented. PSB now intends to revise these checklists to add additional compliance information.

While we have noted improvements in overall compliance, we are still reviewing cases that MCSO has not properly and thoroughly investigated. We continue to note concerns in our reviews, including: failure to conduct a timely investigation; failure to attempt to interview complainants in person; failure to audio- and video-record all interviews; failure to interview all parties; failure to properly conduct investigative interviews; failure to conduct a thorough investigation; and findings that are not supported by the investigation. We have also noted concerns with the Pre-Determination Hearings where findings have been changed, or discipline has been reduced, with insufficient justification to do so.

During our site visits, we have met with PSB to discuss our concerns with the overall quality of administrative investigations, and have provided specific case examples from the Paragraph 32 submissions that illustrate these concerns. PSB personnel have been responsive to our feedback, and their investigations have continued to improve. In many cases, we now consider the investigations conducted by PSB to be excellent examples of complete and thorough investigations.

While we have noted some improvement in those investigations conducted at the District level, we continue to note consistent deficiencies in many of the investigations they conduct. Many investigations are returned by PSB after review for additional follow-up or corrections. This review by PSB has allowed many District cases to be at, or near, full compliance when they are finalized. However, it has also delayed the timely completion of many of these same investigations. PSB has assigned liaison personnel to each District to provide assistance while the investigations are being conducted. We have noted the positive effects of PSB's efforts to assist investigators in the Districts. However, as noted in our previous reports, it continues to be necessary for PSB to dedicate significant personnel hours to ensure that others in the organization are properly completing their job responsibilities.

During our District visits in April and July, members of our Team spoke with sworn supervisors in Districts 2, 3, 4, 6, and 7, and Lake Patrol about internal investigations. Personnel in each of these Districts complimented PSB and informed us that the assistance by PSB is very helpful. Several District personnel identified that they, or their subordinates, need additional training on how to properly complete these investigations. A number of the supervisors in these Districts informed us that the completion of internal investigations is very time-consuming, and that it is difficult to balance the time needed to conduct these investigations with all of their other supervisory responsibilities. They identified the difficulty in locating and attempting to arrange in-person interviews, the requirements to audio-video record interviews, and the 60-day

timeframe for completion as significant challenges. We discussed the interview requirements, and that reasonable attempts must be made to conduct in-person interviews and audio- and video-record the interviews. We also acknowledged that we recognize that there may be circumstances that may make in-person or recorded interviews unreasonable, or even impossible. In these instances, relevant documentation should be included in the report. We also discussed the 60-day timeframe. We reminded these supervisors that if an extension is needed for a legitimate reason and proper documentation is included, there is no adverse effect on the compliance findings.

During this reporting period, we reviewed 45 administrative IA cases involving 65 sworn, Posse, or reserve personnel that were submitted in compliance with the requirements of Paragraph 32. Sworn personnel with the rank of sergeant or higher completed all of the investigations conducted at the District level. There were 132 potential policy violations included in the 45 cases. Thirty-two of the investigations resulted from external complaints, and 13 were internally generated. All but three of the cases were both initiated and completed on or after July 20, 2016.

Of the 45 administrative cases reviewed, 13 resulted in sustained findings against one or more employees. We concurred with all sustained findings, and concurred with the final discipline imposed in nine of the 13 cases. The discipline included: two dismissals; seven written reprimands; and four coaching sessions. Two employees resigned prior to the imposition of discipline. In all of these cases, the PSB Commander properly identified the category and offense number, as well as the preliminary range of discipline.

In four of the 45 cases, we disagree with the findings. In three of these cases, we believe a finding of sustained was supported and should have been made. In one, while we agree that the allegation was properly determined to be not sustained, the findings of exonerated and unfounded are not consistent with the investigative report.

There were four cases where we do not concur with the final disciplinary decision. In these cases, the PSB Commander appropriately identified the findings and presumptive range of discipline. The Appointing Authority made decisions to change findings or reduce discipline. In one case, the category and offense number called for a sanction of 16 hours to dismissal. Despite the employee's prior work history, the discipline was reduced to a coaching. While this violation may have, on its own, been a minor violation, the employee has a documented history of policy violations and formal discipline. A coaching was not appropriate.

In two of the cases, both involving exempt employees, discipline was reduced from a presumptive suspension to a written reprimand without adequate justification. In one of these two cases, the Appointing Authority also changed one of the sustained violations to not sustained. In another case, the presumptive discipline range was a written reprimand to an eight-hour suspension for multiple policy violations. The Appointing Authority changed several of the allegations to exonerated, and the employee received a written reprimand for those violations that remained sustained. The discipline decision was consistent with the Discipline Matrices in effect at the time for the sustained violations. However, given the seriousness of the sustained violations, consideration should have been given to aggravating the sanction. In all of these cases, though the Appointing Authority authored a justification

document as required, we do not believe that adequate justification existed for these decisions. We will discuss these cases, several of which were also noted by the Plaintiffs, with the Appointing Authority during our next site visit.

All 45 cases we reviewed this reporting period were completed on or after July 20, 2016. Twenty-eight of these investigations were conducted at the District or Division level, and 17 were conducted by PSB. Of the 17 investigations conducted by PSB, 12 were not completed within the 85-day timeframe. All but one of these 12 investigations had both a request and an authorization for an extension. Nine of the 28 investigations conducted by District or Division personnel were not completed within the required 60-day timeframe. Six of these nine investigations did not have a request for, or an approval of, an extension. We have repeatedly emphasized during our site visits and District visits that if an investigation cannot be completed within the required time limits, an extension memorandum providing justification must be authored and approved when appropriate.

PSB investigated 17 of the administrative cases we reviewed for compliance with this Paragraph. All 17 cases were both initiated and completed after July 20, 2016. We continue to find that PSB investigations are generally thorough and well-documented. Of the 17 cases PSB investigated for compliance with this Paragraph, we found 11 (65%) in compliance with all investigative and documentation requirements. In two of the investigations, we believe findings of sustained should have occurred, and did not. In one, a training issue was properly identified; but there is no indication in the submission that training for the employee occurred. In three others, the only issue preventing full compliance was the failure to properly generate the required initial letters to external complaints or provide them for our review.

District or Enforcement Support Bureau personnel completed 28 of the administrative cases we reviewed for this Paragraph. All 28 were both initiated and completed after July 20, 2016. We found 8 (29%) in compliance with all investigative and documentation requirements. We have some concern with the remaining 20 of these investigations. In addition to procedural and documentation issues, we identified issues with: improper investigative interviews; failure to interview witnesses; failure to address all concerns of a complainant; failure to address a potential policy issue; failure to make reasonable efforts to contact complainants; and failure to audio-video record interviews, without any explanation. We also identified numerous instances where the District Commanders failed to identify and correct investigative deficiencies prior to forwarding the cases to PSB. We also noted that many of the District cases continue to require correction, guidance, or additional investigation directed by PSB.

Our review of cases submitted for compliance with this Paragraph indicate a continuing effort on behalf of PSB staff to both complete proper investigations, and assist District personnel in completing their internal investigations. PSB investigators are generally completing proper investigations related to compliance with this Paragraph, and we are confident they will continue to do so. While we have noted some improvement in the quality of the cases investigated at the District level, we still note instances where investigations are not properly completed or require significant corrections after being submitted to PSB for review. As we noted in the last reporting period, PSB can only provide so much assistance and guidance. Investigative deficiencies often cannot be corrected after the fact. We remain hopeful that the upcoming investigation training will address some of the deficiencies we have observed in these investigations.

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

Phase 1: In compliance

- CP-8 (Preventing Racial and other Bias-Based Policing), most recently amended on August 2, 2016.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.

Phase 2: In compliance

The investigations that we review for compliance with this Paragraph do not include biased policing complaints involving the Plaintiffs' class. Those investigations have additional compliance requirements and are discussed in Paragraphs 275-283.

During the last reporting period, we reviewed two internal administrative investigations completed and submitted in compliance with this Paragraph. Both were properly completed and in full compliance with the Order. MCSO was found in Phase 2 compliance with this Paragraph.

During this reporting period, we reviewed three investigations submitted in compliance with this Paragraph. All were both initiated and completed after July 20, 2016, and were investigated by PSB.

One case involved an allegation that race played a factor in the law enforcement decisions that were made during a call for service regarding a potential child abuse. We agree with MCSO's findings that the deputy appropriately responded to the call; and that there was no indication that race played any factor during this call, or in any actions taken by the deputy.

In the second case, a complainant alleged that a deputy had stopped him for no reason and violated his "right to free travel." We agree with MCSO's findings that the stop of this subject was legal and appropriate – as were the citations he was issued.

In the third case, a complainant alleged that, during a meeting, a member of the MCSO Posse had made comments that amounted to a hate crime. MCSO properly found this allegation to be unfounded.

We found these investigations to be generally well-investigated and agree with the findings in all of the three cases. In two of the cases, however, the investigator failed to do some additional follow-up or recontact parties involved. We caution MCSO that all requirements of the Order related to the internal investigations covered by this Paragraph must be consistently met, or we may withdraw MCSO's Phase 2 compliance with this Paragraph.

We reviewed four additional cases this reporting period that involved biased policing allegations. These cases were closed after July 20, 2016; involved members of the Plaintiffs' class; and were determined to be CRMs (Class Remedial Matters). They will be reported in the Paragraphs related to CRMs later in this report.

Paragraph 34. *MCSO shall review each policy and procedure on an annual basis to ensure that the policy or procedure provides effective direction to MCSO Personnel and remains consistent with this Order, current law and professional standards. The MCSO shall document such annual review in writing. MCSO also shall review Policies and Procedures as necessary upon notice of a policy deficiency during audits or reviews. MCSO shall revise any deficient policy as soon as practicable.*

Phase 1: In compliance

- GA-1 (Development of Written Orders), most recently amended on November 3, 2016.

Phase 2: In compliance

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

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

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

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

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

Section 5: Pre-Planned Operations

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

Phase 1: In compliance

- Special Investigations Division Operations Manual, currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- Special Investigations Division Organizational Chart, most recently amended on April 10, 2017.
- Memorandum from Executive Chief Trombi to Deputy Chief Lopez directing the elimination of the Criminal Employment Unit, dated January 6, 2015.

Phase 2: In compliance

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

During our review of the arrests made by the Special Investigations Division ATU between March 2015-March 2017, we did not note any arrests for immigration or human smuggling violations. The cases submitted by MCSO and reviewed for the ATU were primarily related to narcotics trafficking offenses.

During the last reporting period, MCSO reported that it had disbanded the Anti-Trafficking Unit and formed a new unit, the Fugitive Apprehension Investigative Team (FAIT). The primary mission of FAIT is to arrest subjects with outstanding felony warrants. We have reviewed FAIT's mission statement and objectives, as well as the organizational chart for the Special Investigations Division. The ATU has been removed from the organizational chart, and the mission of FAIT does not include any reference to the enforcement of Immigration-Related Laws. MCSO is revising the Special Investigations Division Manual to formally reflect this change, as well as others. The revised organizational chart for SID and documentation provided by MCSO regarding the implementation of FAIT for this reporting period support that the ATU no longer exists, and that there continue to be no specialized unit that enforces Immigration-Related Laws.

During our review of cases investigated and arrests made for this reporting period, we found no reference to the ATU and confirmed that FAIT is focused on the arrest of subjects with outstanding felony warrants.

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

Phase 1: In compliance

- GJ-33 (Significant Operations), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: In compliance

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

In February 2016, we became aware of “Operation No Drug Bust Too Small” when it was reported in the media, and requested details on this operation from MCSO. After reviewing the documentation provided by MCSO, we were satisfied that it did not meet the reporting requirements of this Paragraph.

In October 2016, we became aware of “Operation Gila Monster” when it was reported in the media. According to media reports, this was a two-week operation conducted by a special operations unit in MCSO and was intended to interdict the flow of illegal drugs into Maricopa County. We requested all documentation regarding this operation for review. The documentation showed that this operation was conducted from October 17-23, 2016. The documentation provided by MCSO was sufficient for us to determine that this operation did not meet the reporting criteria for this, or other Paragraphs, related to significant operations. The Plaintiffs also reviewed the documentation submitted by MCSO on this operation and agreed that the operation did not invoke the requirements of this Paragraph. We noted, as did the Plaintiffs, that “Operation Gila Monster” involved traffic stops of Latinos, and that those arrested were undocumented Latinos.

For this reporting period, we reviewed all documentation submitted by MCSO in response to this Paragraph requirement. Reports from each District, the Enforcement Support Division, and the Investigations Division, document that no significant operations were conducted by MCSO during this reporting period. We did not become aware of any potential significant operation through media releases or other sources. We will continue to closely monitor and review any operations we become aware of to ensure continued compliance with this and other Paragraphs related to significant operations.

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

Phase 1: In compliance

- GJ-33 (Significant Operations), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: In compliance

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

MCSO continues to report that it has not conducted any operations that invoke the requirements of this Paragraph since October 2014.

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

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

- a. documentation of the specific justification/reason for the operation, certified as drafted prior to the operation (this documentation must include analysis of relevant, reliable, and comparative crime data);*
- b. information that triggered the operation and/or selection of the particular site for the operation;*
- c. documentation of the steps taken to corroborate any information or intelligence received from non-law enforcement personnel;*
- d. documentation of command staff review and approval of the operation and operations plans;*
- e. a listing of specific operational objectives for the patrol;*
- f. documentation of specific operational objectives and instructions as communicated to participating MCSO Personnel;*
- g. any operations plans, other instructions, guidance or post-operation feedback or debriefing provided to participating MCSO Personnel;*

- h. a post-operation analysis of the patrol, including a detailed report of any significant events that occurred during the patrol;*
- i. arrest lists, officer participation logs and records for the patrol; and*
- j. data about each contact made during the operation, including whether it resulted in a citation or arrest.*

Phase 1: In compliance

- GJ-33 (Significant Operations), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: In compliance

Since the publication of GJ-33, MCSO has reported conducting only one significant operation, “Operation Borderline,” in October 2014. At the time of this operation, we reviewed MCSO’s compliance with policy; attended the operational briefing; and verified the inclusion of all of the required protocols, planning checklists, supervisor daily checklists, and post-operation reports. MCSO was in full compliance with this Paragraph for this operation.

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

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

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

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

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

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

Phase 1: In compliance

- GJ-33 (Significant Operations), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: In compliance

Since MCSO developed GJ-33 in 2014, MCSO has reported conducting only one operation, "Operation Borderline," that required compliance with this Paragraph. We verified that MCSO employed the appropriate protocols and made all required notifications. MCSO was in full compliance with this Paragraph during this operation.

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

MCSO continues to report that the Office has not conducted any operations that meet the reporting requirements for this Paragraph since October 2014.

Section 6: Training

COURT ORDER VII. TRAINING

a. General Provisions

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

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

Phase 1: In compliance

- GG-1 (Peace Officer Training Administration), most recently amended on May 18, 2017.
- GG-2 (Detention/Civilian Training Administration), most recently amended on May 18, 2017.
- Training Division Operations Manual, currently under revision.

Phase 2: In compliance

During this reporting period, MCSO published policies GG-1 and GG-2. MCSO now has clear direction for establishing instructor and Field Training Officer (FTO) criteria and selection, testing, training development, and scheduling. No new instructors requiring review were identified during this reporting period.

During our July site visit, we conducted a random review of 10 instructor/FTO files. Each file was established in accordance with the requirements of GG-1. Each included curriculum vitae, documentation of qualifications, AZ POST certificates demonstrating expertise, and documentation of a college or university teaching certificate. The Training Division did not conduct annual PSB reviews of incumbent instructors or of active FTOs during this reporting period. We will review additional instructor/FTO files during future site visits to ensure compliance with all requirements of GG-1.

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

Phase 1: In compliance

- GG-1 (Peace Officer Training Administration), most recently amended on May 17, 2017.
- GG-2 (Detention/Civilian Training Administration), most recently amended on May 17, 2017.
- Training Division Operations Manual, currently under revision.

Phase 2: In compliance

We verify compliance with this Paragraph by reviewing all completed tests, documentation of all failures, and all failure remediation efforts for each class delivered during the reporting period.

The Detention, Arrests, and Immigration Related Laws; Bias Free Policing Training; and the Annual Combined Training (ACT) were not delivered during this reporting period.

Employee Performance Appraisal (EPA) Training was delivered 27 times during this reporting period to a total of 483 students (146 sworn, 225 Detention, 112 civilian). Remedial testing was administered to 14 individuals, and all were successful. We noted that for all 14 initial failures, the retesting scores were handwritten and do not appear to be documented in the same manner as the original test. We had not reviewed this documentation previously. We discussed this issue with Training Division command personnel and one of the four newly hired analysts assigned to the Training Division. We were advised that due to limitations of the Skills Manager software, MCSO is only capable of entering a single pass/fail grade per course. As a result, MCSO enters the failure score into the Skills Manager and scans the remedial passing score. We observed a false positive with the failure report, which is generated by the system but does not account for the initial failures. The failure report displays a 100% passing score for all students. The remedial tests are scanned into the Skills Manager software, but do not appear in the Skills Manager database, from which the reports are pulled. We believe this issue requires further investigation and resolution. In order to adequately evaluate test questions, test results, and the relationship to specific instructors, all tests must be appropriately documented. Now that Cornerstone – now known as “the HUB,” meaning the “center” for learning and performance activity – has come online, all facets of test documentation should be addressed by MCSO.

MCSO should reasonably expect that we may further review test result documentation during our next site visit.

The Supervisor Responsibilities: Effective Law Enforcement (SRELE) Training, TraCS Training, Body-Worn Camera Training (BWC), Blue Team Training, and Administrative Investigations Checklist Training were not delivered during this reporting period.

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

Phase 1: In compliance

- GG-1 (Peace Officer Training Administration), most recently amended on May 17, 2017.
- GG-2 (Detention/Civilian Training Administration), most recently amended on May 17, 2017.
- Training Division Operations Manual, currently under revision.

Phase 2: In compliance

We verify compliance for this Paragraph by reviewing the Master Training Calendar and the revisions that routinely occur. The provided calendars covered the period of May 1, 2017-July 23, 2018. The calendar lists projected dates for Order-related training, which indicates that the Training Division continues to use the Master Training Calendar to better manage class scheduling, instructor assignments, and fiscal concerns related to training hours. We particularly noted that the Master Training Calendar indicated proposed scheduling dates of August 1, 2017, for EIS Training, and August 2, 2017, for SRELE Training. These training programs were designed for contemporaneous delivery, and the content of each complements the other. Although this date was premature because the lesson plans had not received Monitoring Team and the Parties' approval, it demonstrates the desire of the Training Division to coordinate with other divisions and to remain current with the EIS Implementation Plan for the scheduling of this training.

We continue to review and monitor Master Personnel Rosters to determine the number of personnel required to receive Order-related training. We determined that 729 sworn members, 24 reserve members, 32 retired reserve members, and 707 Posse personnel would require Order-related training currently. These categories vary by reporting period, as a result of the attrition of the organization.

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

Phase 1: Not applicable

Phase 2: In compliance

We continue to actively review and provide recommendations for all newly developed lesson plans, and all lesson plans under revision.

During this reporting period, the the Early Intervention Unit (EIU) produced the Early Identification System (EIS) lesson plan and support documents, and the materials received extensive review by the Monitoring Team and Parties. In both May and June, we conducted conference calls to expedite review periods and to allow for direct questions and answers related to the curriculum content. We have found the use of conference calls and online meetings to be extremely beneficial in shortening content review periods. We successfully assisted in coordinating the efforts of the Training Division and the EIU to minimize and remove any redundancy between the EIS Training and the SRELE Training curricula. EIU reaffirmed its need to design the EIS Training to provide baseline requirements for supervisors. The SRELE Training will support and reinforce the EIS Training with the inclusion of advanced analysis, interpretation, and review techniques. These combined classes incorporate the use of multiple scenario-based exercises, proficiency testing, and written testing. This training is scheduled for 22 delivery dates. Only eight of these dates are specific to sworn supervisors and will include a component regarding analysis of traffic stops. Following our recommendation, EIU and the Training Division have identified additional individuals capable of assisting with the instruction of the EIS deliveries. We encouraged this as a means to increase instructor-to-student ratios, particularly during scenario exercises and proficiency testing. During our July site visit, the EIU indicated that each class would be taught using three or four instructors.

During our July site visit, MCSO advised us that the SILO Unit had purchased the TipSoft software program, as MCSO had previously advised us. The software program includes a training tutorial. Only members of the SILO Unit are required to receive this training. MCSO advised us that this training would be completed by the end of July 2017. The use of this software and the limited training requirements should not require further review by the Monitoring Team and Parties.

Updates to both the Body-Worn Camera and the TraCS curriculum have not been completed and reviewed.

During this reporting period, we continued to create specific content for the Internal Investigations Training curriculum. As each component has been developed, the Professional Standards Bureau (PSB) has coordinated the lesson plan formatting with the Training Division. The publication of GH-2 (Internal Investigations) during this reporting period has greatly assisted with finalization of the curriculum. The Train-the-Trainer was scheduled for September 12-13, 2017.

Paragraph 46. *The curriculum and any materials and information on the proposed instructors for the Training provided for by this Order shall be provided to the Monitor within 90 days of*

the Effective Date for review pursuant to the process described in Section IV. The Monitor and Plaintiffs may provide resources that the MCSO can consult to develop the content of the Training, including names of suggested instructors.

Phase 1: Not applicable

Phase 2: In compliance

The Training Division continues to demonstrate familiarity with – and growing expertise on – the concepts of the training cycle now memorialized in GG-1. The division now routinely incorporates Train-the-Trainer sessions for classes requiring multiple instructors. At the request of MCSO, we continue to provide technical assistance support during these sessions.

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

Phase 1: In compliance

- GG-1 (Peace Officer Training Administration), most recently amended on May 17, 2017.
- GG-2 (Detention/Civilian Training Administration), most recently amended on May 17, 2017.
- Training Division Operations Manual, currently under revision.

Phase 2: In compliance

MCSO completed the first phase of the HUB implementation on July 5, 2017. According to MCSO, this system may eventually replace the E-Learning, E-Policy, and Skills Manager systems. The initial implementation included basic functionality for class scheduling, student initiated registration, and supervisor notifications. It did not include course content development and evaluations. The second phase of implementation, projected for January 2018, is scheduled to include testing, test analysis, and evaluations of both course content and instructor deliveries as required by GG-1. This date indicates a further delay in implementation. MCSO has expressed concerns because complete implementation is reliant upon the OET, which has advised MCSO that the additional required reporting functions for Order compliance are under construction. The HUB does not interface with the EIS and will require the development of an interface, which is scheduled for November 1, 2017. Delayed implementation has not forced MCSO to alter its plan to scan existing individual deputies' Skills Manager records for migration into the HUB.

The Training Division has not completed updates to the TraCS and BWC lesson plans.

The EIS lesson plan received additional review during this reporting period. In both May and June, we conducted joint conference calls to provide the EIU with comments and recommendations to aid in a timely revision to the curriculum. The production of this curriculum remains consistent with the Early Identification System (EIS) Project Plan timeline.

We continue to work with MCSO to develop Internal Investigations Training. This training curriculum was not approved during this reporting period.

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

B. Bias-Free Policing Training

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

Phase 1: Not applicable

Phase 2: In compliance

Bias-Free Policing and the Annual Combined Training (ACT) were not delivered during this reporting period.

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

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

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

Phase 1: Not applicable

Phase 2: In compliance

During this reporting period, the Training Division continued updating the ACT curriculum. We did not review this curriculum during the reporting period.

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

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

Phase 1: Not applicable

Phase 2: In compliance

The Detentions, Arrests, and the Enforcement of Immigration-Related Laws training, and the ACT were not delivered during this reporting period

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

- a. *an explanation of the difference between various police contacts according to the level of police intrusion and the requisite level of suspicion; the difference between reasonable suspicion and mere speculation; and the difference between voluntary consent and mere acquiescence to police authority;*
- b. *guidance on the facts and circumstances that should be considered in initiating, expanding or terminating an Investigatory Stop or detention;*
- c. *guidance on the circumstances under which an Investigatory Detention can become an arrest requiring probable cause;*
- d. *constitutional and other legal requirements related to stops, detentions and arrests, and the enforcement of Immigration-Related Laws, including the requirements of this Order;*
- e. *MCSO policies related to stops, detentions and arrests, and the enforcement of Immigration-Related Laws, and the extent to which past instructions to personnel on these topics were incorrect, a correction of any misconceptions about the law or MCSO policies;*
- f. *the circumstances under which a passenger may be questioned or asked for identification;*
- g. *the forms of identification that will be deemed acceptable if a driver or passenger (in circumstances where identification is required of them) is unable to present an Arizona driver's license;*
- h. *the circumstances under which an officer may initiate a vehicle stop in order to investigate a load vehicle;*
- i. *the circumstances under which a Deputy may question any individual as to his/her alienage or immigration status, investigate an individual's identity or search the*

individual in order to develop evidence of unlawful status, contact ICE/CBP, await a response from ICE/CBP and/or deliver an individual to ICE/CBP custody;

- j. a discussion of the factors that may properly be considered in establishing reasonable suspicion or probable cause to believe that a vehicle or an individual is involved in an immigration-related state crime, such as a violation of the Arizona Human Smuggling Statute, as drawn from legal precedent and updated as necessary; the factors shall not include actual or apparent race or ethnicity, speaking Spanish, speaking English with an accent, or appearance as a Hispanic day laborer;*
- k. a discussion of the factors that may properly be considered in establishing reasonable suspicion or probable cause that an individual is in the country unlawfully, as drawn from legal precedent and updated as necessary; the factors shall not include actual or apparent race or ethnicity, speaking Spanish, speaking English with an accent, or appearance as a day laborer;*
- l. an emphasis on the rule that use of race or ethnicity to any degree, except in the case of a reliable, specific suspect description, is prohibited;*
- m. the MCSO process for investigating Complaints of possible misconduct and the disciplinary consequences for personnel found to have violated MCSO policy;*
- n. Provide all trainees a copy of the Court's May 24, 2013 Findings of Fact and Conclusions of Law in Melendres v. Arpaio and this Order, as well as a summary and explanation of the same that is drafted by counsel for Plaintiffs or Defendants and reviewed by the Monitor or the Court; and*
- o. Instruction on the data collection protocols and reporting requirements of this Order, particularly reporting requirements for any contact with ICE/CBP.*

Phase 1: Not applicable

Phase 2: In compliance

The update and revision of the ACT by the Training Division continued during this reporting period. The curriculum has not been presented for review.

d. Supervisor and Command Level Training

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

Phase 1: Not applicable

Phase 2: In compliance

The Supervisor Responsibilities: Effective Law Enforcement (SRELE) training was not delivered during this reporting period.

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

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

Phase 1: Not applicable

Phase 2: In compliance

During this reporting period, MCSO presented the SRELE Training for initial review. This curriculum is unique in that it has been developed as a companion training to the EIS Training. These training programs are being developed in tandem, and will be delivered in a two-day format. The SRELE Training includes videos, scenarios, and content to assist supervisors in the identification of deficient behaviors. As an aid to supervisors, it also includes alternative corrective actions and additional information to assist with the identification and response to bias policing specific to 53.e. This marks the first training provided by MCSO incorporating and highlighting important relationships between Blue Team Supervisory Notes, Employee Performance Appraisals (EPAs), body-worn camera (BWC) recordings, and the accuracy of TraCS data. The curriculum incorporates both written and proficiency testing to ensure that supervisors gain and demonstrate an ability to navigate these data systems, review the data produced, and make reasonable supervisory determinations.

Section 7: Traffic Stop Documentation and Data Collection

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

For Paragraphs 54 and 55, in particular, we 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 7 and the report as a whole.

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

We continue to pull our monthly sample of traffic stop cases from the six Districts (Districts 1, 2, 3, 4, 6, and 7) and Lake Patrol. By way of background, MCSO reported a total of 5,562 cases of traffic stop events for these areas between October 1-December 31, 2016 (averaging 1,854 per month).

Once we received files each month containing traffic stop case numbers from MCSO, denoting from which area they came, we selected a sample of up to 35 cases representing the areas and then selected a subsample averaging 10 cases, from the 35 selected cases, to obtain CAD audiotapes and body-worn camera recordings. Our sampling process involved selecting a sample of cases stratified by the areas according to the proportion of specific area cases relative to the total area cases. Stratification of the data was necessary to ensure that each area was represented proportionally in our review. Randomization of the cases and the selection of the final cases for CAD review were achieved using a statistical software package (IBM SPSS Version 22), which contains a specific function that randomly selects cases and that also allows cases to be weighted by the areas. Our use 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. Since that time, we began pulling additional samples for passenger contacts and persons' searches (10 each per month). 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 stipulation referenced amends the First Order, and will be addressed in Section 7.

a. Collection of Traffic Stop Data

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

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

Phase 1: In compliance

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

Phase 2: Not in compliance

To verify the information required for this Paragraph, MCSO created, and we reviewed, the Vehicle Stop Contact Form (VSCF), the Vehicle Stop Contact Form Supplemental Sheet, the Incidental Contact Receipt, and the Written Warning/Repair Order, all in electronic form, for those motorists who, during this reporting period, committed a traffic violation or operated a vehicle with defective equipment and received a warning. We also reviewed the Arizona Traffic Ticket and Complaint Forms issued for violations of Arizona Statutes, Internet I/Viewer Event Unit printout, Justice Web Interface printout, and any Incident Report associated with the event. We selected a sample of 105 traffic stops conducted by deputies from April 1-June 30, 2017, for the 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 this report.

Paragraph 54.a. requires MCSO to document the name, badge/serial number, and unit of each deputy and Posse member involved. Our review indicated that in the 105 vehicle traffic stops, there were 18 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. Of the 18 cases where there were multiple units on a stop, we found one case where personnel who were on the scene were not listed in the VSCFs. That one case involved a stop of a white male for speeding. The second deputy unit appears on the CAD printout and I/Viewer Event document, but it was not documented on the VSCF.

For this reporting period, all of the primary deputies indicated their own 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. A TraCS change was made to the VSCF during 2016 to secure this information. MCSO added a drop-down box so the deputy could enter the number of units on the scene and the appropriate fields would be added for the additional deputies. While this addition is an improvement, if the deputy fails to enter the number of additional units on the form, the drop-down boxes do not appear.

The identity of personnel on scenes is a core issue in this case, and we shall consistently evaluate the agency's measure of compliance with this requirement. The Order requires that all deputies on the scene be identified with their names, and serial and unit numbers, on the appropriate forms. We found that the deputies' names, and serial and unit numbers, were listed, with few exceptions, on all required forms and identified on the Vehicle Stop Contact Form. There were 18 instances where traffic stops involved deputies or Posse members, in addition to the primary units conducting the stop. Of those, 17 stops had Vehicle Stop Contact Forms that identified all personnel present. MCSO's compliance rate for this reporting period is 95%.

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 now provides us with the GPS coordinates via a separate document that lists the coordinates for the traffic stop sample 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. During our quarterly site visits, we review the GPS coordinates with CID personnel to ensure the accuracy of the data. The CAD system was upgraded in 2014 to include geocoding of traffic stops. CID continues to provide us with a printout of all case numbers in the sample containing the associated coordinates. For this reporting period, the CAD or I/Viewer system contained the coordinates in about 64% of the cases. In a separate spreadsheet, MCSO provided GPS coordinates for 105 of the 105 cases we reviewed, for 100% compliance with this portion of the Subparagraph.

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 no instances where the start or end time on the Vehicle Stop Contact Form differed by five minutes or more from the CAD printout. In monthly audits of traffic stop data, BIO reviews the beginning/ending times of the stops and sends Action Forms to the Districts when there are discrepancies. The CAD system is more reliable than the VSCF in determining stop times, as it is less prone to human error. When the deputy verbally advises dispatch that s/he is conducting a traffic stop, the information is digitally time-stamped into the CAD system without human input; and when the deputy clears the stop, s/he again verbally advises dispatch.

During our April 2016 site visit, we discussed with ASU and MCSO the possibility of using the CAD printout instead of the TraCS data to determine stop times. We determined that using the CAD system to determine stop end times created additional challenges. However, a decision was made to use the CAD printout to determine traffic stop beginning and ending times for data analysis. MCSO issued Administrative Broadcast 16-62 on June 29, 2016, which indicated that beginning with the July 2016 traffic stop data collection, the stop times captured on the CAD system would be used for reporting and analytical purposes. Several additional TraCS technical changes were made and implemented in 2016. Some of the changes implemented include: a feature that automatically imports the CAD time onto the VSCF; mandatory fields requiring the selection of an ARS Offense Classification (Civil, Traffic, Criminal Traffic, Criminal or Petty Offense); defining the reasons for an extended stop; the addition of help features to assist deputies while utilizing the TraCS system; the addition of a search feature that allows for the search of citations and warnings by a driver's last name or license plate; and permitting a reviewing supervisor to reject a VSCF if a deficiency is identified and to request that a deputy make the appropriate changes to the document.

The first change listed above should ensure that the start and end time of the stop from the CAD system and VSCF should be consistent. MCSO's compliance rate is 100% for this portion of the Subparagraph.

Paragraph 54.c. requires MCSO to document the license plate and state of the subject vehicle. During this reporting period, we found that deputies properly recorded the vehicle tag number and state of issuance in 104 of 105 cases. In one instance, the deputy recorded a vehicle's registered tag number instead of the tag that was affixed to the vehicle, which was fictitious. BIO flagged this issue in an audit.

MCSO is in compliance with this Subparagraph, with a compliance rate of 100%.

Paragraph 54.d. requires MCSO to document the total number of occupants in the vehicle when a stop is conducted. In 38 of the 105 traffic stops, the driver had one or more passengers in the vehicle (98 total passengers). The Vehicle Stop Contact Form, completed by the deputy on every traffic stop, is used to capture the total number of occupants and contains a separate box on the form for that purpose. Policy EB-2 (Traffic Stop Data Collection) requires deputies to collect data on all traffic stops using the MCSO VSCF; this includes incidental contacts with motorists. Our review of the sample data indicates that deputies identified the correct number of vehicle occupants in all cases. MCSO is in compliance with this Subparagraph.

Paragraph 54.e. requires MCSO to document the perceived race, ethnicity, and gender of the driver and any passengers, based on the deputy's subjective impression. (No inquiry into the occupant's ethnicity or gender is required or permitted.) In 38 of the 105 stops from the traffic stop data sample, there was more than one occupant in the vehicle (98 total passengers).

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

In one stop in our sample of 30 that contained body-worn camera recordings, our review found a female driver with a Latino surname, documented as white, should have been documented as Latina on the VSCF. In one case, an Indian/Asian female driver was documented as white on the VSCF; BIO flagged this issue in an audit. In one case, a white male driver was documented as a white female; BIO flagged this issue in an audit. In one case, the deputy recorded the pre-stop perception of the driver as a Latino and post-stop as an American Indian/Alaskan Native female. The driver should have been recorded as a Latina. During this reporting period, we requested additional body-worn camera recordings for drivers with possible Latino surnames to assess if the proper ethnicity was documented. In five cases, Latino drivers were documented as white males on the VSCF. In one other case, a Latino was documented as an Asian Pacific Islander. In one case, the last name of the driver was possibly a Latino surname. The driver was documented as a white male on the VSCF, but only after the deputy made inquiry from the driver concerning his last name, which is prohibited by this Subparagraph. In several other cases we reviewed, we either concurred with the documented perceived ethnicity of the driver or were unable to clearly determine the ethnicity of the driver.

In our review of passenger contacts, we identified one case in which a Latino driver, who was stopped for speeding, was documented as a white male on the VSCF. In our review of searches of individuals, Subparagraph 54.k., we identified two cases in which passengers were listed as unknown - vision obstructed. In one case, the video reveals that the deputy approached the passenger side of the vehicle where a Latino was seated, and that there was no obstruction prohibiting the deputy from viewing the passenger. In the other case, the deputies at the scene of the stop had all of the passengers exit the vehicle after the driver was arrested. There was no obstruction prohibiting the deputy from viewing the passenger. In addition to the two unidentified passengers, this case involved an American Indian female driver, an American Indian female passenger, and two American Indian male passengers. We were unable to clearly determine the ethnicity of the two unidentified male passengers.

Sixty-two, or 59%, of the 105 traffic stops involved white drivers. Thirty-one, or 30%, of the 105 stops involved Latino drivers. Seven, or 7%, of the 105 traffic stops involved Black drivers. Three, or 3%, of the 105 traffic stops involved Indian, Asian, or Asian Pacific drivers. Two, or 2%, of the 105 traffic stops involved American Indian/Native Alaskan drivers. Fifty-five traffic stops, or 52%, resulted in citations. Forty-eight, or 46%, of the 105 traffic stops we reviewed resulted in a written warning. There were two traffic events that resulted in no action. One involved a fleeing driver who was never apprehended. The other occurred when the deputy

was preempted during the traffic stop to respond to a priority call before issuing a citation or warning. The breakdown of those motorists issued warnings is as follows: 30 white drivers (62% of the total who were issued warnings); 14 Latino drivers (29% of the drivers who were issued warnings); four Black drivers (8% of the drivers who were issued warnings); and one Asian Pacific Islander driver (1% of the drivers who were issued warnings). In our previous report, 65% of the drivers who received warnings were white, 32% of the drivers who received warnings were Latino, and 3% of the drivers who received warnings were Black.

The Order requires deputies to document the perceived race, ethnicity, and gender of any passengers whether contact is made with them or not. MCSO has been aware via BIO's audits of the deputies' failure to indicate the race/ethnicity of passengers when no contact is made with them. The Order does not require the names of passengers unless a passenger is contacted. Then the reason for the contact must be documented. In those instances where contact is made, the passenger's name should be listed on the Vehicle Stop Contact Form.

There were a total of 203 occupants (105 drivers and 98 passengers). MCSO had been compliant with this Subparagraph in past reviews. For this reporting period, we continue to defer our compliance assessment due to numerous Vehicle Stop Contact Forms we reviewed that indicate the underreporting of Latino drivers and the underreporting of the perceived gender and ethnicity of passengers. If the issues identified continue to exist during the next reporting period, we will change our finding to not in compliance. We will continue to request additional body-worn camera recordings based on our preliminary findings. We have encouraged MCSO to address the issue of possible underreporting of Latino drivers by providing additional training for deputies and supervisors. We also encourage MCSO to reinforce the policy requirement that deputies accurately document the passengers on the VSCF. We previously recommended that MCSO have a training methodology and timetable completed and disseminated to the Monitor and Parties by July 1, 2017. On June 30, 2017, the MCSO provided the Monitoring Team and the Parties with its methodology to address training, providing roll-call briefings and conducting audits specific to this issue. The timetable anticipates that Supervisory Training will commence during the next reporting period, concluding in October 2017, and roll-call briefings for deputies will commence after the supervisors complete the training. MCSO anticipates that the roll-call briefings will be completed in December 2017. The development of an audit methodology and the commencement of audits on this topic are scheduled to begin during in September 2017. We will follow up on these issues during our next site visit to evaluate the actions taken by MCSO – including corrective actions taken in response to the BIO audits that identified some of these same issues. In addition, to attempt to identify all consent searches, we will request that MCSO provide data from the VSCFs in which there is a response (yes or no) in the fields designated to capture whether a consent to search was requested of the driver and/or passenger. We will follow up with MCSO as to how the data will be provided.

Paragraph 54.f. requires that MCSO record the name of any individual upon whom the deputy runs a license or warrant check (including the subject's surname). For this reporting period, we found that in the 105 traffic stops we reviewed, 104 included a check on the license plate. In one case, there was a valid explanation for the deputy not performing a check on the license plate. That case involved a fleeing driver who was not apprehended. There were 102 stops where the driver or passengers had a warrant check run. In one case, the deputy failed to perform a check on the driver. BIO flagged this issue in an audit. In two cases, there were valid explanations for the deputies not performing a check on the drivers. In one case, it involved a deputy who was preempted during a traffic stop and responded to a priority call. In another case, it involved a fleeing driver who was not apprehended.

MCSO's compliance rate is 99%, and 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 30 traffic stops where the deputy had interaction with one or more passengers. Each passenger contact is described in detail in Paragraph 25.d. All passenger contacts in the traffic stops we reviewed for Paragraph 25.d. were noted in the VSCFs.

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

In our experience, the vast majority of traffic stops do not require contact with a passenger unless the driver is arrested, the vehicle will be towed, or there are minor children in the vehicle that will need care. The other type of traffic stop where we noted that deputies routinely contact passengers is when upon approaching a vehicle, the deputy detects the smell of burnt marijuana. In the stops we reviewed where this has occurred, deputies have inquired if the driver or any passengers possess a medical marijuana card.

MCSO is in compliance with this Subparagraph.

Paragraph 54.h. requires deputies to record, prior to the stop, the reason for the vehicle stop, including a description of the traffic or equipment violation observed, and any indicators of criminal activity developed before or during the stop. For this reporting period, we identified a random sample of cases from the 35 cases we initially requested each month, and requested CAD audio and body-worn camera (BWC) footage for those cases. We listened to CAD dispatch audio recordings, reviewed the CAD printouts, and reviewed body-worn camera recordings for 30 traffic stops 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, license plate, and state of registration for all 30 stops.

For the remaining 75 traffic stops where body-worn camera recordings and CAD audiotapes were not requested, we review the CAD printout and the VSCF to ensure the reason for the stop has been captured. These forms are included in our monthly sample requests. The dispatcher enters the reason for the stop in the system as soon as the deputy verbally advises Communications of the stop, location, and tag number. The VSCF and the CAD printout documents the time the stop begins and when it is concluded – by either arrest, citation, or warning. Deputies need to be precise when advising dispatch of the reason for the traffic stop, and likewise entering that information on the appropriate forms.

MCSO's compliance rating for this Subparagraph is 100%.

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 54.b., the stop times on the CAD printout and the Vehicle Stop Contact Form vary slightly on occasion. We understand that this may occur due to extenuating circumstances, and we reported on those instances where there were five minutes or more in difference from either the initial stop time or end time.

We did not find any traffic-related events 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. Some stops vary in time for any number of reasons that may, or may not, be justified. There were 15 extended stops. Eight extended stops involved white drivers, six extended stops involved Latino drivers, and one extended stop involved an Asian Pacific Islander driver. We reviewed each stop, and found that all of the 15 stops had reasonable justification for the additional time expended.

Supervisors conducted timely reviews and discussions of 99 of the 104 VSCFs reviewed. In one stop, which involved a driver who fled and was not apprehended, no VSCF was generated. Deputies accurately entered beginning and ending times of traffic stops in all of the cases that we reviewed. MCSO accurately entered the time citations were issued in all 55 cases.

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.

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.

We reviewed 105 traffic stops submitted for this Paragraph, and found that none of the stops involved any contacts with ICE/CBP. None of the stops we reviewed involved any inquiries as to immigration status. In addition, our reviews of Incident Reports and Arrest Reports conducted as part of the audits for Paragraphs 89 and 101 revealed no immigration status investigations. 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. There were no cases that met this criteria in our traffic stop sample of 105 traffic stops, so we pulled an additional 30 sample cases from the quarter involving only instances where the deputy indicated a search on the VSCF. In the sample of 30, there were two cases that met the criteria specific to searches of individuals. In one case, a Latino driver was stopped for speeding while driving a motorcycle with a white female passenger. The deputy requested, and was granted, permission to conduct a search of the driver before providing a courtesy transport. No contraband was found. The deputy documented the search on the VSCF. In one case, a white male driver was stopped for traveling at a high rate of speed behind another vehicle. The driver, who appeared highly agitated, was ordered out of his vehicle at gunpoint and frisked. The deputy did not document the reason for conducting the frisk. No weapon was found. The deputy documented the frisk on the VSCF. The remaining 28 cases were not specific to the requirements of this Subparagraph as they involved either searches of individuals, incident to arrest, probable cause searches of vehicles, or vehicle inventory searches.

As we have noted in the previous quarterly report, we continue to identify VSCFs that document passengers as having been searched incident to arrest, when our reviews of the BWC recordings have indicated that passengers were neither arrested nor searched. In most instances, this error occurred in stops where the driver was arrested and/or where there was an inventory search conducted on a vehicle to be towed. We continue to note this confusion among deputies in accurately documenting which types of searches they are conducting. We also continue to find deputies indicating incident to arrest or probable cause searches when the search is a vehicle inventory if the vehicle is being towed. The VSCFs for these stops had been reviewed and approved by supervisors. There is an apparent misunderstanding by both deputies and supervisors on how to correctly complete this portion of the VSCF and what constitutes a passenger search. We recommend that MCSO address this issue through training on proper documentation of vehicle and persons' searches. Supervisors should also be attentive to these deficiencies we have identified when reviewing traffic stop documentation.

Policy GJ-3 is very specific; it states that a warrantless search of a vehicle may be conducted when there is probable cause to believe that evidence or contraband is inside the vehicle. The policy requires that when a person consents to a vehicle search, the deputy should make a request for his/her signature on the form, thereby waiving his/her rights. We have not found any Consent to Search Forms in the samples we reviewed. During our July 2017 site visit, we discussed this issue with MCSO. MCSO reported that deputies have electronic access to the Consent to Search Forms. We recommended that MCSO revisit the requirements of this section of the policy and require deputies to read the Consent to Search Form to the subject and require a signature from the individual for every request for consent to search unless the search is an actual search incident to arrest.

This Paragraph only applies to persons' searches and not vehicle inventories. MCSO has been aware of the problem with the reporting of persons' searches, and EIU is working on a solution to resolve the problem. Beginning with our November 2016 sample, we observed that MCSO changed the VSCF to indicate if the stop resulted in a vehicle being towed – but it did not address the issue of the difference between vehicle inventories and persons' searches. MCSO did not provide a sufficient number of persons' search cases for our review to determine if they were compliant with this Subparagraph. Several of the cases produced were vehicle inventories and mislabeled by the deputies. From our continued reviews, MCSO is still over-reporting the number of actual persons' searches. MCSO is not in compliance with this Subparagraph.

Paragraph 54.I. 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 (our sample of 105) during this reporting period, we noted one case where deputies made a criminal traffic arrest and seized the offending driver's license and one case in which the license plate was seized and the items were placed into evidence. In one case, the deputy failed to document the seizure of the license plate on the VSCF. In both cases, the deputies documented the seizure of the driver's license on the citations. The cases involved Latinas.

In the 30 cases we reviewed for searches of individuals, there were four cases involving drivers arrested for driving under the influence in which evidence was seized from the drivers. In one case, the deputy documented on the VSCF that the driver's license and blood samples were place in evidence. The seizure of the driver's license was also documented on the citation. This stop involved a white male. In one case, the deputy documented on the VSCF the seizure of the driver's license. The seizure of the driver's license was not documented on the citation. The seizure of the driver's license and blood sample were documented on the Incident Report. This case involved a Latina. In one case, the seizure of the driver's license and blood sample were documented on the Incident Report. The seizure of the driver's license and blood sample were not documented on the VSCF. The seizure of the driver's license was not documented on the citation. This case involved a white male. In one case, the deputy documented on the VSCF that the driver's license and blood samples were place in evidence. The seizure of the driver's license was documented on the citation. The seizure of the driver's license and blood sample were documented on the Incident Report. This case involved a white female. In two cases, deputies recovered marijuana from the drivers as a result of the drivers voluntarily handing the narcotics to the deputy. In both of the cases, the deputies documented the seizure of the

narcotics on the VSCF. These cases involved a Latino and a white male. There were three narcotics or paraphernalia-related cases in which evidence was seized from motor vehicles. In each of the cases, the deputies documented the seizures on the VSCF. These cases involved two Latinos and a white male. In one case, the deputy seized the license plate from a vehicle and documented the seizure on the VSCF. This case involved a white male. We recommend that MCSO ensure that supervisors carefully review documents prepared by deputies to identify documents that are incomplete and require the deputies to make the needed corrections. MCSO is in compliance with this Subparagraph.

Paragraph 54.m. requires the documentation of the final disposition of the stop, including whether a citation was issued or an arrest was made or a release was made without a citation. In all of 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.

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

Phase 1: In compliance

- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EA-5 (Enforcement Communications), most recently amended on December 8, 2016.

Phase 2: In compliance

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

The unique identifier “went live” in September 2013 when the CAD system was implemented. 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 the deputy advises Communications of the traffic stop. The unique identifier is visible and displayed at the top of the CAD printout and also visible on the Vehicle Stop Contact Form, the Arizona Traffic Citation, and the Warning/Repair Form. 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 occur occasionally, and for our assessment of numbers of personnel on the scenes of traffic stops, we requested clarification.

We visited Districts 2, 3, 4, 6, and 7 and Lake Patrol during our July 2017 site visit; and there were no indications from any personnel that there were recurring issues with the unique identifier, including duplicates. Once the deputy scans the motorist's driver's 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 (due to malfunctioning equipment), policy requires the deputy to enter the written traffic stop data electronically prior to the end of the shift. The start and end times of the traffic stop are now auto-populated into 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 is required.

To determine compliance with this requirement, we reviewed 105 traffic stop cases and reviewed the CAD printouts and the Vehicle Stop Contact Forms for all stops. We reviewed the Warning/Repair Forms, when applicable, for those stops where a warning was issued or the vehicle had defective equipment. The unique identification number assigned to each event was listed on correctly on all CAD printouts for every stop.

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

Phase 1: Not in compliance

- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EIU Operations Manual, currently under revision.

Phase 2: Not in compliance

To verify compliance for this Paragraph, we reviewed the monthly audits of the traffic stop data conducted by BIO on the samples we selected. While audits require in-depth analysis, quality control checks serve as more of an inspection or spot-check of the data. We also reviewed the BIO traffic stop audits for the months of April-June 2017 and found that the audits were thorough and captured most deficiencies. During our review of the identical dataset, we identified additional deficiencies, and brought them to the attention of CID while onsite; and they are contained in this report.

We reviewed the draft EIU Operations Manual, which contains procedures for traffic stop data quality assurance. Deficiencies in the draft procedures were documented in a May 30, 2017 memorandum to MCSO. That memorandum discussed the lack sufficient detail about: sources of traffic stop data, management, and accountability standards to ensure the integrity and accuracy of traffic stop data; documentation about how disparate data sources will be combined into a single data file for subsequent periodic analysis as prescribed by Paragraph 65 below; and procedures for ensuring the data dictionary that accompanies the single traffic stop data file will maintain timeliness and validity. To expedite MCSO's implementation of a sound quality assurance process, we provided technical assistance in numerous sessions following our April 2017 site visit. These sessions resulted in workable protocols for quality assurance of traffic stop data used in the periodic analyses, as prescribed in Paragraphs 64-67 below. During our July site visit, MCSO stated its intent to incorporate detailed information into its next revision of the EIU Operations Manual.

On September 8, 2015, MCSO issued Administrative Broadcast 15-96, which addressed the security of paper traffic stop forms. The procedure requires that paper forms (prior to April 1, 2014) be stored in a locked cabinet box at the District. The protocol also addresses any traffic stop data that may be handwritten by deputies in the field if the TraCS system is nonoperational due to maintenance or lack of connectivity. Any personnel who require access to those files must contact the division commander or his/her designee who will unlock the cabinet. Once the deputy accesses his file, a TraCS file log must be completed and signed by the deputy. During our July 2017 site visit, we visited Districts 2, 3, 4, 6, and 7, and Lake Patrol, and inspected the written (hardcopy) files and the TraCS file log. We verified that all records were locked and secure, and logs were properly maintained. Only authorized personnel had access to the files.

MCSO began auditing traffic stop data in January 2014; and beginning in April 2014, MCSO has conducted audits of the data monthly and provided those results to us. 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-June 30, 2017, and found them to be satisfactory. MCSO audits the 105 traffic stop samples we request each reporting period. BIO also conducts a more expansive review of 30 of the 105 sample pulls we request each reporting period to include passenger contacts and persons' searches. The approved policy also requires regularly scheduled audits on a monthly, quarterly, and annual basis.

Prior to our April 2017 site visit, MCSO discovered a serious flaw in its traffic stop data related to the variable that is used to identify the location of a vehicle stop. This is further discussed below, but this data problem demonstrated the failure of MCSO's then existing data quality control procedures to discern and prevent MCSO from conducting its periodic data analyses of traffic stop data to look for evidence of racial profiling or other bias-based policing. As previously stated, we have been providing technical assistance to MCSO to implement sound protocols to prevent future traffic stop data failures. During our July 2017 site visit, we verified that MCSO is developing protocols to include in the EIU Operations Manual. Until the EIU Operations Manual is completed, MCSO will not achieve compliance with this Paragraph.

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

Phase 1: In compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- GJ-35 (Body-Worn Cameras), most recently amended on January 7, 2017.

Phase 2: In compliance

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

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

The deputy will provide every person contacted on a traffic stop with an Arizona Traffic Ticket or Complaint (Citation), a Written Warning/Repair Order (Warning), or an MCSO Incidental Contact Receipt. 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. For this reporting period, deputies issued citations or written warnings in 103 of the 105 cases we reviewed. There were two cases in which there were no citations or written warnings issued. One involved a fleeing driver who was never apprehended. The other occurred when the deputy was preempted during the traffic stop to respond to a priority call before issuing a citation or warning. There was one case in which the signature of the driver was not obtained on the citation or warning. In that case, the deputy noted on the VSCF that he did not scan the signature due to his response to emergency traffic.

In our review of searches of individuals, Subparagraph 54.k., and passenger contacts, Subparagraph 54.l., we identified two cases in which signatures were not on the citation or warning provided. In both of the cases, the review of the BWC video reveals that a signature was obtained. The VSCFs do not contain an explanation as to why the signatures were not scanned. MCSO is in compliance for this portion of the Subparagraph.

The approved policies dictate that the CAD system will be used for verification of the recording of the initiation and conclusion of the traffic stop and that MCSO will explore the possibility of relying on the BWC recordings to verify that the stop times reported by deputies are accurate. The deputy verbally announces the stops initiation and termination on the radio, and then CAD permanently records this information. In May 2016, MCSO advised us that all deputies and sergeants who make traffic stops had been issued body-worn cameras and that they were fully operational. We verified this assertion during our July 2016 site visit and began reviewing the BWC recordings to determine if stop times indicated by CAD were accurate.

During this reporting period, we reviewed 30 body-worn camera recordings. In one case, we could not verify if the times on the CAD printout matched the times on the BWC recordings, due to the deputy failing to activate the BWC during the stop. In this case, we could not verify the stop time to determine if it matches the times indicated on the VSCF or the CAD printout. In addition, we noted some instances where deputies turned off the BWC during extended stops, and then restarted them. We also noted some instances of improper mounting of the BWC, leading to limited visibility. The compliance rate for the sample of 30 cases selected from the 105 for using the BWC to determine if deputies are accurately reporting stop length is 97%.

Deputies need to be more attentive to the timely activation – as well as the proper placement – of the body-worn cameras.

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

Phase 1: In compliance

- GF-1 (Criminal Justice Data Systems), most recently amended on December 7, 2016.
- GF-3 (Criminal History Record Information and Public Records), most recently amended on December 14, 2016.

Phase 2: In compliance

To verify compliance for this Paragraph, we reviewed the applicable policies and met with Technology Management Bureau personnel to determine if any unauthorized access to the systems had occurred during this reporting period. The policies state that the dissemination of Criminal History Record Information (CHRI) is based on federal guidelines, Arizona Statutes, the Department of Public Safety (ASDPS), and the Arizona Criminal Justice Information System; and that any violation is subject to fine. No secondary dissemination is allowed. Every new recruit class receives three hours of training on this topic during initial Academy training.

The Deputy Chief of the Technology Management Bureau advised during our July 2017 site visit that MCSO had no breeches to their systems. All databases containing specific data identified to an individual comply with federal and state privacy standards, and MCSO limits access to only those employees who are authorized to access the system.

During our July 2017 site visit, the Deputy Chief of the Technology Management Bureau advised us that an Information Security Incident Response operating procedure had recently been developed. The operating procedure was provided to the Monitoring Team. The operating procedure was developed in response to an FBI compliance audit of NCIC (National Criminal Information Center) data that was completed in February. The audit identified two cases of unauthorized use that occurred in 2011 and 2015. The incidents had been discovered and the offending employees had been terminated by MCSO, prior to the FBI audit. The operating procedure is intended to ensure that the Technology Management Bureau is notified of such incidents and the respective investigations. The MCSO is also guided by Maricopa County's Cyber Security Incident Response Plan, which provides the framework for responding to cyber security events.

We will continue to observe the security issues outlined in Paragraph 58.

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

Phase 1: Not applicable

Phase 2: In compliance

Electronic traffic stop data capture began on April 1, 2014. The forms created by MCSO capture the traffic stop details required by MCSO policy and Paragraphs 25 and 54 of the Order. BIO provided the traffic stop data, which included a spreadsheet of all traffic stops from October 1-December 31, 2015, listing Event Numbers as described at the beginning of Section 7. 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. MCSO did not collect electronic data before this time. MCSO has continued to provide full access to the traffic stop data.

b. Electronic Data Entry

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

Phase 1: In compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: In compliance

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

MCSO continues to conduct monthly traffic stop audits and forwards them for our review. 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 District offices. Occasionally, connectivity is lost in the field due to poor signal quality, and citations are handwritten (paper). Per policy, deputies must enter electronically any written traffic stop data they have created by the end of the shift in which the event occurred. As noted in our Paragraph 90 review, VSCFs are routinely entered into the system by the end of

the shift. During our July 2017 site visit, we met with MCSO and the Parties, and reviewed the deficiencies BIO and our reviews discovered for this reporting period, along with the results of the Action Forms generated by BIO.

We inspected marked vehicles at Districts 2, 3, 4, 6, and 7 and Lake Patrol to verify that MCSO vehicles used to conduct traffic stops on a routine basis are equipped with the ability to input traffic stop data electronically. Due to the size of the fleet, the number of marked and unmarked patrol vehicles fluctuates from month to month. Deputies have demonstrated their ability to access and use TraCS, as evidenced by the fact that their total time on a traffic stop continues to average 15 minutes or less.

c. Audio-Video Recording of Traffic Stops

Paragraph 61. *The MCSO will issue functional video and audio recording equipment to all patrol deputies and sergeants who make traffic stops, and shall commence regular operation and maintenance of such video and audio recording equipment. Such issuance 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.*

Phase 1: In compliance

- GJ-35 (Body-Worn Cameras), most recently amended on January 7, 2017.

Phase 2: In compliance

During our September 2014 site visit, we met with two MCSO Deputy Chiefs and other personnel to discuss MCSO's 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 deputies. The Court issued an Order providing an amendment/stipulation on October 10, 2014, requiring on-body cameras. 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.

Body-worn cameras were fully implemented and operational in May 2016, and the equipment has worked well. The BWC recordings are stored in a cloud-based system (on evidence.com) that can be easily accessed by supervisors and command personnel. The retention requirement for the recordings is three years.

We verified during our District visits that all Patrol deputies have been issued body-worn cameras. Records indicate that MCSO began distribution of the body-worn cameras on September 14, 2015, and full implementation occurred on May 16, 2016. Every reporting period, we review a printout provided by CID that documents each deputy, by District, who has been issued a BWC.

During our July 2017 site visit, we met with Districts 2, 3, 4, 6, and 7 and Lake Patrol supervisors and commanders; and inquired if Patrol supervisors had experienced any difficulty with the downloading or review of BWC recordings. We learned that there continue to be minor issues with cords breaking and batteries not lasting for deputies' entire shifts. There were also reports of incidents wherein deputy believed that the BWC was properly activated, but it did not and the traffic stop was not recorded. Lake Patrol personnel reported that the facility recently underwent a technology upgrade to address issues with downloading and connectivity problems at the facility. As it was only recently installed, they were unable to report on the whether the technology upgrade addressed these issues. Lake Patrol personnel also reported that deputies had recently pilot-tested a newer BWC system and were encouraged with the performance.

MCSO is aware of these concerns and is presently evaluating an upgrade to the overall system.

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

Phase 1: In compliance

- GJ-35 (Body-Worn Cameras), most recently amended on January 7, 2017.
- Body-Worn Camera Operations Manual, published on December 22, 2016.

Phase 2: Not in compliance

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

To verify compliance for this Paragraph, we reviewed the body-worn camera recordings included in our monthly samples.

For our selection of a sample to review body-worn camera videos, we used the same sample we select for the CAD audio request. During this reporting period, we reviewed 30 cases where body-worn camera footage was available. Twenty-nine cases were in compliance with the deputy activating the video- and audio-recording equipment as soon as the deputy decided to initiate the stop, and continuing to record through the end of the stop. There was one case that did not meet the requirements. In that case, the deputy did not activate the body-worn camera. The CAD print indicates that the deputy, at the conclusion of the stop, noticed that the body-

worn camera apparently did not activate, although he reports that he pushed the activation button. A portion of the stop was captured from the body-worn camera of a deputy that responded to assist in the traffic stop. In two cases, we initially determined that the deputies did not activate their body-worn cameras until after deciding to make a stop. During our July 2017 site visit, we reviewed the cases with CID. As a result, CID was able to locate the video segments in the cloud-based storage system used by MCSO. Generally, event numbers are assigned to each traffic stop and the corresponding BWC videos are tagged with that number, which MCSO personnel can access in a cloud-based storage system, on evidence.com. In the two cases we reviewed, the video segments that were not initially produced for our review were not assigned an event number. We discussed with this issue with the MCSO during our July 2017 site visit and we will continue to evaluate this issue in future reviews. We also noted that in our sample of 30 body-worn camera recordings for Paragraph 54.k., 25 cases were in compliance with the deputy activating the video- and audio-recording equipment as soon as the deputy decided to initiate the stop, and continuing to record through the end of the stop. In one case, there was late activation of the body-worn camera equipment. There were two stops where there was no video-recording from deputies that responded to assist on a traffic stop. In two cases, deputies did not activate their body-worn camera recording equipment for the duration of the stop. The compliance rate for the sample of 60 cases reviewed is 90%.

MCSO has already discovered the value of body-worn cameras – including in instances where community members have lodged accusations against deputies and the recordings proved to be invaluable in resolving complaints. We consider body-worn cameras a “core-issue” and encourage the agency to continue striving for full 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.*

Phase 1: In compliance

- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

- GJ-35 (Body-Worn Cameras), most recently amended on January 7, 2017.
- Body-Worn Camera Operations Manual, published on December 22, 2016.

Phase 2: In compliance

MCSO developed and issued a protocol and policy that requires the original hardcopy form of any handwritten documentation of data collected during a traffic stop to be stored at the District level and filed separately for each deputy. When a deputy is transferred, his/her written traffic stop information will follow the deputy to his/her new assignment. During our July 2017 site visit, we inspected the traffic stop written data files of Districts 2, 3, 4, 6, and 7 and Lake Patrol, to ensure that hardcopies of traffic stop cases are stored for a minimum of five years. We found that the files were in order and properly secured, and did not note any issues of concern.

d. Review of Traffic Stop Data

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

Phase 1: Not in compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- GJ-33 (Significant Operations), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- GH-5 (Early Identification System), most recently amended on March 24, 2017.
- EIU Operations Manual, currently under revision.

Phase 2: Not in compliance

MCSO will achieve Phase 1 compliance with this Paragraph when it incorporates its protocols into EIU Operations Manual. To achieve Phase 2 compliance with this Paragraph, MCSO must demonstrate ongoing use of the methodology delineated in the protocol established for Phase 1 compliance in the monthly, quarterly, and annual analyses used to identify racial profiling or other bias-based problems. Paragraphs such as these are intended to look for evidence of racial profiling or other bias-based policing. They are at the heart of the Order and have been the subject of several Court deliberations and findings. We are pleased that the agency, the Parties, and the Monitoring Team are continuing to work collaboratively; as we all recognize the importance and utility of these analyses.

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

Phase 1: In compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- GH-5 (Early Identification System), most recently amended on March 24, 2017.

Phase 2: Not in compliance

The Early Intervention Unit (EIU) has been designated by MCSO as the organizational division responsible for this Paragraph. EIU is to conduct analyses of traffic stop data on a monthly, quarterly, and annual basis to look for warning signs or indicia or possible racial profiling or other improper conduct as prescribed by Paragraph 64. The findings of its analyses must be reported to the Monitor and the Parties. As discussed in Paragraph 67 below, in April 2017, MCSO discovered serious problems with its traffic stop data, which ultimately required a reanalysis of the most recent annual evaluation. ASU, MCSO's consultant responsible for the annual and other periodic evaluations, conducted the reanalysis and provided tables just prior to our July 2017 site visit. A full revision of the second annual evaluation was not completed in time for our July site visit, but a discussion of the reanalysis occurred during our site visit. Highlights of that discussion are included in Paragraph 67 below.

The data problem has also required a reanalysis of findings in the draft March 29, 2017 quarterly report. MCSO produced its first quarterly report in March 2017, as required by this Paragraph, but it was withdrawn for reanalysis. In addition, as discussed in Paragraph 67, EIU had suspended in May 2016 a flawed monthly analysis process while it worked to implement a new one that is analytically sound. We note that EIU's implementation in May 2017 of the monthly analysis is a significant accomplishment. However, we are concerned about the number of potential alerts this analysis generates, which were discussed during our July 2017 site visit. As a result of discussions, we advised MCSO to place a temporary hold on the analysis until a more thorough analysis of the monthly methodology could be completed.

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

Phase 1: In compliance

- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- GH-5 (Early Identification System), most recently amended on March 24, 2017.

Phase 2: Not in compliance

MCSO has completed two comprehensive annual evaluations of traffic stop data to look for evidence of racial profiling or other bias-based policing. MCSO released the first annual comprehensive evaluation in a report dated May 24, 2016 titled, “Preliminary Yearly Report for the Maricopa County’s Sheriff’s Office, Years 2014 – 2015.” The first annual comprehensive evaluation found that there are individual deputies engaged in racially biased policing when compared to the average behavior of their peers. MCSO released the second annual evaluation in draft on October 24, 2016, which became final on March 1, 2017. The second annual comprehensive evaluation confirmed the findings from the first annual evaluation, and reported that there is a culture of bias-based policing permeating MCSO. Another important finding highlighted in the second annual comprehensive evaluation was that bias-based policing had not changed over time for Latinos. In addition to these two annual comprehensive evaluations, MCSO released its first quarterly analysis of traffic stop data as a draft report on March 29, 2017 (the quarterly report). The quarterly report reviewed traffic stop data for the period July 1-September 30, 2016 (the first full quarter of data fiscal year 2017), and found evidence of racial profiling in stop outcomes at both the organizational and individual deputy levels. Collectively, these analyses form the basis of determining the presence of racial profiling within MCSO.

As is reported in Paragraph 64, the second annual comprehensive evaluations and the quarterly report had to be withdrawn due to data problems. While detailed in our last quarterly status report, we briefly highlight the data problem here to provide context for the reanalysis of the second annual comprehensive evaluation reported during our July 2017 site visit. The data problem was discovered in March 2017 while MCSO was completing its implementation of the benchmarks delineated in Paragraph 67 below. The problem with the data is that it used flawed information about a deputy’s place of assignment to identify the location of the deputy’s traffic stop. This meant that reported findings (particularly subarea analyses affecting findings for beats and Districts) could not be trusted as being reliable. It was expected that findings from the organizational-level analysis might hold regarding general findings, but that the list of individual deputies flagged as potentially engaging in racial profiling or other bias-based policing might change once the location of the traffic stop was corrected. Parenthetically, analysis using the length of traffic stop data were expected to be unchanged as the length of a traffic stop would be unaffected by misinformation about a traffic stop’s location.

Conceptually, the importance of knowing a deputy’s area of assignment is that it affects analyses of traffic stops comparing the behavior of a deputy to the average behavior of the deputy’s peers. Understanding what the meaning of the word “peer” is what it at issue. Peer analysis occurs on at least two dimensions. One is when a deputy’s traffic stops in a specified geographic area (e.g., a District) is compared with every other deputy who makes traffic stops in the same geographic area (geographic peers). In this case, the deputy’s peers are those deputies who share the same geographic area in which traffic stops occur. Another possible dimension is to define the peer comparison group to include only those deputies who share the same area of assignment, but who may make traffic stops in multiple areas besides the one that constitutes

their home assignment areas. The data problem discovered by MCSO meant that information used to identify a traffic stop's location was flawed, thereby invalidating the geographic peers' analysis. Working with ASU, MCSO identified an alternative source of information to resolve the so-called assignment problem, which was operationalized starting on July 1, 2017 for the July 1, 2017-June 30, 2018 data fiscal year.

During our July 2017 site visit, ASU provided a one-page written summary of findings of its reanalysis of the second annual comprehensive evaluation. ASU was asked to identify any changes in the conclusions reported in the original second annual evaluation, as well as to discuss the original report's major finding that racially-biased policing was an organizational-wide problem. During our site visit meeting, ASU reported that there were no significant departures from the findings from its reanalysis pertaining to bias-based policing for any of the findings in the descriptive statistics portion of the reanalyses. ASU also reported that relationships (bias) were found to continue between race/ethnicity and stop conclusion (analyses looking at warnings, citations, incidental contact, searches, seizures, and arrests). In other words, there was no expectation that the revision of the second annual comprehensive evaluation would contain any changes in the conclusions about bias and stop outcomes.

Regarding the inferential statistical models, we reviewed the tabulations for the hierarchical logistical models for citations, warnings, arrests, searches, and seizures. ASU reported that while some levels of statistical significance might have changed, the reanalysis did not produce any results that would change findings regarding potential racial bias. One area of discussion where a departure in reported findings might occur, at least according to ASU, was in how ASU expected to report its findings about systemic bias within MCSO. As stated earlier, MCSO stated in its original second annual comprehensive evaluation that when considering the combined results of the descriptive statistics and inferential analyses "[t]he results show...that the problem of racialized policing is spread organizationally" (page 51). And the conclusion section of the same subject report states, "[c]ollectively, the results from the descriptive and inferential analyses portray two overarching findings: that there are deputies potentially engaged in racially biased policing and that organizationally, minorities are subjected to additional legal contact and intervention for several outcomes. As such, the issue of racially biased policing within MCSO appears to be both a deputy and organizational level problem" (page 75). During our July site visit, ASU stated that it might rephrase the conclusion about organization bias, at MCSO's direction, to reflect that its finding pertains only to deputies within the organization who are involved in traffic stops. There was much discussion about whether this rephrasing might obfuscate findings about bias within MCSO. ASU's conclusions regarding systemic, organizational bias in MCSO have not changed between the first annual traffic stop analysis and both versions of the second analysis. To now attempt to mitigate the conclusions and nuance the findings about organizational bias through word choice and semantics seems disingenuous and ill-advised.

MCSO will achieve Phase 2 compliance with this Paragraph when it demonstrates an ability to conduct the annual comprehensive evaluation of traffic stop data in a consistent fashion each year using a statistical methodology supported by the peer-review literature and data that accurately represents deputy traffic stop behavior.

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

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

Phase 1: In compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- GH-5 (Early Identification System), most recently amended on March 24, 2017.

Phase 2: In compliance

The EIU provides monthly analyses and documents describing the benchmarks used to set alerts for possible cases of racial profiling or other misconduct involving traffic stops. As reported in EIU's May 2016 report ("Monthly Document Report Regarding Paragraph # 65, 66, 67, 74"), EIU's process for analyzing traffic stop data for the purposes of setting alerts for deputies potentially engaging in bias-based policing had been suspended to enable EIU to implement new thresholds and the methodology for using them as described in our May 2016 guidance. We developed the new benchmarks, along with requirements for their implementation. The draft EIS Project Plan 3.0, dated January 20, 2017, stated that four of the 11 benchmarks identified were operational as of December 22, 2016. The remaining benchmarks were projected to be operational by January 31, 2017, but this target date was missed due to SPSS syntax problems. In a March 6, 2017 memorandum, MCSO noted that four benchmarks (Benchmarks 3, 6, 7, and 8) were fully functional, leaving seven benchmarks remaining. In an April 6, 2017 memorandum, MCSO reported that it had conducted monthly analyses on nine benchmarks (Benchmarks 1, 2, 3, 5, 6, 7, 8, 10, and 11) and incorporated them into EIS. In a May 16, 2017 memorandum, MCSO reported that all benchmarks were operational at all required levels of analysis and had employed each of them using April 2017 traffic stop data.

During our July site visit, we verified the operational status of the 11 benchmarks. For purposes of comparison, the following narrative incorporates MCSO's benchmark-naming convention.

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 (Benchmark 1). The second benchmark addresses disparities or increases in arrests following traffic stops (Benchmark 2). The third benchmark addresses disparities or increases in immigration status inquiries (Benchmark 3). MCSO reported in its May 16, 2017 memorandum that the last areas awaiting completion (District-level analysis for Benchmarks 67.a. and 67.b.) were completed. Paragraph 67.c. has been operational manually since May 1, 2016. Since these three Benchmarks are operational, MCSO is in compliance with Paragraph 67.a.

Paragraph 67.b. identifies a benchmark pertaining to evidence of an extended traffic stop involving Latino drivers or passengers (Benchmark 4). The draft EIS Project Plan 4.0 reports a target date of April 30, 2017 for organizational-, District-, and beat-level analyses. MCSO reported in its May 16, 2017 memorandum that Benchmark 4 became operational on March 1, 2017. Benchmark 4 was used with April 2017 traffic stop data. Since this Benchmark is now operational, MCSO is in compliance with Paragraph 67.b.

Paragraph 67.c. identifies three benchmarks. The first benchmark pertains to the rate of citations (Benchmark 5): MCSO is required to identify citation rates for traffic stops that are outliers when compared to a deputy's peers. The draft EIS Project Plan 4.0 reports that this benchmark was operational at the organization and beat levels as of March 10, 2017, and targets April 30, 2017 for full implementation. The second benchmark pertains to seizures of contraband (Benchmark 6): MCSO is required to identify low rates of seizures of contraband following a search or investigation. The third benchmark is similar to Benchmark 6, but it pertains to arrests following a search or investigation (Benchmark 7). According to the draft EIS Project Plan 4.0, Benchmark 6 was operational by manual entry as of December 1, 2016. This is also the case for Benchmark 7. Since the three benchmarks are now operational, MCSO is in compliance with Paragraph 67.c.

Paragraph 67.d. establishes a benchmark pertaining to agency, unit, or deputy noncompliance with the data collection requirements under the First Order (Benchmark 8). This benchmark requires that any cases involving noncompliance with data collection requirements results in an alert in EIS. EIU published an Administrative Broadcast on November 28, 2016 instructing supervisors how to validate data in TraCS in those cases involving duplicate traffic stop records to deliver timely data validation for our review. The draft EIS Project Plan 4.0 reports that MCSO began the data validation process on November 28, 2016. Therefore, MCSO is in compliance with Paragraph 67.d.

Paragraph 67.e. allows for other benchmarks to be used beyond those prescribed by Paragraph 67.a.-d. MCSO has three benchmarks under Paragraph 67.e. Benchmark 9 is defined as racial or ethnic disparities in search rates. The draft EIS Project Plan 4.0 reported a target date of April 30, 2017 for Benchmark 9 to become operational. Benchmark 10 is defined as racial or ethnic disparities in passenger contact rates. The draft EIS Project Plan 4.0 reported that Benchmark 10 would become operational on March 24, 2017. In addition to these two benchmarks, EIU is also developed a third benchmark for Paragraph 67.e. for non-minor traffic stops (Benchmark 11). The draft EIS Project Plan 4.0 reports that Benchmark 11 became operational at the organization and beat levels on March 1, 2017. The target date for District-level analysis for Benchmark 11 is April 30, 2017. The May 16, 2017 memorandum from MCSO reports that Benchmarks 9-11 are operational at the required levels of analysis. Therefore, MCSO is in compliance with Paragraph 67.e.

MCSO has completed operationalizing the benchmarks required by this Paragraph. That said, the monthly analysis that relies on these benchmarks generated a substantial number of alerts in the first two months of their use. Concerns about the large number of alerts were discussed during the April and July site visits as well as during conference calls with MCSO and the Parties in May 2017. As is discussed below, these discussions have resulted in the temporary suspension of the monthly analysis to give us time to explore methodological improvements to the monthly analysis.

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

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

Phase 1: In compliance

- GJ-33 (Significant Operations), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: In compliance

MCSO has not conducted a significant operation that met the requirements of the Order since Operation Borderline in December 2014. We reviewed documentation of joint operations with Customs and Border Patrol (Operation Gila Monster) in October 2016, and noted that the provisions of this Paragraph were not applicable to those operations.

We have assessed Phase 2 compliance through document requests and personal interviews with District command staff and deputies. Each month, CID requires command staff to prepare a memo regarding whether any Significant Operations or immigration-related traffic enforcement occurred within their jurisdiction during the prior month. For the months of April, May, and June, each District, Enforcement Support, and investigative units indicated that no one in their command had been involved in either a Significant Operation or a coordinated immigration-related traffic enforcement activity.

During the April site visit to Districts 1, 3 and 4 we were advised in discussions with captains, lieutenants, and sergeants that they, and their deputies, had not been involved in any coordinated immigration related traffic enforcement or Significant Operations.

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

Phase 1: In compliance

- GH-5 (Early Identification System), most recently amended on March 24, 2017.

Phase 2: Not in compliance

During this reporting period, MCSO successfully tested and implemented traffic and patrol data interfaces with EIS (Investigative Reports (IR), Non-Traffic Contact Forms (NTCF), and Arizona Office of Courts (AOC)) that improve the ability of supervisors to review the activity of their subordinates. MCSO is also continuing to modify the traffic stop monthly report (TSMR) that triggers alerts based upon subsections of Paragraph 67 and provides documentation for supervisors to investigate whether the actions of the deputies under their command may indicate bias in the way they carry out their duties. Once training for EIS is complete, and modifications to the monthly reports are established, we will be able to comprehensively evaluate MCSO's Phase 2 compliance with the Order.

MCSO met the stipulated date of June 1, 2017 for introduction of FI and IR data interfaces into the EIS database. With our and the Parties' approval, MCSO was allowed to continue testing these interfaces through June to ensure effective operation. Shortly after July 1, 2017, MCSO informed all Parties that the interfaces were fully operational. While BIO personnel had routinely conducted audits of IR forms, there is not yet a coordinated plan to collect and analyze other non-traffic stop forms (FI). We are working with MCSO to develop templates for regular reports that will summarize the patrol activities of deputies for review and investigation by supervisory personnel. Such reporting mechanisms will be required for MCSO to achieve Phase 2 compliance. We will discuss this further in our next quarterly status report.

The Traffic Stop Monthly Reports (TSMRs) have been undergoing revision since April 2016. In January 2017, MCSO began producing monthly tables of some of the 11 benchmarks from Paragraph 67 (disparities in stops for minor offenses, citation rates, immigration investigations, and the like). By April 2017, MCSO had completed the modifications necessary to include all 11 benchmarks in the TSMR, and began sending out alert investigations to supervisors based upon these data from traffic stops going back to January 2017. We became concerned with the increased number of alerts resulting from these benchmarks in the first two months of the TSMR. We initially voiced these concerns during our April site visit, and we later addressed them during conference calls with MCSO and the Parties in May. MCSO developed a three-step rule to examine the triggered alerts arising from these benchmarks in late May 2017. The goal of the rules devised by MCSO was to ensure that there was enough information available for supervisors to investigate whether the actions of deputies may indicate bias. During our July site visit, these issues were the focus of several meetings. As a result of these discussions, we advised MCSO to temporarily place a hold on any alerts arising from these benchmarks until a more complete analysis could be conducted. We coordinated this investigation with MCSO, and will provide the details and outcome of these processes in our next quarterly status report.

Each month, EIU provides a list of all completed alert investigations. Since April 2017, this has included TSMR alerts. From this list, we select 15 cases to evaluate the effectiveness of the supervisory oversight. For the past several reports, we have noted that not all supervisors were using EIS tools to their advantage. As a result, EIU created, and received approval for, Appendix B for GH-5 (Early Identification System) that is attached to all alert investigations. This new Appendix is designed to improve the level of information provided by supervisors regarding the investigations they have completed.

For April, May and June there were fewer than two instances each month where the supervisor did not provide sufficient information to ascertain details about the issues that gave rise to the alert or what actions were taken by the supervisor. These were discussed during our July site visit and EIU is developing modifications to the EIS lesson plan to address such situations. Once EIS Training is commenced and completed, we will evaluate how effectively these alert investigations are processed. In addition, we have found that several supervisors have begun using the intervention options of coaching and discussions to address the activities of their subordinates. Therefore, while not all supervisors are using EIS tools to their full advantage, a majority of them appear to have thoroughly read the new version of GH-5 and are employing these resources accordingly. This includes Administrative Broadcasts describing supervisory responsibilities and the new Appendix B for alert investigations. Each of the aforementioned EIS tools is included in the latest draft of the EIS lesson plan.

BIO has routinely conducted inspections and audits of supervisory use of EIS and related Patrol activity information. When supervisors fail to use these tools appropriately, BIO has sent out Action Forms to the appropriate District command staff for review and action, typically resulting in counseling of supervisors. The Action Forms were sent via email, and responses from District staff were sent back in the same way. Due to the cumbersome nature of such processes, EIU and BIO personnel automated this process in Blue Team. MCSO issued Briefing Board 17-18 on April 4, 2017 to all employees to outline this change. This automation should streamline the oversight process of line supervisors by command staff, and afford an automated way of cataloguing whether some line supervisors are having particular difficulties meeting their oversight responsibilities.

The Supervisor Note Inspection Reports for April and May indicate that overall supervisors use EIS tools as required nearly 92% of the time. The compliance rate for body-worn camera review and two Blue Team Notes per month occur in excess of 94%; while the compliance rate for bi-monthly reviews of EIS data of their subordinates occurred in 78% and 84% of the supervisor notes reviewed by BIO in April and May, respectively. As a result, BIO sent out BIO Action forms via Blue Team to the respective command staff of the supervisors found to be delinquent. Due to the time afforded command staff to review and respond to these Action Forms, the results of individual Action Forms are not included in the monthly reports produced by BIO. During our July site visit, we requested follow-up information on the completion of several of these Action Forms, and found that command staff had counseled several supervisors with multiple deficiencies. We will continue to evaluate the responsiveness of command staff to these Action Form deficiencies. We have recommended to MCSO that it also generate a monthly report regarding how effective command staff are in responding to these Action Forms. At present, such reviews are limited to the individual evaluations of lieutenants and captains by their respective superiors. We have recommended that BIO track and evaluate all, or a sufficient random sample of, the actions that lieutenants and captains take for each Action Form sent to the Districts to ensure that proper remediation of behavior leading to the Action Forms is being carried out.

BIO also conducts a quarterly Supervisory Note inspection, ensuring that supervisors are discussing and documenting interactions they have with their subordinates about bias-based profiling as required by CP-8. In its April-June inspection, BIO found that every supervisor documented discussions they had with their subordinates during roll-call or training sessions. We requested examples of these discussions to be provided during our July site visit. Each example met requirements of CP-8 and the Order.

BIO also conducts inspections of Patrol Activity Logs and shift rosters. According to policy, supervisors should review a deputy's Patrol Activity Log within seven days of completion and have a span of control of no more than eight deputies to one supervisor (GB-2). In our last quarterly status report, we found that two supervisors in District 5 did not meet the seven-day deadline for review of Patrol Activity Logs. According to the Action Forms completed by command staff of District 5, these supervisors were required to complete additional training. The April Patrol Activity Log inspection showed a similar deficiency in District 5; however, the training referenced above had not yet been completed. In the May inspection, District 5 showed 100% compliance in the review of Patrol Activity Logs. All Districts were above the 90th percentile in the May inspection. The shift roster inspections for April and May showed that Districts were in the 99th percentile of compliance. However, one shift roster in District 2 showed that on May 10, 2017, a sergeant had responsibility for 11 deputies. A BIO Action Form was sent out for this issue. During our July site visit, MCSO reported that this issue resulted from the confluence of scheduling errors between sergeants and the illness of staff that could have covered this error. The District 2 Captain is requiring his lieutenants to cross-check all shifts to ensure that such an occurrence does not reoccur.

MCSO also began using the "Review" and "Discuss" fields in TraCS in June 2016. The Review field allows supervisors to note the date when they finished the initial review of individual traffic stops conducted by their subordinates. According to policy, this review should occur within 72 hours. The Discuss field affords supervisors the ability to indicate when (date and time) they discussed the traffic stop contacts of their subordinates with them. According to policy, these discussions should take place within 30 days of the traffic stop. MCSO introduced these new fields to the organization via an Administrative Broadcast, as EIS Training is still under development.

Over the last several months, the compliance rate reported in the BIO audits is in the 90th percentile. For the review of traffic stops, the average monthly rates for April, May, and June were consistently at or above 96%. While the overall rates are high, District 4 had a monthly average of 78% in May, due to the fact that four TraCS forms were not reviewed at all and six were reviewed after the three-day window. BIO indicated that two different sergeants were implicated in these oversights, and District command staff were taking corrective action. The rate of compliance for District 4 in June was 99%. The BIO audit for discussions yields a similar result; the organizational averages are high – above 96% for the reporting period – but one supervisor in District 6 failed to discuss three contact forms in April and six contact forms in May. In the June BIO report, there were over 20 contact forms from District 5 that were not discussed with the deputy within the appropriate timeframe. BIO has sent an Action Form to District 4 staff, who are coaching the supervisor with the deficiencies. BIO has also sent an Action form to District 5 staff, which we will review when it is completed.

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

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

Phase 1: In compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- GH-5 (Early Identification System), most recently amended on March 24, 2017.

Phase 2: Not in compliance

The newest version of GH-5 (Early Identification System) clarifies how supervisors are to handle alert investigations and includes a template (Attachment B) that makes the process and requirements much more consistent and transparent. Additionally, the policy describes how a supervisor can set a "discretionary" alert based upon behavior they observe which has not yet triggered an official alert. MCSO also produced a revision to the proposed EIS lesson plan. Training is scheduled to be completed no later than November 1, 2017. EIU is also working on a second revision to the proposed EIU Operations Manual that lays out the responsibilities of the unit; the elaboration of key issues in GH-5; a table of the thresholds that trigger all varieties of alerts; and the protocol for handling and transmission of data used for monthly, quarterly and annual analyses.

Over the past year, MCSO, ASU, the Plaintiffs' attorneys, the Plaintiff-Intervenors, and we have been working to improve the methodologies and definitions employed in the analysis of traffic patrol data to be used in monthly, quarterly, and annual reports. As recently as March and April 2017, new data problems have arisen that require new analyses for the annual reports and setbacks for the complete analysis required in the quarterly traffic stop reports. These issues have taken time to uncover and rectify. During our April site visit, and in conference calls in

May and June, we have recommended ways to develop more comprehensive data-handling procedures. MCSO has established a working group with participants from all units that share some responsibility data creation or analyses to be actively involved in developing the data protocols for the organization. The protocols will begin with the pulling of raw data and move on to the addition of GPS information for traffic stops to final checking and analysis of data. Each unit is involved in creating the procedures for handling data, and in the development of a data dictionary that follows the data through each step of the process. MCSO tested the new procedures and applied these processes to the creation of a new set of data for the reanalysis of the Second Annual Traffic Stop Report (2015-2016). These processes are being memorialized for inclusion in the next draft of the EIU Operations Manual. The Operations Manual should increase accountability for units involved in data creation and analysis, as well as provide transparent information for supervisors regarding threshold levels and the processes that EIU uses to create alerts that supervisors must investigate. The data validation processes proposed should minimize or eliminate the sort of data inconsistencies that have caused concerns in the past.

MCSO has been working to refine the TSMR analysis that resulted in alert investigations for individual officers who trigger concerns based upon the traffic benchmarks of Paragraph 67; as well as thresholds for the use of force, unscheduled absences, and the like. In Paragraph 69, we illuminated several modifications that MCSO is currently undertaking regarding the TSMR. We also noted above the need for the reanalysis of the annual data due to errors that surfaced regarding the location of stops (Loworg). We continue to work with MCSO to refine the process of identifying deputies who are outliers in the annual analysis of data.

In October 2016, MCSO requested technical assistance to create a supervisory intervention process for deputies identified as outliers in the annual report. We, the Plaintiffs, the Plaintiff-Intervenors, and MCSO developed templates and supervisory processes to respond to the alerts emanating from the annual analysis. As a result of the new annual analysis for 2015-2016, MCSO identified five deputies to be part of a pilot test for these new procedures. The pilot test began in July 2017. In future quarterly status reports, we will further describe how this process has progressed and what modifications, if any, were required.

Additionally, the adjusted second annual report contained the same findings of organization-wide bias as did the first iteration. MCSO and the Parties have been working on a plan to address the systemic issues as required by this Paragraph and reinforced by the Court in recent status conferences.

MCSO is also developing new processes for the monthly alert investigations. For example, MCSO has created an Appendix B to GH-5 (Early Identification System) that lays out clearly, what documents supervisors should review and how they should conduct their investigations. This template was developed to promote consistency and accountability across the organization. In addition, MCSO, the Parties, and we are working on ways to identify more clearly which deputy activities should result in alert investigations. The initial alert investigations sent out by MCSO as a result of the TSMR in April and May 2017 often did not contain enough material for supervisors to derive if patterns existed. A working group that includes the Plaintiffs, the Plaintiff-Intervenors, MCSO, and members of our Team is working to refine the decision-making rules for sending alerts out as a result of the early TSMR findings. In future quarterly status reports, we will describe the progress and problems uncovered in these activities.

We remain concerned, however, that the monthly review of EIS information by supervisors has not resulted in any finding of problematic/biased behavior apart from analysis conducted by EIU. We anticipate that with the EIS and Supervisory Training being developed and delivered in the next several months that we will observe a more active and efficient supervisory process.

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

Phase 1: Not applicable

Phase 2: In compliance

MCSO has provided us with access to all existing data from monthly to annual reports, as well as inspections and audits. MCSO has requested technical assistance for various data issues and supervisory processes based upon several of these data analytic processes. MCSO has actively sought our input and proposed changes to methods or processes where it was appropriate.

Whenever we or MCSO have found a problem with the data being used for monthly or annual analyses, MCSO has actively engaged with us and the Parties to correct the issues discovered. As a result of the recent errors found with the location of stop measure (LowOrg) in the annual data, MCSO has begun to develop, in collaboration with us, the Plaintiffs, and Plaintiff-Intervenors, a data protocol that requires validation at each step of the data-handling process. In addition, EIU has created a tracking system for alert cases in Blue Team to increase efficiency and accountability in the processing of these investigations. Similarly, BIO has automated the Action Form in Blue Team to improve the ability of command staff to respond and memorialize how they handled issues of concern in their Districts. We are working with MCSO to propose ways to capture these new functions in monthly audits and reports. EIU has also implemented a checklist of supervisor responsibilities assigned to them in monthly investigations in Appendix B of GH-5 (Early Identification System). These new processes have improved our ability to understand supervisory practices related to traffic and patrol activity and offer suggestions for improvement to MCSO. Finally, EIU has captured all of these changes in the EIU Operations Manual and is currently working on a comprehensive revision. This manual not only sets out the responsibilities of EIU; but also includes data-handling protocols; threshold levels for alerts

to be triggered; data analytic methods for monthly, quarterly, and annual reports; among others. Cataloguing all of this information will further enhance MCSO's ability to create and respond to questions involving data and deputy activity in the future should that be necessary.

MCSO is meeting our expectations regarding our access to the aforementioned reviews and data of interest for this Paragraph.

Section 8: Early Identification System (EIS)

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

a. Development and Implementation of the EIS

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

Phase 1: In compliance

- GH-5 (Early Identification System), most recently amended on March 24, 2017.

Phase 2: Not in compliance

The Early Intervention Unit (EIU) continues to work with us, the Parties, and EIU’s private contractors to modify and improve the EIS through policy revision; database interfaces; analyses; and the development of methodologies for annual, monthly, and quarterly reports. The incremental nature of these processes has impeded the ability of MCSO to fully operationalize the EIS. Most recently, MCSO discovered that the LowOrg measure, representing the assignment of deputies throughout the organization, did not effectively track officers as they moved to new assignments. For over 18 months, we have advised MCSO that the organization must develop a more rigorous data-handling process. While MCSO produced portions of a data dictionary during this time, there were few quality assurance or validation processes included. Due largely to the latest revelation of data errors, MCSO has now established a committee of key organizational units that handle data used for all analyses to ensure that each time data is passed from one unit to the next, proper documentation and validation steps are taking place. Eventually, all of these new processes will be compiled into the EIU Operations Manual. We will continue to evaluate these steps to ensure that they are sufficient to guarantee problem-free analyses in the future. The EIU Operations Manual has already undergone the first review by us and the Parties.

One activity employed to help the EIS become fully functional was the development of the EIS Project Plan in October 2016. MCSO responded to our suggestions, and delineated the tasks that had already been accomplished and the target dates for those that needed to be accomplished in the Project Plan. In six months, the plan underwent four revisions as successive accomplishments or setbacks occurred. The development of the plan has moved MCSO much closer to realizing a fully functional system that includes all elements required by the Order.

EIU and BIO have also automated, in Blue Team, alerts and audits that trigger concerns about the behavior of individual officers and the supervisors who oversee them. BIO now transmits Action Forms to District command staff in Blue Team when audits indicate that deputies or supervisors are not correctly documenting their activity or overseeing their subordinates. The old email system of transmission made it difficult to track the Action Forms or responses from District staff. The automation of these forms will also allow for several types of analyses to uncover repetitive problems across the agency or multiple lapses by individual supervisors. MCSO disseminated this new process by Briefing Board 17-18 in April 2017.

EIU had also previously automated the alert investigation process in Blue Team. While this has made the transmission of alerts to and from District staff more efficient, it has not improved the overall investigative rigor or documentation by line supervisors and their superiors. We have repeatedly noted to EIU that alert investigations were being closed without adequate information. More importantly, we were concerned that very few lieutenants or captains, who had the responsibility to review these closed investigations, actually sent them back for further processing. As a result, EIU developed Attachment B to GH-5 (Early Identification System), which is a template of fields that every supervisor should fill out as they conduct or review an alert investigation. This too has led to perceptible improvements in the system, but there are still examples of inadequate documentation/investigations and the failure to recognize these by command staff. During our past few site visit meetings, we have reinforced that automation is only one part of the process of improvement. MCSO must now hold its supervisory staff, from sergeants to Assistant Chiefs, accountable if they do not adequately fulfill their roles.

BIO also conducts quarterly audits regarding CP-8 (Preventing Racial and Other Biased-Based Profiling) by inspecting the Supervisory Notes in Blue Team. We noted that not all deputies were receiving this important message during the last quarter of 2016 and the first quarter of 2017. In response, MCSO published Briefing Board 17-07, issued on February 7, 2017, that reiterated the organization's commitment to CP-8, as well as CP-3 (Workplace Professionalism) and CP-5 (Truthfulness). BIO's second quarter report, covering April to June 2017, shows that all supervisors selected for review had included some demonstration that they had addressed CP-8 in briefings and training with their subordinates. During our July site visit, MCSO showed several of these examples at our request. We also asked District staff during our visits to District 3 and 7 how they are attending to these requirements; and we were satisfied with the information we received.

Finally, as we have noted in previous Paragraphs, we remain concerned about the many difficulties that have plagued some statistical analyses regarding the activity of line deputies. Some of these issues have resulted from problems with the data; and others, from poorly planned supervisor intervention processes. However, as these issues have arisen, MCSO has been responsive to the critiques from us, the Plaintiffs' attorneys, and the Plaintiff-Intervenors. MCSO has requested technical assistance to address these issues. The technical assistance provided has ranged from data analysis and handling, to intervention processes for supervisors resulting from the annual data reports, to refinement of the process of sending out alerts resulting from the Traffic Stop Monthly Reports. We will continue to evaluate all data and policy processes related to this Paragraph as they are established or revised. Concurrently, we shall expect the agency to be diligent in its efforts to have a meaningful EIS.

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

Phase 1: In compliance

- GH-5 (Early Identification System), most recently amended on March 24, 2017.

Phase 2: In compliance

The EIU is a fully functioning unit. A lieutenant coordinates the unit, with three sergeants working on investigations, one analyst, and one administrative staff member under the auspices of BIO. During our April site visit, we learned that EIU was scheduled to hire two new administrative assistants; yet the timeline for these hires was not yet available. We noted that the ability of MCSO to address several of the outstanding data and reporting issues might be better addressed by hiring someone who could conduct and verify some of the analyses now conducted by ASU. We will report on these new hires as they occur.

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. We have already noted the problems with both data and software that EIU has experienced. As of July 1, 2017, all planned interfaces between remote databases and EIS have been tested and are operational.

In March 2017, MCSO discovered a data issue that significantly impacted the analysis for the annual and quarterly traffic reports. EIU, and MCSO as a whole, have responded by creating a committee of personnel across units who have responsibility for data-handling, processing and analysis to come up with a comprehensive protocol involving these functions in the future. This data validation/accountability process should improve the coordination, collection, and analysis of data fundamental to fulfilling the requirements of the Order.

EIU personnel have also reintroduced the first complete Traffic Stop Monthly Report, which produces alerts relevant to Paragraph 67 and patrol functions in April 2017. We are working with EIU and the Parties to ensure that the traffic stop alerts provide sufficient information to supervisors to evaluate whether deputies are involved in problematic or biased activity in the way they carry out their roles.

EIU has drafted the first iteration of the EIU Operations Manual to capture its responsibilities and all aspects of data-handling/analysis in the future, as well as enumerate thresholds for benchmarks that trigger alerts and subsequent investigative processes. We will evaluate subsequent drafts of the manual to ensure that it is complete and comprehensive.

Following the discovery of data problems pertaining to the location of stops and the assignment of deputies, EIU and ASU developed an alternative that met our and the Parties' approval. MCSO has conducted a reanalysis of the annual data that lays the groundwork for the supervisory intervention processes that have been developed and we will comment on the specifics of each analysis as they are published.

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

Phase 1: In compliance

- GH-5 (Early Identification System), most recently amended on March 24, 2017.

Phase 2: Not in compliance

During the first few years of EIU creation and operation, we repeatedly noted that much of what EIU personnel had created was qualitative and not grounded in prevailing theory or analytic rigor. Since the summer of 2016, EIU has incrementally introduced changes in response to our assessment. In October 2016, EIU drafted an EIS Project Plan specifying target dates for data entry, interfaces between remote databases and EIS, revision of policy and training to EIS. As these target dates were met or missed, EIU revised the Project Plan four times between October 2016 and April 2017. MCSO published GH-5 (Early Identification System) in March 2017. This policy included details that we and the Parties had recommended for several months. In addition, the new policy more clearly sets out the responsibilities of all employees who interact with the EIS on a regular basis. Following the publication of the policy, EIU drafted an EIU Operations Manual and created an updated training curriculum. Both the manual and training curriculum are undergoing additional revisions.

The Operations Manual lays out the responsibilities of EIU and the thresholds and benchmarks to be used in the analyses of TraCS data. With the discovery of additional data problems with the annual data analysis in March 2017; MCSO also established a committee comprised of all units that pull raw data, enter GPS information, or conduct analysis related to the Order. The creation of a comprehensive data-handling protocol will also be included in the Operations Manual. EIU has also been modifying the monthly traffic stop analyses including our suggestions and assistance regarding the benchmarks outlined in Paragraph 67. All of these processes and protocols, once complete, should lead to fewer data problems and more transparent EIU/EIS processes.

We will evaluate each process or document as they become operational. We continue to assist EIU and the Training Division in the development of a lesson plan that will include aspects of this Paragraph.

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

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

Phase 1: In compliance

- GH-5 (Early Identification System), most recently amended on March 24, 2017.

Phase 2: Not in compliance

The interfaces (IR, NCTF, AOC) relevant for this Paragraph have been successfully tested and operationalized. During site visits to the Districts, we observed supervisors in the field have access to these data. MCSO is currently working on the expansion of a new software program, HUB (Cornerstone), to replace E-learning and E-policy programs related to Subparagraph m. MCSO will have to develop an interface with this software so that supervisors are able to easily access information about the training their subordinates have completed or need. At this time, MCSO is still developing a plan to conduct analyses relevant to several of the “patrol” functions outlined in the following Subparagraphs. MCSO published GH-5 (Early Identification System) in March 2017, and is currently revising the EIU Operations Manual and EIS lesson plan for delivery prior to November 1, 2017.

In October 2016, EIU created an EIS Project Plan to delineate what had been accomplished relevant to this and other Paragraphs and what needed to be accomplished. Target dates were set for those issues yet to be accomplished. The Project Plan was revised three times, as issues were accomplished or postponed. In early January, MCSO reported syntax and data-handling processes affecting the monthly, quarterly and annual analysis of traffic data. Since that time, we have been working with MCSO to develop a protocol for data-handling processes that include all integral units associated with the raw data or analysis afterward. MCSO is including all of these processes and issues in an EIU Operations Manual. We remain optimistic that MCSO can meet the EIS Training deadline of November 1, 2017, and will discuss this further in subsequent quarterly status reports.

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, includes the number of misconduct complaints and allegations against deputies.

MCSO worked closely with CI Technologies and PSB to provide access to both open and closed complaints against deputies. Closed cases have been viewable since July 2016. Due to a need to maintain the integrity of investigations, open cases did not become viewable by supervisors in EIS until February 28, 2017. In anticipation of open cases being viewable in EIS, there were several meetings during our October 2016 and January 2017 site visits to discuss how MCSO intended to present the case summaries. All Parties were able to voice their concerns prior to the process going live in February. PSB prepares the case summaries and access levels prior to the incident appearing in EI Pro. PSB personnel have developed a set of rules used to construct these summaries. These rules will be enumerated in the PSB Operations Manual that is currently being drafted. EIU is coordinating this process with PSB. During our April and July 2017 site visits, we reviewed several randomly selected open investigations as they appear in EIS and found them to be clear and complete. In addition, during our visits to the Districts, we asked several sergeants if they could access closed and open complaint case summaries. All indicated that these were viewable to them and contained sufficient information for supervisory purposes.

MCSO is in compliance with this Subparagraph.

Paragraph 75.b. requires that the database include “all internal investigations of alleged or suspected misconduct.” Similar to the above discussion of complaints, internal investigations exist in the IAPro system – a management system used by EIU, PSB, and CID to track and analyze information inclusive of internal complaints and outcomes. However, for privacy concerns, there must be limited access to this information. As discussed in Subparagraph 75.a., supervisors can now view synopses of both open and completed investigations. PSB develops the case summaries and access levels for each investigation. PSB personnel are responsible for the creation of these case summaries and have developed rules for their development. PSB is currently drafting a PSB Operations Manual that will delineate these rules. Closed cases have been viewable since the summer of 2016, and open cases became viewable on February 28, 2017. During our April and July 2017 site visit meetings, EIU personnel showed several randomly selected open case summaries that appear in EIS. We were satisfied that these summaries were sufficiently clear and complete. During our visits to the Districts, several supervisors indicated that they reviewed the case summaries for their subordinates; and found them to possess enough information for a supervisor to understand the breadth and scope of both closed and open internal investigations.

MCSO is 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. Recently, MCSO has used CAD to auto-populate the start and stop times of traffic stops to ensure that there is as little human error as possible. Additionally, a drop-down menu was created to explain why a stop might be extended due to a DUI arrest, tow of a vehicle, etc. Finally, MCSO has completed the benchmarks of Paragraph 67 to calculate potential alerts for 11 different categories ranging from excess minor traffic stops to searches of drivers and passengers. MCSO demonstrated the functionality of these alerts during our April and July site visits. We continue to work with MCSO to ensure that alerts only go out to supervisors if there is sufficient information for supervisors to perceive a pattern that might indicate problematic deputy activity or bias.

For patrol activity, MCSO has now completed the pilot-testing of the data interfaces for IRs and NCTF in EIS. Supervisors can now more easily access information within the EIS database due to the introduction of these interfaces. During our July site visit, supervisors in Districts 3 and 7 were able to demonstrate the ability to view these new fields. BIO already routinely audits Incident Report memorialization, and will be working on regular audits to incorporate FI cards. MCSO is continuing to refine the reporting mechanisms for the Paragraph 67 benchmarks that appear in the TSMR. In addition, MCSO will need to expand the audits/inspections of Incident Reports to include Non-Traffic Contact Forms or create a new report for NTCF alone. We will evaluate each of these as they evolve.

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.” This information is evaluated by the Legal Liaison Section of MCSO and entered into the system. Since deputies may be involved with agencies outside the purview of MCSO, employees are required by the code of conduct policy to self-report these contacts. Failure to self-report may result in discipline depending upon the circumstances involved. Any two instances within a rolling six-month period would result in an alert that supervisors would be required to investigate. The introduction of the new EIPro software on November 8, 2016 afforded supervisors the ability to search fields of data using a variety of query techniques. MCSO was able to demonstrate these functions during our January 2017 site visit. Supervisors in Districts 1, 3, and 7 in April and July 2017 were able to demonstrate that they could access this information, as well.

MCSO is in compliance with this Subparagraph.

Paragraph 75.e. requires that the database include “all arrests.” All arrests are not currently included in the EIS database, but they exist in the Jail Management System, which is not directly linked to EIS. The Technology Management Bureau and EIU have been working with CI Technologies to create the interface that would pull specific data elements for each “arrest” into EIS. The pilot-testing for the interface began in January 2017. After several problems were revealed, modifications were made and the interfaces became operational July 1, 2017. Supervisors in District 3 were able to show their view of this field during our July site visit. We will continue to monitor the functionality of this interface during future site visits. BIO already conducts routine audits involving probable cause included in IR documents.

MCSO is 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. In addition, if a court or prosecutor returns a case specifically for a lack of probable cause, the case is reviewed and memorialized in an IR. These notes currently exist in Blue Team as Supervisory Notes associated with the subordinates involved. Supervisors manually entered these notations when they discover them personally, and they are incorporated into Blue Team when prosecutors or courts notify MCSO that probable cause did not exist for an arrest that was not discovered by the immediate supervisor. The newest version of EI Pro allows supervisors to search this field using keywords and phrases. Additionally, BIO conducts quarterly reports on several dimensions of IR documents. During the first quarter of 2017, the IR audit found no instances of cases being turned down for lack of probable cause. Other actions by courts or prosecutors to decline or refuse prosecution are discussed in Subparagraph 75.i., below. The interface for these determinations was completed by June 1, 2017; and went into full production on July 6, 2017.

MCSO is in compliance with this Subparagraph.

Paragraph 75.g. requires that the database include “all arrests in which the individual was released from custody without formal charges being sought.” According to EIU, the ability to capture this information depends upon what actually occurred within the context of the interaction. If the suspect was taken into physical custody but released prior to booking, there would be a JMS record, as indicated in Subparagraph 75.e. above. Therefore, MCSO could use the interface described above to pull the relevant data elements into EIS. However, if the incident does not rise to the point of physical custody and detention, then it would likely yield an Incident Report, covered under Subparagraph 75.f. above or an Investigatory Stop under Subparagraph 75.h. to follow. MCSO has been pilot-testing the interfaces for IR and NCTF data. These interfaces became operational on July 1, 2017, and MCSO demonstrated them during our July site visit. Up to this point, EIU had been manually entering this data; and the availability of this information to supervisors has been confirmed during the April site visit. We will continue to verify the ability of individual supervisors to view and search this information.

MCSO is 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. While the FILEBOUND system does not communicate with EIS, MCSO – with the assistance of CI Technologies – created database interfaces for data from Incident Reports and Non-Traffic Contact Form documents. These interfaces have been pilot-tested and became operational July 1, 2017.

During this reporting period, on June 1, 2017, MCSO reissued EA-3 (Non-Traffic Contact), which specifies the responsibility of MCSO personnel in different types of search events. Searches captured on VSCFs were placed in production on January 19, 2017. Incident Report searches for Subparagraph 75.e. and Non-Traffic Contact Form (FI) searches were automated on July 1, 2017. We have noted that BIO has routinely audited IR forms but is currently working on the development of an audit for NCTF documents. We will evaluate this latter audit when it is introduced and verify that supervisors have the ability to search this field during our future site visits.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.i. requires that the database include “all instances in which MCSO is informed by a prosecuting authority or a court that a decision to decline prosecution or to dismiss charges, and if available, the reason for such decision.” Some of these already exist in the database. All cases involving the Maricopa County Superior Court system already reside in the system and are entered as a “County Attorney Action.” The employee receives a direct message once these outcomes are entered into the system. In addition, a notice is sent to the deputy’s supervisor, and both lieutenants and captains will be able to view these County Attorney Actions on their own supervisory dashboard screens. BIO already conducts monthly audits of County Attorney Turndowns to ensure that, at a minimum, probable cause existed for the initial action of the deputy. With the introduction of new EIPro software in November 2016, these fields are now searchable by supervisors. MCSO demonstrated this ability during our January 2017 site visit.

MCSO has also been working with the Arizona Office of Courts (AOC) to receive data from all Courts that can be entered into EIS in an automated fashion. The data made available by AOC dates back to January 1, 2017 and will extend forward. The interface became operational on May 26, 2017; and entered into a pilot-testing phase on June 1, 2017. The interface was placed into full production on July 6, 2017. MCSO was able to demonstrate the accessibility of the interface during our July site visit.

MCSO is 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. MCSO has revised its policies to now include “coaching” in GH-5 (Early Identification System) as non-disciplinary action (see Subparagraph 75.k. below). MCSO introduced a new version of EIPro in November 2016, which allows this and other fields to be searched by supervisors. MCSO demonstrated this ability during our January 2017 site visit. In addition, the monthly alert report generated by EIU includes a breakdown of cases that require additional training, discipline, referral to PSB, among other outcomes. During our April and July visits to Districts 1 and 3, we were able to verify that supervisors have access to this information during their regular review of a deputy’s EIS information.

MCSO is in compliance with this Subparagraph.

Paragraph 75.k. requires that the database include “all non-disciplinary corrective action required of employees.” MCSO maintains 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. On November 8, 2016, MCSO notified us that with the production of the most recent version of EIPro, Supervisory Notes are now searchable using key words and phrases. MCSO has also included in the latest version of GH-5 (Early Identification System) “coaching” as a non-disciplinary action that supervisors can employ. Non-disciplinary actions are also included in the monthly alert report created by EIU for this Subparagraph. During this reporting period, there were four instances where supervisors engaged in coaching or a supervisor intervention. BIO also evaluates the sufficiency of Supervisory Notes in a monthly audit. While overall compliance for Supervisory

Notes is typically above 90%, there are areas of the report that indicate continued problems. In particular, the compliance rate for the bi-monthly review of EIS data, which is only one of the four items measured in the Supervisor Note audit, was 78% and 84% for April and May, respectively. As a result, BIO sent out Action Forms due to these deficiencies. In each case the BIO Action form was returned with the notation that the lieutenants held a “meeting with the supervisor” discussion with the sergeants to reinforce the need to conduct such reviews. With the upcoming EIS and Supervisory Training, we anticipate the compliance levels will improve.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.l. requires that the database include “all awards and commendations received by employees.” The EIU has completed its work with the Compliance Division and revised the awards policy. MCSO published GC-13 (Awards) on August 27, 2016. With this publication, EIU created categories for awards or commendations within EIS. With the introduction of the newest version of EIPro, these fields are also searchable by supervisors. During our April 2017 site visit, MCSO demonstrated updated award and commendation entries. During our visits in April and July, individual supervisors in Districts 1 and 3 verified that they regularly review these fields when conducting their reviews of a deputy’s EIS data.

MCSO is in compliance with this Subparagraph.

Paragraph 75.m. requires that the database include the “[t]raining history for each employee.” MCSO uses a Skills Manager System (SMS) that is operated by the Training Division. According to the Technology Management Bureau, the SMS will not communicate with EIS. EIU took the initiative to retrieve the history of deputies from SMS and enter them into EIS manually. EIU started this process, beginning with the training that began on October 1, 2016. EIU entered this data dating back to January 1, 2016 for all deputies. The introduction of the newest version of EIPro has also made this field searchable. MCSO has also begun using the HUB (Cornerstone) software system to take the place of E-learning and E-policy software systems. This software, however, does not communicate with EIS directly. MCSO is planning to develop a new interface once all of the issues with the software are addressed. In the meantime, we are satisfied with the manual entry of training history by EIU personnel. EIU demonstrated that this field is up-to-date during our April 2017 site visit.

MCSO is 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. The newest version of EIPro was introduced on November 8, 2016. This version of EIPro allows supervisors to conduct searches of this field. MCSO demonstrated this ability during our January 2017 site visit, and the search function was also demonstrated at District 3 during our April 2017 site visit.

BIO conducts monthly audits of Patrol Supervisory Notes and the Review and Discuss fields in TraCS. These audits show that several supervisors each month are failing to adequately use, or document the use of, EIS tools according to policy requirements. When these deficiencies are discovered, BIO sends Action Forms to District command staff. These Action Forms have resulted in coaching or meeting with supervisors by lieutenants and captains, and even instances of additional training. However, we note that fluctuations in EIS use continue to exist. The fluctuations generally do not involve the same supervisors in subsequent months, but they do arise somewhere else in the agency. Since BIO Action Forms have been included in Blue Team, both EIU and BIO can track whether the same supervisors are responsible for repeated deficiencies.

MCSO is currently redrafting the lesson plans for EIS Training as a result of the publication of GH-5 (Early Identification System). We hope that this training will lead to fewer problems in the future. We will continue to evaluate these trends in subsequent reports.

MCSO is not in compliance with this Subparagraph.

MCSO is making progress toward the development of a functioning relational database. With the operationalization of interfaces for Incident Reports, Non-Traffic Contact Forms and the Arizona Office of the Courts, EIS now contains the information required by the Order. MCSO has also shown the ability to search all of these fields. However, MCSO must now show how they will use this information to consistently improve the oversight of deputies that interact with the community on a daily basis.

We will continue to verify all of the search functionality outlined above and will discuss our findings in future reporting periods. Once Supervisory and EIS Training are delivered, we will evaluate if supervisors are using the EIS tools more consistently than they do at present.

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

Phase 1: In compliance

- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- GH-5 (Early Identification System), most recently amended on March 24, 2017.

Phase 2: In compliance

For traffic stops, MCSO meets these requirements in several ways. Following the introduction of VSCFs, MCSO has incrementally created mandatory fields that deputies must fill out before the form can be closed. This has dramatically reduced the amount of missing or erroneous data that impacted the first annual traffic stop analysis. EIU has also instituted a quality check process of VSCFs – by having supervisors review all traffic stops within three days before the form goes into the EIS database.

The discovery that the “LowOrg” deputy assignment measure mischaracterized the actual location of stops in both annual traffic stop reports meant that deputy activity was not being compared to their appropriate peer-group. MCSO overcame this problem by substituting the location of stop, through GPS, when analysis on traffic stop data is conducted. MCSO reanalyzed the 2015-2016 annual data as a result. We will continue to work with MCSO to ensure its compliance by incorporating the names of deputies, civilians, and the location of each stop in the EIS data.

MCSO began working diligently on “patrol data” during the summer of 2016. MCSO produced an EIS Project Plan in late October 2016 that delineated which portions of Paragraph 75 had been completed and which had yet to be accomplished. The plan also set out target dates for completion of tasks that would introduce pieces of patrol data into EIS. As MCSO met or missed these target dates, MCSO produced new versions of the Project Plan. In April 2017, MCSO produced the fourth, and final, version of the Project Plan. The final pieces to be incorporated into EIS were Subparagraphs – 75.e.g. (all arrests in differing contexts), 75.h. (investigatory stops), and 75.i. (AOC turndown cases). MCSO had been developing interfaces between the databases that housed this information and EIS with CI Technologies. On May 26, 2017 MCSO informed us that the AOC interface was operational and Incident Reports (75.e.g.) and Non-Traffic Contact Forms (75.h.) were in pilot-testing during June 2017 and became operational on July 1, 2017. During our July site visit, MCSO demonstrated these fields. Now, supervisors can view all information in EIS, including the name and race of persons stopped. MCSO still needs to memorialize several of these activities in the EIU Operations Manual and devise a plan to audit all of the patrol data necessary. However, the data are currently operational.

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

Phase 1: Not applicable

Phase 2: In compliance

Since our earliest site visits in 2014, we have addressed the issue of “necessary equipment, in sufficient amount and in good working order” with MCSO. As part of our monthly document requests, we receive an accounting, by District, of how many vehicles have functioning TraCS systems.

At the close of 2015, all marked patrol vehicles were equipped properly. In addition, most unmarked vehicles located at the Districts are also equipped with the TraCS equipment. Each District, excluding Lake Patrol, 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, per EB-2 (Traffic Stop Data Collection).

During our April and July 2017 visits to Districts 2, 3, 4, and 7 and Lake Patrol, we spot-checked squad and detective cars. We found that they had functioning TraCS equipment, and each District office had available computers for any occurrence of system failures with vehicle equipment.

At present, the technology and equipment available in the agency meets the requirements of the Order.

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

Phase 1: In compliance

- GH-5 (Early Identification System), most recently amended on March 24, 2017.

Phase 2: Not in compliance

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 newly published 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.

During our April 2017 site visit meeting on restricted database access, the Deputy Chief of the Technology Management Bureau informed us that in preparation for an FBI audit of the system in February, the bureau found that there were, in fact, two instances of data breaches that had not been brought to the attention of Technology Management Bureau staff. These incidents occurred in 2011 and 2015, and involved employees improperly using NCIC for personal purposes. When these breaches were discovered by District or investigative personnel, Incident Reports were written and approved, but no one notified Technology Management Bureau personnel of these events. One employee was eventually prosecuted, and the other was dismissed from the agency. These two revelations exposed a gap in MCSO's internal communications system. The Technology Management Bureau is developing an incident response memorandum to ensure that all units know that the proper notification of the IT bureau is required should any unit within the agency become aware of an incident where the security of any database is at risk. A complete draft of this memorandum has not yet been produced.

We understand the significance MCSO places on the security of personal information in our reviews for Subparagraphs 75.a. and b. PSB and EIU coordinated their efforts to ensure that supervisors had access to the summaries of open internal and external complaints without compromising the ongoing investigations. PSB develops the summaries and ascertains the principals involved when setting the purview for each complaint. These are then entered into the EIS, where supervisors can review them during their routine EIS duties. Should a supervisor be implicated in an ongoing complaint, s/he would not have the ability to view the summary. These purview designations can be revisited by PSB at any time. PSB is re-editing its Operations Manual and will include a description of these processes. The driving issue for MCSO was the integrity and security of the database information.

MCSO has also been working with a contract partner, ASU, to ensure that the traffic stop data is in a format that allows for aggregate statistical analysis to be conducted. We have noted, particularly in Paragraphs 64-67, the problems that have arisen in conducting the first and second annual review of traffic stop data, as well as the monthly and quarterly data analysis. In the past, we have also noted the limitations of information available in several Subparagraphs of Paragraph 75. MCSO has now pilot-tested and operationalized the interfaces (IR, NTCF, AOC) that link remote databases with EIS. We will continue to evaluate the security and retention of data relevant to this Paragraph.

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

Phase 1: In compliance

- GH-5 (Early Identification System), most recently amended on March 24, 2017.

Phase 2: Not in compliance

MCSO recently completed the operationalization of three interfaces linking remote databases for Incident Reports, Non-Traffic Contact Forms, and Arizona Office of Courts case outcomes and turndowns with the EIS database. EIU personnel continue to manually enter training history information into EIS (Subparagraph 75.m.), as MCSO is currently refining the deployment of the HUB (Cornerstone) software to take the place of existing E-Learning and E-Policy formats. However, this software does not have the capacity to communicate directly with EIS.

During our July 2017 site visit meetings, MCSO Technology Management Bureau personnel stated that there are plans to build an interface between HUB (Cornerstone) and EIS, but that this remains in proposal stages at present with all of the other demands on EIU and the Technology Management Bureau. While all of the information necessary in Paragraph 75 appears to be integrated into EIS, MCSO has yet to develop a plan for tracking and employing the patrol data in ways that are commensurate with the traffic data. BIO audits for Supervisor Notes, IRs, and County Attorney turn-downs are an effective start; but BIO and EIU must now incorporate routine reporting mechanisms that capture FI reviews/audits, AOC case information/outcomes and memorialization of any manually entered EIS data.

MCSO has implemented several TraCS changes that should improve the validity of data and thereby improve the analysis of the data for monthly, quarterly, and annual reports. For instance, the start and end times for traffic stops are now automatically filled using CAD information rather than having deputies manually enter the times. Manual entry led to several errors that made data analysis and supervisory oversight more difficult. MCSO also created a drop-down menu to coincide with extended stops that may result from DUI investigations, the need to tow vehicles, etc. In the past, deputies entered information in free-form cells that were difficult to employ in data analysis because they were not standardized.

While working on implanting the benchmarks required in Paragraph 67, MCSO found that the assignment (LowOrg) measure did not follow the deputy's movement throughout the agency. As a result, the workplace assignment was inappropriately being used as the location of the stop, regardless of where the stop occurred. In its place, MCSO is using the GPS coordinates of the stop location called into dispatch. The reanalysis using this new measure will be compared to the draft analysis using the LowOrg measure. More importantly, this revealed the lack of comprehensive data validation processes within MCSO. In addition to the reanalysis of data, MCSO has created a committee of units that create, add to, or analyze the data to develop data-handling protocols and validation processes to be included in the EIU Operations Manual once approved.

EIU and BIO continue to pull together data to conduct audits and analyses of deputy and supervisor activity. Both units have embraced the automation of these processes. EIU uses Blue Team to process alert investigations and BIO uses the same program to send out Action Forms following the discovery of deficiencies in the audits conducted. Each unit can now more easily track the information that has been sent out; and can also conduct analyses looking for repetitive alerts or Action Forms relevant to any individual, supervisor, or District. Each unit should work on incorporating these latter analyses into their current reporting formats.

EIU has also operationalized all benchmarks from Paragraph 67 into its monthly alert and traffic reports. In our collective review of the first few months of these reports, we found that many of the alerts based upon Paragraph 67 had too little information available for a supervisor to reasonably find any pattern of problematic or biased behavior. MCSO instituted a set of decision rules, and we have suggested additional steps, to make sure that supervisors are only asked to conduct investigations when sufficient material existed. We continue to work on these issues with EIU and will describe the outcome in future reports.

The creation of more automated processes has made the activity of both units more transparent. However, we continue to find in the monthly reports or document requests of both units that supervisors have not yet fully embraced the tools available to them. For example, while improvement has been noted, some supervisors continue to close out alerts without adequately describing the investigation they conducted or the reason for closing an alert investigation. EIU has even automated a supervisor checklist, Attachment B of GH-5 (Early Identification System), to promote a more thorough process; and we continue to note one or two cases each month where no one in the chain of command has asked for a more detailed description of an alert closure when it is clearly necessary. Similarly, the monthly BIO audits for Supervisor Notes and Review and Discussion of Traffic Stops indicate that some supervisors do not uniformly employ the EIS tools available to them, and some do not conduct their supervisory duties in the timeframes required by policy. These deficiencies always result in BIO Action Forms, and we have observed improvement in subsequent months for those supervisors involved. However, in ensuing months, other supervisors commit similar oversights or fail to meet policy review requirements. We have repeatedly noted these fluctuating compliance trends in our quarterly status reports, and we have also captured these in our recommendations for the upcoming Supervisory and EIS Training. We are optimistic that this advanced training in EIS will improve the understanding and employment of tools available to supervisors. Up to this point, supervisors have been introduced to new features of EIS through Administrative Broadcasts. The planned training will bring groups of supervisors together to discuss the advantages of the EIS process and how each has used the system to this point. We will evaluate the training and supervisory use of EIS in future reports.

b. Training on the EIS

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

Phase 1: In compliance

- GH-5 (Early Identification System), most recently amended on March 24, 2017.

Phase 2: Not in compliance

MCSO had placed training curriculum development for EIS on hold several times due to the major revisions needed for GH-5 (Early Identification System). Following the publication of the policy, MCSO produced the latest draft of the training curriculum. During our April 2017 site visit meeting, there were some concerns raised that the training should include more practical exercises for supervisors, rather than merely introducing them to EIS in general. MCSO has taken these comments from our site visit, and subsequent conference calls, into account in reworking the proposed curriculum and produced another draft of the curriculum in June 2017. MCSO has employed practical examples where they make the most sense, but also included introductory materials to ensure that all participants participating in the training possess the knowledge necessary to complete their functions. The Parties have stipulated that all training for EIS will be complete by November 1, 2017. We will continue to evaluate the training and related timelines in future reports.

c. Protocol for Agency and Supervisory Use of the EIS

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

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

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

Phase 1: In compliance

- GH-5 (Early Identification System), most recently amended on March 24, 2017.

Phase 2: Not in compliance

EIU has conducted monthly analyses and produced reports for over two years. From the very beginning, we were critical of these reports, since they were largely qualitative and not based upon existing literature or statistical knowledge. These analyses also rarely resulted in meaningful alerts being sent for supervisory investigation. As a result, MCSO discontinued the monthly traffic alerts in May 2016 and requested technical assistance to develop a more comprehensive monthly alert analysis that incorporates all of the key traffic benchmarks from Paragraph 67. Following several months of modifications and testing, MCSO began introducing the benchmarks into the monthly alert and traffic reports in March 2017. The quantity of alerts generated by these analyses in the first few months has raised concerns about whether there is sufficient information for supervisors to be able to discern a pattern of

problematic or biased behavior on the part of deputies. MCSO introduced a set of decision rules in June 2017 to ensure that sufficient material for supervisors exists. We have also suggested additional modifications that we continue to explore in conjunction with MCSO. We will elaborate on these in future reports. MCSO is making progress toward a more thorough monthly traffic and patrol activity report for supervisors to evaluate the actions of their subordinates. In addition, MCSO has added a supervisor checklist, Attachment B of GH-5 (Early Identification System), to ensure that supervisors are conducting and closing alert investigations appropriately.

BIO conducts numerous audits and inspections relevant to this and other Paragraphs. BIO modified the way they transmit deficiency reports to the Districts in April 2017. Previously, the BIO Action Forms were sent via email and were difficult to track or query. In April, BIO introduced Action Forms in Blue Team, Briefing Board 17-18, which allows the unit to more easily track the deficiencies – as well as the responses of District staff. We have noticed an improvement in the ability to find repeated deficiencies by particular supervisors over several months, as well as repeated problems arising within particular Districts. We will continue to evaluate these processes as they become routinized. Additionally, these issues have been included in the Supervisory and EIS Training to be completed prior to November 2017.

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, quarterly, and annual analyses looking for racial bias and profiling in accordance with Paragraphs 65, 66, 67, and 74. As a result of several recommendations, MCSO requested technical assistance in August 2016 to assist in the development of methods to operationalize the 11 benchmarks required in Paragraph 67. We began to see some of these benchmarks appear in the March 2017 monthly traffic and alert reports. In May, all benchmarks were included in the monthly reports. However, the number of alerts concerned us and MCSO. MCSO has proposed a three-step decision rule to ensure that there is sufficient information for the alerts to be forwarded to supervisors for investigation. We have recommended an additional step and are evaluating it, with MCSO, before proceeding with subsequent alert investigations.

MCSO has also proposed a method of completing the first quarterly report that is similar to the annual analyses in January 2017. Following one iteration, MCSO found that a key measure for deputy assignment was flawed. This revelation also invalidated the work being conducted to complete the annual analysis. MCSO concentrated its efforts on correcting this oversight by proposing to use the GPS coordinates of the traffic stop. This solution was tested and approved so that the annual analysis for 2015-2016 could be finalized during August 2017. The quarterly analyses were subsequently placed on hold. Following several discussions, MCSO, the Parties, and we decided that MCSO would propose special topics to be conducted for the quarterly analysis following the completion of the annual report. We will elaborate on all of these issues in future quarterly status reports.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.b. requires that MCSO's EIS protocols include "identification of warning signs or other indicia of possible misconduct." The publication of GH-5 (Early Identification System), on March 24, 2017, provides significant direction for employees and supervisors alike to understand what type of behaviors will be viewed as problematic. EIU has recently operationalized the benchmarks of Paragraph 67 in the monthly report on traffic and patrol alerts. Several of these benchmarks overlap with this Subparagraph regarding documentation requirements, citation rates, racial disparities in stops, and extended stops. These reports are available to supervisors each month. We discussed these reports with supervisors in District 1, 3, and 7 during our July site visit. While we have briefly suspended alert investigations emanating from these reports while we and MCSO evaluate some modifications, the reports themselves continue to be distributed throughout the organization.

BIO also conducts audits of the Review and Discuss fields in TraCS. These audits evaluate whether a supervisor reviews a traffic stop within 72 hours of it being written and discusses all traffic stops with a deputy at least once a month. We have noted that, on average, the organizational compliance rate in these audits is above 95%; however, each month, it appears that one District, or supervisor, falls well below this standard into the 70th and 80th percentiles. When such deficiencies are noted, BIO sends an Action Form to District command staff. Our review of these Action Forms shows that the majority of supervisors meets with either the captain or lieutenant, and are counseled about how to complete all of their responsibilities in a timely fashion. We will continue to verify that command staff are addressing these deficiencies with their line supervisors.

BIO also conducts audits of Supervisory Notes evaluating whether supervisors have made performance notes for each deputy, reviewed body-worn camera examples, and conducted a bi-monthly review of a deputy's EIS data. Generally, the compliance rates for these activities are above 90%, except for the bi-monthly review of EIS data which was 78% in April and 84% in May. When deficiencies are noted, BIO sends an Action Form to the appropriate District commanders who must specify how they addressed the deficiency. These findings are not surprising, since our own review of Supervisory Notes suggests that very few supervisors are making critical assessments of the deputies they oversee. During our District visits, supervisors have noted that they do not believe they have had the training to identify particular problematic entries or trends from a deputy's EIS data. These insights have been shared with EIU, and they intend on addressing these issues in the upcoming Supervisor and EIS Training.

In May, EIU personnel were responding to our routine document request regarding whether a VSCF indicates Border Patrol was contacted or an immigration inquiry occurred when they found a single traffic stop in April that met these criteria. After further review of the documents and body-worn camera video, EIU referred the matter to PSB for a more detailed investigation. We will follow up on this case once PSB has completed its inquiry.

BIO also conducts a quarterly inspection of Incident Reports. BIO evaluates the time a report was turned in and checked by a supervisor, ensures that probable cause exists, and verifies that the language of the reports is not boilerplate. BIO's first quarter report, covering January-March 2017, was published on June 5, 2017. While the overall inspection showed a compliance rate of 99%, BIO noted several instances where deputies or supervisors did not complete a task according to policy timelines. BIO sent out 11 Action Forms as a result, and we will evaluate the responses once they are all returned. BIO also conducted the second quarter inspection of Supervisory Notes for compliance with CP-8 (Biased-Based Profiling). The report, published on June 30, 2017, shows that of the 37 cases randomly chosen, 100% of deputies had experienced a briefing or training in which the supervisor discussed discriminatory policing and documented the discussions in Supervisory Notes.

We will continue to evaluate the reports of both EIU and BIO pertaining to this Paragraph, as well as discuss these issues with supervisors in the field.

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." BIO added the bi-monthly review of EIS data to the monthly "Supervisory Note Inspection Report" in January 2017. In both April and May, the overall compliance for this portion of the Inspection report exceeded 98%. However, the BIO reports note that in April, a Chief was sent an Action Form because a captain failed to make the appropriate notes for a lieutenant; and in both April and May, captains received Action Forms because lieutenants had not completed such entries for their sergeants. Each of these Action Forms was returned with notes that the deficient parties had been counseled by their supervisor. We will continue to evaluate these reports and ensure that BIO is tracking the possibility of repetitive problems.

MCSO is in compliance with this Subparagraph.

Paragraph 81.d. requires that MCSO's EIS protocols include "a requirement that MCSO Commanders and Supervisors initiate, implement and assess the effectiveness of interventions for individual Deputies, Supervisors, and units, based on assessment of the information contained in the EIS." MCSO published GH-5 (Early Identification System) on March 24, 2017. Most significant for this Paragraph is the development of Appendix B, "Early Identification Alert Response Form," to this policy. This form provides a template for supervisors to follow while conducting an alert investigation. This form requires the supervisor to note when an intervention is enacted and what the outcome of the intervention was. This form will be saved within EIS and can be searched and tracked for future reference. Out of all alert cases closed each month, we randomly select 15 for closer examination. Our review of these alerts shows that most supervisors have completed Appendix B as expected. However, each month, one or two supervisors do not adequately explain the investigation they conducted or the justification for closing the alert. We have raised this issue with EIU, who have developed specific examples that will be included in the upcoming EIS Training. To this point, there have been no interventions beyond "discussion with a supervisor" and "coaching." We

have recommended to EIU and BIO that they develop a report tracking all interventions initiated, and follow up with supervisors in subsequent months to evaluate the effectiveness of the interventions undertaken. We will continue to evaluate the implementation of Appendix B and the introduction of any proposal for tracking interventions in future quarterly status reports.

MCSO is not in compliance with the Subparagraph.

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

The current versions of GC-17 (Employee Disciplinary Procedures) 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 noted above, the newly published GH-5 policy includes Attachment B, "Early Identification Alert Response Form." This form specifies the responsibility of supervisors and serves as a checklist of processes the supervisor should use. EIU also attaches any documents, citations, or BWC recordings the supervisor might need to conduct an inquiry. We began seeing the use of these forms in April 2017. In subsequent months, May and June, every closed alert included Appendix B. In only two instances, each month were these forms inadequate. We brought these to the attention of EIU, who returned the forms to the investigating supervisors for further comment. We also note that in two other instances, someone in the chain of command sent the forms back to the original investigating supervisor for additional follow-through or comments. As noted above, the interventions in the alert cases we reviewed involved either "discussion with a supervisor" or "coaching." We anticipate that once the upcoming Supervisory and EIS Training are completed, that these forms will be better understood and more thoroughly completed. We have also recommended to EIU and BIO that they should follow up on interventions in subsequent months and track any changes or problems as a new report or an addendum to existing reports or audits.

GH-5 (Early Identification System) requires that each incident of potential bias-related contact or immigration-related inquiry result in an alert investigation. In May, EIU personnel were responding to our routine document request regarding whether a VSCF indicates Border Patrol was contacted or an immigration inquiry occurred when they found a single traffic stop in April that met these criteria. After further review of the documents and associated body-worn camera video, EIU referred the matter to PSB for a more detailed investigation.

In MCSO's July response to our monthly requests two documents were forwarded to us regarding identity or immigration investigations involving MCSO personnel. The first is an ongoing homicide investigation that began when an FBI taskforce arrested two subjects near Gila Bend, AZ in District 2 for being in the country illegally and possession of firearms. The ongoing homicide investigation is being conducted by MCSO personnel, but the original contact with the suspects was made by the FBI taskforce. As this investigation continues, we will provide updates in future quarterly status reports. The second involved the taking of a report from a victim of identity theft and forgery. Following some preliminary follow-up, it appears that the passing of the stolen check occurred in Phoenix, AZ and had been cleared by an arrest. The Phoenix Police report was attached to the IR.

MCSO is in compliance with this Subparagraph.

Paragraph 81.f. requires that MCSO's EIS protocols include "a statement that the decision to order an intervention for an employee or group using EIS data shall include peer group analysis, including consideration of the nature of the employee's assignment, and not solely on the number or percentages of incidents in any category of information recorded in the EIS." MCSO took this into account in GH-5 (Early Identification System), which was published on March 24, 2017. EIU also meets the requirements of this Subparagraph by using "geographic peers" in the analysis of traffic stop data. This means that when a comparison of traffic stops is made within a District, it will only involve deputies who made similar stops in the same geographic District. MCSO is also revising an earlier draft of the EIU Operations Manual, which includes the consideration of an employee's assignment in the setting of thresholds. We will evaluate the annual traffic report when it is published for issues relevant to this Subparagraph.

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 Responsibilities" and "Command Staff Responsibilities" sections of GH-5 (Early Identification System). Our interviews with supervisors of Districts 3 and 7 during July 2017 indicated that command personnel were aware of this requirement and indicated that they typically look up EIS data as soon as they are given access. Both the District 3 Captain and a lieutenant also noted that they typically have a discussion with the prior immediate supervisor of anyone transferring to their command. EIU has also incorporated these requirements into the proposed EIS and Supervisory Training.

MCSO is 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 noted in several Paragraphs the fluctuating use of EIS tools by supervisory staff. We have also noted how EIU has improved the review necessary for alert investigations by creating a supervisor checklist that lays out nearly all aspects of an investigation that the supervisor must attend to. BIO has also automated the Action Form

process of relaying deficiencies to District personnel in Blue Team. While this is a relatively new process, it appears to have streamlined the handling of these Action Forms. BIO is planning to track the dissemination and return of Action Forms but has not yet produced a report. Moreover, the Blue Team software should allow EIU or BIO to track repetitive deficiencies by individuals and units. This should improve the oversight available throughout the organization.

We anticipate that the completion of training to EIS by November 2017 should improve the performance of supervisors.

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 our site visits. During our site visits to Districts 1, 3, 4, and 7 and Lake Patrol, each District maintained the security of paper VSCFs in a locked file cabinet.

MCSO is in compliance with this Subparagraph.

MCSO is meeting some requirements of Paragraph 81: evaluation of supervisory use of EIS; search functions within EIS; and the ability of EIU and BIO to conduct monthly analyses on existing data. MCSO is continuing to work on the development of monthly traffic and patrol alert processes that ensure that there is sufficient material for the supervisor to actually investigate the potential of biased or problematic behavior. MCSO also needs to track and evaluate the effectiveness of interventions. In addition, MCSO has created a committee to ensure that data used for monthly, quarterly and annual analyses is validated each time the data moves from one unit to the next to overcome any potential for error in transition. This is fundamental if we are to have any confidence in the reports being produced by MCSO. Several of these issues will be incorporated into the EIU Operations Manual, which is currently under revision. We are satisfied that MCSO is committed to improving all aspects of EIS that the agency can control. We will continue to work with MCSO in developing supervisory processes that meet the requirements of the Order.

Section 9: Supervision and Evaluation of Officer Performance

COURT ORDER X. SUPERVISION AND EVALUATIONS OF OFFICER PERFORMANCE

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

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

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.

Phase 2: In compliance

During our July site visit, we met with the Deputy Chiefs of Patrol and other MCSO command staff regarding supervision and compliance with this Paragraph. Patrol areas are now divided into East and West, each headed by a Deputy Chief. The new Deputy Chiefs have been receptive to our suggestions and comments. Judging from our observations during site visits and our reviews of documents provided, it appears that the new structure has benefited MCSO.

During the latter part of this reporting period, MCSO began the use of Non-Traffic Contact Forms (NTCFs). The NTCF, which is generated in TraCS, has several functions. For our compliance reviews relative to this Paragraph, the purpose of the form is to document encounters with the public, not involving traffic stops, in which individuals are detained for investigation. The documentation of these stops and detentions was previously captured in Field Interview (FI) cards. After FI cards were phased out, non-traffic investigatory stops were recorded in Incident Reports. Pursuant to the requirements of this Order, documentation of stops and detentions need to be turned in before the end of the shift and reviewed by a supervisor within 72 hours. The use of TraCS to document non-traffic stops and detentions allows supervisors to review and memorialize their reviews in a format that is more efficient for MCSO.

During our January site visit, the Deputy Chief of Patrol advised us that MCSO was conducting a workforce allocation study. During our April site visit, we requested an update. MCSO informed us that the project had not been completed as envisioned, and that it was considering a new resource allocation study. During our most recent visit in July, MCSO advised us that while MCSO has been evaluating software applications used by other agencies, there is no timeline in place to conduct a resource allocation study. We were advised that MCSO is currently looking at data in an effort to manage the Patrol force more efficiently. While MCSO agrees that a resource allocation study would be beneficial, at this time, there is no indication that this project will be completed in the near future.

During our July 2017 site visit, we interviewed supervisors and commanders from three Districts to determine if there was compliance with MCSO policies and the requirements of the Order. We met with the District 7 Commanding Officer and a sergeant. The days and hours of operation for the District office are Monday through Thursday, from 7:00 a.m. to 5:00 p.m. District 7 is a contract city and operates the same hours as the Town of Fountain Hills. District 7 deputies operate on a hybrid schedule. Due to contract requirements and resource limitations, the typical work schedule combines two eight-hour workdays and two 12-hour workdays. The supervisor-to-deputy ratio is generally 1:4 or less. The District 7 Commanding Officer stated that he has observed significant improvement in the quality of administrative investigations. He also believes that additional training in conducting administrative investigations would be helpful. The biggest challenge in the completion of administrative investigations is the time associated with arranging and conducting complainant and witness interviews. In many cases, the complainants' and witnesses' work schedules prevent the expeditious completion of the investigations. Most public complaints are service-related, not misconduct-related. District 7 has been receiving approximately five complaints per month. We inquired about the common deficiencies the District command staff has been noting in reviews of Vehicle Stop Contact Forms (VSCFs). We were advised that they identified one recurring issue: deputies marking "unknown" in the post ethnicity of passengers. There was one deputy that was identified with a number of these deficiencies, and the issue was addressed.

We met with the District 2 Commanding Officer, two lieutenants, and a first-line supervisor. District 2 has a four-day, 10-hour work schedule, and the District office operates weekdays from 8:00 a.m. to 4:00 p.m. The Commanding Officer was recently assigned to District 2, but was fairly knowledgeable about crime statistics and quality-of-life issues. Crime statistics have remained about the same as the last quarter, with the exception of a spike in sexual assaults in May.

With regard to calls for service and workload, we were advised that the District is short one sergeant and supervisors had to be brought in on overtime to cover shifts. The command staff also feels they do not have enough deputies to handle the workload. When deputies are in training, go on military leave, or on go vacation, the District is left without sufficient staff. The new Incident Report forms on TraCS seem to be working well, but supervisors find it difficult to note corrections in the review of Incident Reports. Supervisors have resorted to printing the Incident Reports with the corrections or asking deputies to copy and forward the text separately in a Word format so that corrections can be made. District 2 has had several community engagement events that include Coffee with a Cop, block watch meetings, a law enforcement day in a private school, participation in the Special Olympics, and several other school-related events to enhance the relationship with the residents of the District.

At the time of our interview, the District 2 Commanding Officer advised us that District 2 had six active administrative complaints. Most complaints are service-related, not misconduct-related. The most challenging part is the time it takes to contact the complainant and witnesses. We were advised that the time spent on administrative investigations is straining supervisors, considering all of the other demands placed on them. We inquired if supervisors were using the radio code that was designed to track supervisors' time spent on administrative investigations. It appears that most supervisors are using the "superadmin" code, which is a multi-purpose code that does not differentiate administrative time spent on internal investigations. While we agree that supervisors have considerable responsibilities and tasks to perform on a daily basis, the instrument needed to provide corroboration that administrative investigations are consuming an inordinate amount of time from a supervisor's daily routine is not being used as intended.

We met with the Lake Patrol Commanding Officer, and staff, which included two lieutenants and two sergeants. The Lake Patrol District is mainly a recreational area. The office days and hours of operation are Monday through Sunday, 6:00 a.m. to 12:00 a.m. Several of their search and rescue personnel are on-call 24 hours. The Lake Patrol Commanding Officer has been in the District since April. As with previous visits to Lake Patrol, we were advised that crime patterns are seasonal. During the summer months, the requests for service usually increase as a result of the increase of visitors to the area. Most of the enforcement is related to underage drinking, DUIs, disorderly conduct, and boating violations. Lake Patrol has been averaging four to six administrative complaints per quarter. The most time-consuming part of investigating complaints is contacting and arranging complainant and witness interviews. Since most of the complainants do not live in the District, the travel time involved to conduct interviews becomes burdensome on supervisors.

With regard to BWC recordings, Lake Patrol personnel have experienced some technical problems with batteries depleting before the end of the shift and cords breaking. In some cases where deputies are out patrolling on the lake, water damage becomes an issue. We were advised during our District visit that the day before our visit, there had been an increase in bandwidth to help with BWC recording downloads. District supervisors had previously been experiencing problems with downloading videos for review. The upgrade is supposed to improve downloading data from the cloud, where BWC recordings are stored. Since the upgrade had just been completed the day before our visit, District personnel had not yet had a chance to test the system.

We reviewed a representative sample of 79 Incident Reports for April 2017, for the randomly selected date of April 4, 2017. We found no significant issues, as 78 of the 79 Incident Reports were reviewed and memorialized within the required seven days, and all of the 23 vehicle crash reports were reviewed within the required timelines. All Arrest Reports were reviewed within the required 72 hours. We conducted a quality check on a 10% random sample of the reports we reviewed; we found no significant deficiencies.

We reviewed a representative sample of 99 Incident Reports for May 2017, for the randomly selected date of May 13, 2017. Ninety-six of the 99 Incident Reports were reviewed and memorialized by a supervisor within the required seven days. Fourteen of the 16 Arrest Reports were reviewed and signed by supervisors within the required 72 hours. All vehicle crash reports were reviewed within the required seven days. We conducted a quality review on a 10% random sample of the reports we reviewed, and found spelling errors in a few reports, but no significant deficiencies.

We reviewed a representative sample of 75 Incident Reports for June 2017, for the randomly selected date of June 14, 2017. Seventy-four of the 75 reports were submitted on time by deputies. Seventy-four of the 75 Incident Reports were reviewed and signed by supervisors within the required time constraints. All six Arrest Reports were reviewed and signed by supervisors within 72 hours. MCSO provided us with a printout of vehicle crash reports that documented supervisory review and approval; all vehicle crash reports were reviewed and approved within the required timeline. We conducted a quality review on a 10% random sample of the reports we reviewed; and we found minor spelling errors in a few reports, but no significant deficiencies.

For each month of the quarter, we selected a supervisor and a squad of deputies. We requested several documents, including Patrol Activity Logs, for each deputy. We reviewed PALs for each month of the quarter to assess if the PALs were turned in by the end of each shift, and if supervisors had been reviewing each PAL. For April, 34 of the 38 deputies' Patrol Activity Logs had documentation of supervisory review; and all eight supervisors' Patrol Activity Logs had documentation of command level review. For May, we reviewed Patrol Activity Logs for 38 deputies and eight supervisors. Thirty-seven of 38 deputies' PALs had documentation of supervisory review. All eight supervisors' PALs included documentation of command level review. For June, we reviewed Patrol Activity Logs for 32 deputies and five supervisors. Twenty-eight of 32 deputies' PALs had documentation of supervisory review; all sergeants' PALs included documentation of command level review. MCSO has been in compliance with supervisors' reviews of Patrol Activity Logs. For this reporting period, compliance dropped to 91.6%. Supervisors are mandated to fulfill several requirements under this Paragraph; reviewing Patrol Activity Logs is one of those requirements. If compliance with reviews of PALs falls short during the next reporting period, we will reassess Phase 2 compliance for Paragraph 83.

We also reviewed deputies' PALs to determine if supervisors provided on-scene supervision, and if those supervisor-deputy contacts were documented. For the sample dates chosen in April, there were a total of 33 field contacts between supervisors and deputies. For the sample dates chosen in May, there were a total of 30 recorded supervisor-deputy field contacts. For the sample dates chosen in June, there were a total of 67 recorded supervisor-deputy field contacts. One concern we discussed with MCSO staff during our July site visit is that community policing events have significantly decreased at the deputy level. There were only two community policing events noted in PALs this reporting period. On a monthly basis, we receive lists of community engagement events sponsored by the Office. We recognize those efforts; and at the same time, we encourage MCSO to reiterate to deputies the importance of reaching out to the community to address quality-of-life concerns.

One issue we discussed with MCSO staff during our July visit is that community policing events, initiated by deputies, have decreased. From our random sampling of PALs, we noted two community policing events in the Patrol Activity Logs we reviewed. We recognize that MCSO is sponsoring community engagement events on a monthly basis, as we receive those lists of events sponsored by the Office. This Paragraph requires that MCSO ensure deputies are working actively to engage the community, and MCSO is doing so by arranging community events in each District on a monthly basis. We recognize these efforts; and at the same time, we encourage MCSO to remind deputies of the importance of reaching out to residents to discuss, and to find mutually agreeable solutions, to quality-of-life concerns. While we conclude that the documentation provided with regard to community engagement satisfies the requirements of this Paragraph, we suggest that problem-solving initiatives between deputies and residents will benefit both MCSO and the community it serves.

For April and May, we reviewed the submissions of non-traffic incidents involving stops and detentions, which were recorded in Incident Reports, and included as part of our request for proof of compliance with Paragraph 83. As previously stated, in June MCSO began using NTCFs to record stops and investigatory detentions not predicated by traffic violations. For June, the Monitoring Team selected a random sample of 25 NTCFs to review, from a total of 76 generated in the month. All NTCFs had been reviewed and approved by supervisors, but only 19 of the 25 had been reviewed within 72 hours as required by the First Order. The requirement of Paragraph 83, that supervisors review all field interview cards, or in this case NTCFs, has been met. The requirement set forth by Paragraph 90 that stops and detentions be reviewed within 72 hours was not met, and is reflected in our reviews of compliance for Paragraph 90.

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

Phase 1: In compliance

- GB-2 (Command Responsibility), most recently amended on February 1, 2017.

Phase 2: In compliance

To verify Phase 2 compliance with this Paragraph, we reviewed monthly rosters and shift rosters for the second quarter of 2017. We also reviewed the April, May, and June 2017 Patrol Bureau shift roster inspection summaries, which discuss the results of BIO's examination of every MCSO shift roster during those months to verify that shifts did not exceed the 1:10 supervisor-to-deputy ratio. The BIO inspection summary dated May 31, 2017, noted that there was a 99.76% compliance rate in April. The BIO inspection summary dated June 19, 2017 noted that the compliance rate was 99.87% in May. The BIO inspection summary for June noted a 99.73% compliance rate.

During this reporting period, consistent with our methodology, for April we reviewed a sample of shift rosters from Districts 1 and 2; for May, we reviewed a sample of shift rosters from Districts 3 and 4; and for June, we reviewed a sample of shift rosters from Districts 6 and 7, and Lake Patrol. Monthly and daily rosters showed that deputies were assigned to one single consistent supervisor and that supervisors were generally assigned no more than eight deputies.

District 1 had three days in April where a squad listed a ratio of 1:10, and another day where one squad had a ratio of 1:9. District 2 had one day where one squad listed a ratio of 1:11. District 3 had one day where one squad had a ratio of 1:10, and another day where the ratio was 1:9. With the exception of these dates, all Districts have maintained a supervisor deputy ratio of 1:8 or less.

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

Phase 1: In compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: In compliance

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

Paragraph 85 requires that supervisors discuss traffic stops at least once per month with their deputies. To efficiently manage this requirement along with other administrative and operational duties, supervisors generally conduct several traffic stop-related discussions with each deputy during the month. Supervisor-deputy discussions of traffic stops that occurred toward the latter part of the month may not get reviewed until the following month. Our selections for these discussions changes every month, so to obtain complete records for each deputy, MCSO holds the submission until all of the information requested for the month is complete. Accordingly, the documentation of supervisory-deputy discussions of traffic stops is submitted 30 days retroactively.

For April, MCSO submitted the March traffic stops for each deputy, by District. The total number of traffic stops for each District were: District 1, 12; District 2, 14; District 3, 74; District 4, 4; Lake Patrol, 39; District 6, 89; and District 7, 51. There were a total of 283 traffic-related events in March for all Districts, and sergeants discussed 277 of those with the deputies who conducted them, for a compliance rate of 98%.

For May, MCSO submitted the April traffic stops for each deputy, by District. The total number of traffic stops for each District were: District 1, 8; District 2, 3; District 3, 22; District 4, 46; Lake Patrol, 15; District 6, 29; and District 7, 12. There were a total of 135 traffic-related events in April for all Districts, and sergeants discussed 132 of those with the deputies that conducted them, for a compliance rate of 98%.

For June, MCSO submitted the May traffic stops for each deputy, by District. The total number of traffic stops for each District were: District 1, 12; District 2, 8; District 3, 9; District 4, 90; Lake Patrol, 119; District 6, 7; and District 7, 24. There were a total of 269 traffic-related events in May, and sergeants discussed 241 of those with the deputies who conducted them, for a compliance rate of 90%.

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

Phase 1: In compliance

- GB-2 (Command Responsibility), most recently amended on February 1, 2017.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed a sample of daily shift rosters for the three months of the reporting period. For April, we reviewed Districts 1 and 2; for May, we reviewed Districts 3 and 4; and for June, we reviewed Districts 6, 7, and Lake Patrol. Our reviews of monthly and daily rosters indicated that deputies were assigned to and worked the same schedules as their supervisors.

MCSO deputies' and sergeants' activities are captured in Patrol Activity Logs (PALs). We selected a random sample of one day per month, and one squad per District, for review. For April, we requested PALs for eight sergeants and 33 deputies, which we reviewed. We noted a total of 33 field supervisor-deputy contacts on the deputies' PALs for the selected dates. For May, we requested PALs for 30 deputies and eight sergeants. We received and reviewed all requested PALs, and noted a total of 30 field supervisor-deputy contacts on the deputies' PALs. For June, we reviewed PALs for 32 deputies and five sergeants; and noted a total of 67 field supervisor-deputy contacts on the deputies' PALs for the selected dates.

Supervisors are working the same days and hours as their subordinates; and in our reviews of Patrol Activity Logs, we have noted increased field contacts between supervisors and deputies. We also look for supervisory presence on high-priority events, where policy requires supervisors to respond. With few exceptions, our reviews suggest that supervisors have been actively providing guidance to their subordinates in the field.

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

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.

Phase 2: Not in compliance

Consistent with our methodology, we requested the names of all deputies and supervisors who were evaluated during this reporting period. From the lists of employees submitted, we requested a representative sample. We received and reviewed performance evaluations submitted for seven deputies and five supervisors who received evaluations in April 2017. Five

of the seven deputies' EPAs reviewed were of acceptable quality; two included mostly general comments that were not sufficiently specific in documenting the deputies' performance. Two of the five supervisors' EPAs contained all of the required elements and documented specific behaviors that supported the ratings. All five of the supervisors' EPAs rated the supervisors on the quality and effectiveness of their supervision. All five supervisors' appraisals included comments related to the supervisors' ability to identify and respond to misconduct, and two of the five rated the supervisor on the quality of their reviews. Two of the supervisors' EPAs included a significant number of Blue Team notes, but the notes were not separated or linked to any specific rating dimension. In effect, the reader is left up to decide which dimensions the Blue Team entries correspond to. We have advised MCSO that Blue Team entries in EPAs should be used as examples of behaviors to support ratings, but should be correlated to the dimension the supervisor is rating.

We received and reviewed performance evaluations submitted for six deputies and 14 supervisors who received evaluations in May 2017. Four of the six deputies' EPAs reviewed were of acceptable quality; two EPAs were not specific enough in documenting past performance in sufficient detail. Three of the 14 supervisors' EPAs contained comments on all of the required rating dimensions. Four of the supervisor's EPAs were well-written; however, they did not address all of the required rating dimensions. All 14 of the supervisors' EPAs rated the supervisors on the quality and effectiveness of their supervision. Six of the 14 supervisors' appraisals included comments related to the supervisors' ability to identify and respond to misconduct, and three of the 14 EPAs rated supervisors on the quality of their reviews. Again we noted that four of the supervisors' EPAs had Blue Team entries that were haphazardly inserted at the end, and were not linked or correlated to any specific dimension.

We received and reviewed performance evaluations submitted for four deputies and 21 supervisors who received appraisals in June 2017. Three of the four deputies' EPAs reviewed were properly completed and contained documentation to support the ratings. One EPA was weak in content and supporting facts. Two of the supervisors' EPAs were well-written, and the ratings were supported by specific comments. Seven of the 21 EPAs addressed all required dimensions. All of the supervisors' EPAs rated supervisors on the quality and effectiveness of their supervision. Seven of the 21 supervisors' EPAs rated the supervisors on the quality of their reviews. Nine of the 21 EPAs rated supervisors on their ability to identify and respond to misconduct.

There were four command-level employees who completed EPAs for subordinates who did not report to them during most or all of the rating period. This resulted from the retirements or the unavailability of personnel who had supervisory responsibilities over the employees. Consequently, the ratings were based on limited observations and sporadic Blue Team entries. We have also noted that EPAs completed for deputies in the Patrol division have generally contained more supporting documentation than EPAs completed for deputies in other divisions. While many of the requirements of this Order involve the execution of duties normally performed by Patrol deputies, MCSO should ensure that other divisions are aware of the compliance standards for this Paragraph.

During our July site visit, we were advised that the starting date for the new EPA format was changed from July 1 to September 1, 2017. MCSO advised us there were some administrative tracking and chain of command issues that needed to be resolved for the new format.

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

Phase 1: In compliance

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

Phase 2: In compliance

MCSO removed the enforcement of human smuggling laws from the mission statement of the Anti-Trafficking Unit, which is now named the Fugitive Apprehension Investigative Team (FAIT). We reviewed a copy of the updated Special Investigations Division's Operations Manual, and the mission and objectives of FAIT are in compliance with this Paragraph. MCSO does not have any specialized units that enforce immigration-related laws. We continue to monitor arrests and detentions as part of our review process to ensure that MCSO is in compliance with its own directives on this issue.

For April, May, and June 2017, we received lists containing all incidents involving MCSO arrests and criminal citations. For each month, we requested a random sampling of arrests and criminal citations. In total, we reviewed 67 incidents involving arrests and 101 incidents involving criminal citations. We also reviewed a random sample of 252 Incident Reports for this reporting period. We found no evidence of enforcement of immigration-related laws.

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

Phase 1: In compliance

- EA-11 (Arrest Procedures), most recently amended on June 15, 2016.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: In compliance

To assess MCSO's compliance with this Paragraph, we requested to inspect all reports related to immigration status investigations, any immigration-related crimes, or any incidents or arrests involving lack of identity documents. The Incident Reports MCSO submitted covered the period of April 1-June 30, 2017. 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 – falls under the reporting requirements of this request. MCSO did not report any cases involving immigration status investigations or immigration-related crime.

We have been monitoring the progress of an administrative investigation involving a traffic stop that occurred on October 15, 2016. In this incident a deputy requested Customs and Border Patrol (CBP) for assistance with Spanish-English interpretation. A CBP agent responded and assisted with the interpretation, but the driver was subsequently taken into custody by CBP and deported. There were several issues of concern identified with this stop, which resulted in a PSB investigation. The investigation has been completed, but was in its final review stages as of this writing. We will discuss this case in our next quarterly status report.

For this reporting period, MCSO submitted one incident as responsive to this Paragraph. We reviewed the documentation; and found that the arrest, for driving without a valid driver's license, was made in accordance with MCSO policy. We noted no issues of concern.

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. In total, we reviewed 67 incidents resulting in arrest and 101 incidents involving criminal citations. All of the documentation we reviewed during this reporting period indicates that MCSO is in compliance with this Paragraph.

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

Phase 1: In compliance

- EA-11 (Arrest Procedures), most recently amended on June 15, 2016.

Phase 2: Not in compliance

We reviewed 35 incidents involving traffic stops for April 2017. Nineteen of the 35 traffic stops were related to speeding. There was one warrant arrest, one traffic arrest, and 15 citations issued for speeding. One driver was cited for driving with a suspended license and two were cited for expired registrations. Eight stops were related to equipment violations, and five stops were for moving violations other than speeding. Twenty-two of the stops resulted in citations, and 12 resulted in warnings. All 35 Vehicle Stop Contact Forms we reviewed noted the serial number of the reviewing supervisor, date, and time of supervisory review. All of the 35 VSCFs were reviewed within the required 72 hours. For April, MCSO submitted a spreadsheet documenting each VSCF by District, for a total of 301 VSCFs. We reviewed the data for April, and the compliance rate for timely supervisory reviews of VSCFs was 98%. We reviewed BIO Audit BI2017-0057, which stated that MCSO had a compliance rate of 97.78%. Our findings are in concurrence.

We reviewed 35 incidents involving traffic stops for May 2017. Twenty of the 35 traffic stops were related to speeding. Fourteen citations were issued for speeding. Three citations were issued for expired license plates or suspended registrations. Seven stops were related to equipment violations. The remaining violations were issued for moving traffic infractions other than speeding. There were no criminal citations or traffic-related arrests. For May, MCSO submitted a spreadsheet documenting each VSCF by District, for a total of 204 VSCFs. All 35 Vehicle Stop Contact Forms we reviewed noted the serial number of the reviewing supervisor, date, and time of supervisory review. We reviewed the data provided, and reviewed BIO Audit BI2017-0072. Although our review of the data differed in the total amount of stops (BI2017-0072 noted 210 stops), we concur with BIO's findings of 97% compliance.

We reviewed 35 incidents involving traffic stops for June 2017. Twenty-one of the 35 traffic stops were related to speeding violations. Ten citations were issued for speeding. Two stops resulted in arrest and two stops resulted in criminal citations. One citation was issued for an expired registration. All 35 Vehicle Stop Contact Forms we reviewed noted the serial number of the reviewing supervisor, and date and time of supervisory review. For June, MCSO submitted a spreadsheet documenting each VSCF by District, for a total of 189 VSCFs. We reviewed the data, and the compliance rate for timely supervisory reviews of VSCFs in June was 97%. We reviewed BIO Audit BI2017-0085, which concurred with our findings.

The collective average for the second quarter of 2017 was 97% in terms of supervisors conducting reviews of VSCFs within 72 hours. However, we have continued to find deficiencies in VSCFs that have not been identified or addressed by supervisors.

In June, MCSO began using Non-Traffic Contact Forms (NTCFs) to record stops and investigatory detentions that were not predicated by traffic violations. For June, the Monitoring Team selected a random sample of 25 NTCFs to review, from a total of 76 generated in the month. All NTCFs had been reviewed and approved by supervisors, but only 19 of the 25 had been reviewed within 72 hours. This Paragraph requires that documentation of all stops and investigatory detentions be turned in by the end of the shift and reviewed by supervisors within 72 hours. The requirement set forth by this Paragraph, that stops and detentions be reviewed

within 72 hours, was not met during this reporting period. In addition, during this reporting period, we found several instances, in both VSCFs and NTCFs, where the post-stop ethnicity of Latino individuals was not recorded correctly. As mandated by this Paragraph, supervisors are required to review reports and forms to ensure that information contained therein is authentic and correct.

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

Phase 1: In compliance

- EA-11 (Arrest Procedures), most recently amended on June 15, 2016.
- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: Not in compliance

We reviewed traffic stop data reported by MCSO for its April inspection. The Monitoring Team randomly selected 35 traffic-related events, which BIO then audited for compliance. MCSO included one traffic stop from March in its April inspection, bringing the total traffic-related events inspected to 36. Of the 36 traffic-related events, MCSO reported that 27, or 75%, had no deficiencies. This was a 5% increase from the March compliance rate. We reviewed the same traffic-related events, independent of BIO's audits, as part of our compliance assessment of Paragraphs 25 and 54. We reviewed a spreadsheet documenting each VSCF by District, for April, to determine if supervisors were reviewing VSCFs within the required 72 hours. We reviewed data for 301 traffic stops, and determined that supervisors had completed timely reviews in 98% of the cases.

For April, MCSO reported 90 corrective actions. We reviewed all Supervisory Notes and we could not determine the type of deficiencies or corrective actions on seven of the 90 Supervisory Notes submitted. Of the 83 relevant actions, 31 were related to body-worn camera and recording issues: failure to activate the BWC; late activation of the BWC; turning off the camera before the event was concluded; or poor positioning of the BWC. Sixteen notes were related to inaccurate or missing information on VSCFs, citations, or written warnings. Twenty-three corrective actions were related to procedural or policy violations related to traffic stops, and four corrective actions were policy or procedural violations not related to traffic stops. Three corrective actions were related to deputy safety. One corrective action was related to an error on a Patrol Activity Log, and one Supervisory Note was related to a technical malfunction. One Supervisory Note was generated for a civilian and was not relevant to this review.

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 30, or 86%, had no deficiencies. The compliance rate for May improved 11% over April's compliance rate. As a result of the inspection, BIO issued seven BIO Action Forms. We reviewed data documenting each traffic stop by District, for May, to determine if supervisors were reviewing VSCFs within the required 72 hours. We reviewed 204 VSCFs and determined that supervisors had completed timely reviews in 97% of the cases.

For May, MCSO reported 66 corrective actions. We reviewed all Supervisory Notes and we could not determine the type of deficiencies or corrective actions taken on two of the 66 Supervisory Notes submitted. Of the 64 relevant actions, 24 were related to body-worn camera and recording issues: failure to activate the BWC; late activation of the BWC; turning off the camera before the event was concluded; or poor positioning of the BWC. Thirteen were related to inaccurate or missing information on VSCFs, citations, or written warnings. Twenty-three corrective actions were related to procedural or policy violations related to traffic stops. One corrective action was related to deputy safety. Two corrective actions were related to errors on Patrol Activity Logs, and four Blue Team entries were generated for technical malfunctions. Three of the Supervisory Notes generated were related to deputy performance.

We reviewed traffic stop data reported by MCSO for its June 2017 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 29, or 83%, had no deficiencies – a 3% decrease in compliance from May. As a result of the inspection, BIO issued seven BIO Action Forms.

For June, MCSO reported 54 corrective actions. We reviewed all Supervisory Notes and we could not determine the type of deficiencies or corrective actions taken on two of the 54 Supervisory Notes submitted. Of the 52 relevant actions, 17 were related to body-worn cameras and recording issues: failure to activate the BWC; late activation of the BWC; turning off the camera before the event was concluded; or poor positioning of the BWC. Five deficiencies were related to inaccurate or missing information on VSCFs, citations, or written warnings. Eighteen corrective actions were related to procedural or policy violations related to traffic stops; one corrective action was generated for a procedural or policy violation, not related to a traffic stop. Four corrective actions were related to errors on Patrol Activity Logs, and four Blue Team entries were related to technical malfunctions or system errors. Two Blue Team notes were issued for Detention personnel and were not relevant to this review.

We reviewed a spreadsheet documenting each VSCF by District, for June, to determine if supervisors were reviewing VSCFs within the required 72 hours. We reviewed 189 VSCFs and determined that supervisors had completed timely reviews in 98% of the cases.

During this reporting period, we learned that there were several traffic stops wherein deputies failed to record the post-stop gender and/or ethnicity of passengers. There were several traffic stops in April and May where deputies marked the post-stop ethnicity of drivers as "unknown vision obstructed" in the Vehicle Contact Stop Forms. We reviewed body-worn camera footage for 29 traffic stops in April and May where deputies indicated that their vision was obstructed

and could not identify the gender or ethnicity of one or more passengers. In some instances, the stops took place at night and vehicles had tinted windows; consequently, passengers in the rear seats were not clearly identifiable. However, in several stops, the passengers were in the front passenger seat and visible to the deputies conducting the stops.

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

Phase 1: Not in compliance

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

Phase 2: Not in compliance

During our January 2017 site visit, we met with MCSO and received an update on the progress of the new Employee Performance Appraisal protocol and training. We reviewed the EPA lesson plan and returned it to MCSO with comments and suggestions. MCSO advised us that EIS Training had been delayed, so the EPA training would be conducted independently of EIS. At the time of our visit, the projected rollout date for the new EPA format was July 1, 2017.

The EPA training course was completed as scheduled during the second quarter. During our July site visit, MCSO informed us that the projected rollout date for the new EPA format had been rescheduled for September 1, 2017. MCSO personnel advised us that they were working on issues related to chain of command and tracking of the EPA forms. We have continued to review selected samples of Employee Performance Appraisals and have provided feedback to MCSO regarding our findings.

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

Phase 1: In compliance

- EA-11 (Arrest Procedures), most recently amended on June 15, 2016.

Phase 2: In compliance

We reviewed a representative sample of 79 Incident Reports for April 2017, for the randomly selected date of April 2, 2017. All of the 79 Incident Reports reviewed were turned in by the end of the shift, and 77 of the 79 Incident Reports were reviewed by supervisors and approved, or reviewed and returned for corrections within the required seven days. All Incident Reports

involving arrests or criminal citations were reviewed by supervisors and approved, or reviewed and returned for corrections within the required 72 hours. All 23 vehicle crash reports were reviewed within the required timelines. We conducted a quality review on a 10% random sample of the reports we reviewed. We did not note any significant deficiencies related to quality.

We reviewed a representative sample of 99 Incident Reports for May 2017, for the randomly selected date of May 13, 2017. All of the 99 Incident Reports were turned in by the end of the shift. Ninety-six of the 99 Incident Reports were reviewed by supervisors and approved, or reviewed and returned for corrections within the required seven days. One Incident Report had no documentation of supervisory review. On one Incident Report involving an arrest, the supervisor did not review the Arrest Report within the required 72 hours. Twenty-nine of 32 vehicle crash reports were reviewed within the required time constraints. We conducted a quality review on a 10% random sample of the reports we reviewed and, other than spelling errors on a few reports, we did not note any significant deficiencies related to quality.

We reviewed a representative sample of 74 Incident Reports for June 2017, for the randomly selected date of June 14, 2017. Seventy-two of the 74 Incident Reports were turned in by the end of the shift. Seventy-one of the 74 Incident Reports were reviewed by supervisors and approved, or reviewed and returned for corrections within the required seven days. All six Arrest Reports were reviewed and approved by supervisors within 72 hours. MCSO provided us with a printout of vehicle crash reports that documented supervisory review and approval; all were reviewed and approved within the required timeline. We conducted a quality check on a 10% random sample of the reports we reviewed, and noted no significant deficiencies. One Incident Report included an unclear narrative, but most reports were well-written.

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

Phase 1: In compliance

- EA-11 (Arrest Procedures), most recently amended on June 15, 2016.

Phase 2: In compliance

For this reporting period, we received 15 Incident Memorialization Forms (IMFs). Two IMFs were issued for failure to turn in Incident Reports before the end of the shift, one of which involved a DUI arrest. Five IMFs were generated in cases involving arrest, for lack of articulation of the legal basis for the arrests. Two IMFs were generated for cases in which arrestees were questioned without Miranda warnings. One IMF was related to a burglary report that should have been classified as a shoplifting incident. One IMF was generated when a deputy, who made an arrest for possession of marijuana, failed to complete an interview of the

arrestee. One IMF was related to wrong information entered in a vehicle crash report. Two IMFs were generated for erroneous or inconsistent information in VSCFs. One IMF involved a supervisor who approved several reports with deficiencies; this involved a new supervisor who has had difficulty adapting to his new position. We will monitor this situation to ensure that the issues noted are being addressed.

We reviewed the Inspections Report for County Attorney Dispositions (2017-0061). BIO reviewed 22 of 110 dismissals by the County Attorney's Office and found no deficiencies. BIO also reviewed 12 Superior Court and Justice Court cases and found no deficiencies. Independently, we reviewed the documentation provided by MCSO for this Paragraph, and found no issues of concern. For April, we reviewed 22 Arrest Reports and 35 incidents involving criminal citations. Other than a late submission of a DUI report, we found no significant deficiencies in the Arrest Reports reviewed; all had timely supervisory reviews and approvals.

We reviewed the Inspections Report for County Attorney Dispositions (2017-0075). BIO reviewed 28 of 141 dismissals by the County Attorney's Office, and found no deficiencies in the 15 combined Superior Court and Justice Court cases it reviewed. Independently, we reviewed the documentation provided by MCSO for this Paragraph. We reviewed 24 Arrest Reports and 24 criminal citations for May and found that all reports contained the necessary information. We found one Arrest Report for transportation of narcotics where there was no documentation of supervisory review or approval. We did not note any other significant issues of concern.

We reviewed documents provided by MCSO for June, for cases in which the County Attorney declined prosecution. We reviewed a total of seven cases and found no issues of concern. For June, we reviewed 20 Incident Reports involving arrest and 41 incidents involving criminal citations. There were no concerns noted with the 20 Arrest Reports we reviewed, and all were reviewed and approved by supervisors within required timeframes. There were no deficiencies noted in the 41 criminal citations, and we verified timely supervisory review on 39 of the 41 cases.

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

Phase 1: Not in compliance

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

Phase 2: Not in compliance

We reviewed Employee Performance Appraisals for 40 supervisors and command personnel who received Employee Performance Appraisals during this reporting period. All 40 appraisals rated the employees on the quality and effectiveness of supervision. Twenty of the 40 appraisals contained comments regarding the supervisors' demonstrated ability to identify and effectively respond to misconduct. Twelve of the 40 appraisals rated supervisors on the quality of their reviews. Two supervisors whose Employee Performance Appraisals we reviewed had no direct reports. Very few supervisors and commanders had EPAs that addressed the quality of their reviews, a requirement of this Paragraph.

MCSO revised GC-4 (Employee Performance Appraisals) to address the requirements of this Paragraph, but the revised policy is still pending publication. The EPA training was completed during this reporting period. During our July site visit, MCSO informed us that the rollout date for the new EPA format was moved to September 1, 2017.

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

Phase 1: In compliance

- EA-11 (Arrest Procedures), most recently amended on June 15, 2016.

Phase 2: In compliance

We requested all Incident Memorialization Forms (IMFs) for this reporting period; MCSO's submission consisted of 15 IMFs. Two IMFs were issued for failure to turn in Incident Reports before the end of the shift; one of these involved a DUI arrest. Five IMFs were generated in cases involving arrest, for lack of articulation of the legal basis for the arrests. Two IMFs were generated for cases in which arrestees were questioned without Miranda warnings. One IMF was related to a burglary report that should have been classified as a shoplifting incident. One IMF was generated when a deputy, who made an arrest for possession of marijuana, failed to complete an interview of the arrestee. One IMF was related to wrong information entered in a vehicle crash report. Two IMFs were generated for erroneous or inconsistent information in VSCFs. One IMF involved a supervisor who approved several reports with deficiencies. We will monitor this situation to ensure that the issues noted with the supervisor are being addressed.

Based on our reviews of the documentation provided, we noted that commanders are completing timely reviews of Incident Memorialization Forms. For this reporting period, MCSO was in compliance with Paragraph 96.

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

Phase 1: In compliance

- GH-5 (Early Identification System), most recently amended on March 24, 2017.

Phase 2: Not in compliance

As per MCSO policies GH-5 (Early Identification System) and GB-2 (Command Responsibility), supervisors are required to conduct EIS reviews twice per month for sworn members. Command review of EIS profiles of supervisory and command personnel began in February 2017. Review of broader pattern-based reports, as required by Paragraph 81.c., and assessments of interventions as required by this Paragraph, has not been sufficiently documented to meet compliance with this Paragraph. MCSO previously submitted memoranda stating that they have no policy in place for the Blue Team notes pertaining to Commander's quarterly review of EIS and assessments of the quality and effectiveness of interventions. The requirement described in Paragraph 81.c is covered in GH-5, under "Command Staff Responsibilities." However, it does not specify that the documentation should be noted in Blue Team.

For April, we reviewed 122 Blue Team notes submitted for 58 employees. Of the 58 employees, 39 had the two required EIS reviews in the month, for a 67% compliance rate. For May, we reviewed 158 Blue Team notes submitted for 57 employees. Forty-eight of the 57 employees had the required two EIS reviews for the month, for an 84% compliance rate. For June, we reviewed 127 Blue Team notes submitted for 58 employees. Of the 58 employees, 40 had the required two EIS reviews in the month, for a 69% compliance rate. The aggregate compliance rate for this reporting period was 73%.

d. Regular Employee Performance Review and Evaluations

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

Phase 1: Not in compliance

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

Phase 2: Not in compliance

During our October 2016 site visit, we received an update on the progress of the new Employee Performance Appraisal process. At that time, MCSO advised us that it had approved the EPA form, and revised GC-4 to comply with the requirements of the Second Order. Subsequent to our site visit, MCSO provided us with a timeline for completion of the EPA process. MCSO advised us that the plan was to pair the EPA course of instruction with EIS Training; and scheduled Train-the-Trainer sessions for March 6, 2017, for both EIS and EPA. MCSO scheduled the formal instruction process for March 20, 2017. MCSO command staff anticipated that they would provide instruction to over 700 employees; their expected date of completion at the time was June 30, 2017. The rollout date for the new EPA format was set for July 1, 2017.

We met with MCSO staff during our April 2017 site visit, and they informed us that training for the new EPA format started on schedule in March 2017. The EPA training was completed, independently from EIS during this reporting period. During our July site visit, MCSO informed us that the rollout date for the new EPA format was changed to September 1, 2017, due to administrative and technical modifications that needed to be made to the new system.

Although the EPA training was completed during this reporting period, MCSO did not publish the revised GC-4 policy, and the Employee Performance Appraisals that were completed under the existing format did not meet the requirements of this Paragraph.

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

Phase 1: Not in compliance

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

Phase 2: Not in compliance

During our April 2017 site visit, we met with MCSO staff, who informed us that training for the new EPA format had started in March 2017. The EPA training, which had been scheduled jointly with EIS Training, was conducted separately as a result of the delay with EIS Training. During our July site visit, MCSO advised us that the projected rollout date for the new EPA format had been changed to September 1, 2017.

Although EPA training was completed during the second quarter, the new Employee Performance Appraisal format was not implemented and the revised GC-4 policy (Employee Performance Appraisals) was not published during this reporting period. We anticipate that many of the deficiencies we have identified in the past with regard to the evaluation of employee performance will be addressed. During this reporting period, the Employee Performance Appraisals that were completed under the existing format did not meet the requirements of this Paragraph.

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

Phase 1: Not in compliance

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

Phase 2: Not in compliance

We reviewed Employee Performance Appraisals for 40 supervisors and commanders who received EPAs during this reporting period. All 40 of the appraisals rated the quality and effectiveness of supervision. Twenty of the 40 appraisals contained comments and/or rated the supervisors' demonstrated ability to identify and effectively respond to misconduct. Twelve of the 40 appraisals rated the supervisors on the quality of their reviews. Two of the supervisors whose Employee Performance Appraisals we reviewed had no direct reports. The quality of supervisory reviews, a mandated area of assessment in this Order, was added to the revised performance appraisal process. The new EPA form will have a mandatory rating dimension that specifically addresses this requirement.

EPA training was completed during the second quarter, but the revised policy, GC-4 (Employee Performance Appraisals), was not published during this reporting period. The new EPA format is scheduled for implementation by September 1, 2017. The Employee Performance Appraisals reviewed for this reporting period did not address the requirements of this Paragraph.

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

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

Phase 1: In compliance

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

As noted previously, MCSO has renamed its Anti-Trafficking Unit (ATU) the Fugitive Apprehension Investigative Team (FAIT), and changed the mission of the unit. MCSO had previously removed the enforcement of human smuggling laws from the mission statement of ATU. We reviewed a copy of the updated Special Investigations Division's Operations Manual, and the mission and objectives of FAIT are in compliance with this Paragraph. No other specialized units include the enforcement of human smuggling laws as part of their duties. Based on these policy modifications, MCSO is in Phase 1 compliance with this Paragraph.

Phase 2: In compliance

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

For each month of this reporting period, we received a list of all incidents involving MCSO jail bookings, and a list of criminal citations. For each month, we requested a random sampling of arrests and criminal citations. We reviewed 67 incidents involving arrests and 101 incidents resulting in criminal citations for this reporting period. In addition, we reviewed 252 Incident Reports for this reporting period. We found no evidence of enforcement of immigration-related laws. We will continue to review Arrest Reports, criminal citations, and Incident Reports for 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.

Phase 1: In compliance

- CP-2 (Code of Conduct), most recently amended on January 6, 2017.
- CP-3 (Workplace Professionalism), most recently amended on December 15, 2016.
- CP-5 (Truthfulness), most recently amended on December 21, 2016.
- CP-11 (Anti-Retaliation), most recently amended on December 1, 2016.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.

Phase 2: In compliance

During our assessment of this Paragraph, we have reviewed hundreds of misconduct investigations involving MCSO personnel. Many of them have been internally generated investigations, indicating that MCSO supervisory personnel are identifying potential misconduct.

During this reporting period, of the 91 administrative investigations we reviewed, 33 were initiated internally. Fourteen were submitted in compliance with Paragraph 32. Of the additional 19 internally initiated investigations that we reviewed, five involved sworn (non-Patrol) personnel, 10 involved Detention personnel, and four involved civilian personnel.

MCSO is consistently identifying and addressing misconduct that is brought forward by other employees or observed. MCSO is in Phase 2 compliance with the requirements of this Paragraph. MCSO's failure to ensure that all investigations are thorough and well-documented is addressed in other Paragraphs of this report.

b. Audit Checks

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

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- Audits and Inspections Unit Operations Manual, currently under revision.

Phase 2: Not in compliance

Although we had originally envisioned that PSB would be primarily responsible for the requirements of Paragraph 103, in 2016, MCSO raised the prospect of shifting integrity testing responsibilities from PSB to BIO. As we have previously noted, the Order does not require that any particular organizational component fulfill all of the requirements in Paragraph 103. Following our January 2017 site visit, we agreed with BIO that it could assume responsibility for the “regular, targeted, and random integrity audit checks” required by this Paragraph.

Prior to our April 2017 site visit, MCSO provided us and the Parties with a draft Audits and Inspections Unit (AIU) Operations Manual outlining how BIO’s new AIU would fulfill the “targeted” Paragraph 103 requirements. We reviewed this draft in detail with MCSO and the Parties during our April visit; during our July visit, MCSO informed us that it needed to revise the policy again once it had finalized the methodology for complaint intake testing. We look forward to the finalization of the policy, so that the AIU can begin conducting targeted integrity tests.

While the review process of the Audits and Inspections Unit Operations Manual is still underway, for this reporting period, BIO submitted several completed inspections in support of the “regular” and “random” elements of this Paragraph. The inspections examined, for example, Supervisory Notes, County Attorney turndown dispositions, and employee email usage; we reviewed these reports and believe that they comport with the Paragraph 103 requirement for “regular” and “random” integrity audit checks.

c. Complaint Tracking and Investigations

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

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: In compliance

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

Effective June 1, 2016, all administrative investigations are required to use these forms. MCSO is consistently meeting this requirement, and MCSO has included the checklists in administrative investigations forwarded for our review.

During this reporting period, we reviewed 91 administrative misconduct investigations. Fifty-two involved sworn MCSO personnel. All were completed on or after June 20, 2016, and all of the investigations included the use of the required investigative format and checklist. We noted that deputies consistently appeared for scheduled interviews, provided all required information to investigators, and cooperated with the investigations. There were two cases in which the information provided by the principal during the investigative interview appeared to be false. In both cases, PSB initiated truthfulness investigations. There were no instances where a supervisor failed to facilitate a deputy's attendance at a required interview.

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

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: In compliance

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

As a result of the Second Order and effective July 20, 2016, the PSB Commander makes all preliminary disciplinary decisions. The PSB and Compliance Bureau Commanders created a worksheet that provides information regarding how MCSO makes disciplinary decisions, and how MCSO considers employees' work history. PSB includes this form in the sustained investigation documentation that we receive and review for compliance.

During our reviews for this reporting period, we found that in all but one of the sustained cases, the PSB Commander determined the findings and preliminary discipline range for the violations. We found these preliminary decisions to be consistent with the Discipline Matrices in existence at the time the decisions were made. We also found that where appropriate, discipline history, past complaints, performance evaluations, traffic stop and patrol data, and training records were included in the documents considered for final discipline findings. In one case, the investigation included the PSB Commander as a witness; and she was considered to be conflicted out of all processes related to compliance. Another employee was appropriately designated to determine the findings and preliminary discipline range in this case.

Of the 16 sustained cases involving sworn personnel that we reviewed for this reporting period, we noted one where we do not believe the employee's work history was properly considered. In this case, the final discipline was mitigated to a lesser sanction by the appointing authority, despite the previous documented misconduct of the employee. The Plaintiffs' attorneys also noted their concerns with this case. In the remaining 15 cases involving sworn personnel, the required information was properly documented and considered prior to the imposition of discipline.

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

Phase 1: Not applicable

Phase 2: In compliance

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

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

Section 11: Community Engagement

COURT ORDER XII. COMMUNITY ENGAGEMENT

a. Community Outreach Program

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

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

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

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 ~~if 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 19, 2017, in MCSO Patrol District 3, at Barbara B. Robey Elementary School, located at 5340 N Wigwam Creek Blvd, in Litchfield Park. The meeting was held from 6:30 p.m. until 9:00 p.m. Approximately 30 community members attended this meeting.

Monitoring Team representatives opened the meeting with a brief introduction and background of the Monitoring Team process, to include the purpose of the community meeting. We welcomed the attendees and advised them that, before the close of the meeting, there would be an opportunity for them to ask questions and offer comments. We welcomed Sheriff Penzone and members of his staff; and introduced representatives of the ACLU of Arizona, the Community Advisory Board (CAB), and the U.S. Department of Justice (DOJ), who were in attendance.

A representative of the ACLU of Arizona presented an overview and history of the *Melendres* litigation, and the ongoing Court contempt proceedings. She stated that the ACLU is beginning to observe more progress in the reform process and characterized Sheriff Penzone's interest in community engagement as an encouraging sign for the future. She emphasized that the ACLU will continue to watch MCSO progress very carefully, with particular interest in any indications of agency-wide bias.

A DOJ representative followed, explaining DOJ's role as a Plaintiff-Intervenor in the *Melendres* case. She stated that DOJ works with law enforcement agencies throughout the United States and is committed to ensuring that Court Orders are fulfilled expediently. The DOJ representative discussed DOJ's role in the reform process and explained that, as a Plaintiff-Intervenor, DOJ works closely with the Plaintiffs' attorneys. She stated that the DOJ representatives appreciated Sheriff Penzone's efforts to reach out to the community.

Next, a member of the CAB addressed the attendees, pointing out that the role of the CAB is to represent the most affected community and to relay their concerns to the MCSO. She stated the affected community members were frustrated with the reform process taking such a long time to be completed. The CAB representative urged the MCSO to focus its efforts on ensuring that previous incidents which had adversely impacted on the affected community do not occur in the future. She emphasized that the community needs the MCSO to achieve compliance with the Orders.

An MCSO representative followed and introduced senior MCSO staff members. He said that MCSO, the Monitor, the ACLU, the DOJ, and the Federal Court must all work together to change the community's perspective of the MCSO and create an atmosphere in which the community members have trust and confidence in the MCSO. He informed the attendees that the MCSO representatives would be available during and following the meeting to listen to and address the input from the attendees.

A Monitoring Team representative followed and provided a summary of the Second Order, informing the attendees that the requirements it added to the Court Order issued by the Court on October 31, 2013 included the areas of supervision, training, misconduct investigations, and community outreach. He then discussed the status of MCSO compliance with the reform requirements directed by the Court in both Orders. The Monitoring Team representative also

shared that the Second Order requires the MCSO complaint process to be more open and accessible to the public. MCSO is required to publish reports that summarize the results of its misconduct investigations. Deputies are required to carry complaint forms in their vehicles and, upon request, will provide community members with their contact information and information regarding how to file a complaint. Members of the public can walk into any MCSO office, and receive information or assistance from MCSO employees in filing their complaint. Complaint forms will also be available at locations around the County; and MCSO has established a free, 24-hour hotline for members of the public to make complaints.

Monitoring Team representatives explained to the meeting attendees that the requirements of both the First and Second Orders encompass sound police practices and policies that are common in other law enforcement agencies around the country. We explained that we evaluate MCSO's compliance with the Orders' requirements by reviewing reports, examining data, and visiting deputies in the field. We also 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, since the beginning of our tenure, MCSO has not employed saturation patrols.

Before opening the meeting for comments and questions, we concluded our presentation by emphasizing the importance of hearing from the community members. We stated that we want there to be a free exchange of information, that we want to maximize community participation in the community meetings, and that the MCSO needs to hear the pain, expectations, and episodes the community members have experienced. Questions and comments from the attendees included appreciation for everyone involved in the reform process and an understanding that it will take time to build community members' trust in, and respect for, the MCSO. 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 Litchfield Park. The meeting attendees were given ample opportunity to ask questions or offer comments. Community members asked questions and offered comments, which included concerns that MCSO is collaborating with ICE and uncertainty about the future of the CAB, which the attendee viewed as a valuable resource that should not be dissolved. There was concern raised regarding what steps MCSO has planned to engage the community and gain their trust and confidence. A key objective of the meeting was to let those in attendance know that the Monitor has the authority, granted by the Court, to receive complaints about any activity involving MCSO personnel and ensure that an investigation is adequately conducted. We made complaint forms available for this purpose. After the meeting, all Monitoring Team personnel remained behind to individually answer questions, and did so until the last attendee left the building.

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

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

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.*

We began preparing for the meeting in Litchfield Park well in advance of the meeting date. We considered input from the CAB and the ACLU of Arizona before finalizing the most important issues such as site selection, advertisement in local radio and print media in English and Spanish, agenda creation, and meeting logistics. We emailed community leaders and media representatives soliciting their assistance in informing community members of the meeting and encouraging their attendance at the meeting. We also kept CID staff abreast of the planning; and we consulted with them on meeting location, potential meeting security issues and other logistics. 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 Litchfield Park with advertisements in both English and Spanish print media with the widest circulation in the Litchfield Park area in which the meeting was held. These ads were also included in the media outlets' Facebook pages and websites. We also ran extensive radio spots in Spanish and English, and distributed flyers in the vicinity of the meeting venue. The ACLU of Arizona also submitted the notice of the meeting to numerous online calendars and its local media contacts.

b. ~~Community Liaison Officer~~ Monitor

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

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

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

At the community meeting in Litchfield Park, we and the Plaintiffs' representatives explained the breadth of the Order to the community members in attendance. Sheriff Penzone thanked the community members for attending the meeting, introduced his senior staff, and stated that MCSO wished to hear the community members' comments and complaints. Following his remarks, Sheriff Penzone solicited questions from the attendees. To facilitate a dialogue, we emphasized that one of the dynamics of the community meeting was that the Monitoring Team wants the MCSO representatives in attendance to hear the attendees' questions and concerns. We invited community members to ask any questions of these representatives directly, and gave them an opportunity to comment on the information provided by these representatives. We provided community members with forms to document any concerns or complaints about MCSO. After the meeting, members of the Monitoring Team remained and spoke to several attendees who voiced their compliments, concerns, and opinions regarding MCSO's operations.

c. Community Advisory Board

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

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

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

With the resignation of one CAB member in October 2016, the CAB is currently comprised of two community members. Neither of these members are, or have been, MCSO employees, named as class representatives in this matter, or attorneys involved in the *Melendres* litigation.

During this reporting period, the ACLU of Arizona continued to work to appoint a new CAB member. We will report on the progress of this effort in our next quarterly status report.

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

Members of the Monitoring Team frequently communicate with CAB members to assist in scheduling CAB meetings, identifying appropriate meeting venues, and providing appropriate logistical support. During this reporting period, on April 14, 2017, CAB members met with community members at the Center for Neighborhood Leadership to provide general updates of CAB activities. On June 12, 2017, the CAB held a meeting in collaboration with various community organizations for the purpose of providing community members with the opportunity to learn more and express their perceptions about the MCSO reform process.

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

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

Second Supplemental Permanent Injunction/Judgment Order

Section 12: Misconduct Investigations, Discipline, and Grievances

COURT ORDER XV. MISCONDUCT INVESTIGATIONS, DISCIPLINE, AND GRIEVANCES

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

A. Policies Regarding Misconduct Investigations, Discipline, and Grievances

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

Phase 1: Not applicable

Phase 2: Deferred

MCSO provided us with the following:

- GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices), currently under revision.
- GA-1 (Development of Written Orders), most recently amended on November 3, 2016.
- GC-7 (Transfer of Personnel), most recently amended on May 18, 2017.
- GE-4 (Use, Assignment, and Operation of Vehicles), most recently amended on December 7, 2016.
- GI-5 (Voiance Language Services), most recently amended on December 21, 2016.
- GC-4 (Employee Performance Appraisals), currently under revision.
- GC-11 (Employee Probationary Periods), most recently amended on December 7, 2016.
- CP-2 (Code of Conduct), most recently amended on January 6, 2017.

- EA-2 (Patrol Vehicles), most recently amended on December 8, 2016.
- GC-12 (Hiring and Promotion Procedures), most recently amended on February 1, 2017.
- GH-5 (Early Identification System), most recently amended on March 24, 2017.
- GJ-26 (Sheriff's Reserve Deputy Program), currently under revision.
- GJ-27 (Sheriff's Posse Program), currently under revision.
- CP-3 (Workplace Professionalism), most recently amended on December 15, 2016.
- CP-5 (Truthfulness), most recently amended on December 21, 2016.
- CP-11 (Anti-Retaliation), most recently amended on December 1, 2016.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- Body-Worn Camera Operations Manual, most recently amended on December 22, 2016.
- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- GG-1 (Peace Officer Training Administration), most recently amended on May 17, 2017.
- GG-2 (Detention/Civilian Training Administration), most recently amended on May 17, 2017.
- GB-2 (Command Responsibility), most recently amended on February 1, 2017.
- GJ-24 (Community Relations and Youth Programs), most recently amended on January 7, 2017.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.
- Audits and Inspections Unit Operations Manual, currently under revision.
- Training Division Operations Manual, currently under revision.

We received a majority of the above documents within one month of the entry of the Order. The Monitoring Team and the Parties conducted an initial review and returned the revised documents, with additional recommendations, to MCSO for additional work. During this reporting period, MCSO formally published a total of five internal policies. MCSO continues to revise the remaining four internal policies and four operations manuals related to misconduct investigations, litigation, Employee Performance Appraisals, Sheriff's Reserve Deputy and Posse Programs, Audits and Inspections, and Training. Those remaining policies and operations manuals identified by MCSO were in some phase of review by us and the Parties at the end of this reporting period. Most of the original 29 policy and operations manual drafts have undergone multiple rounds of review.

This Paragraph implies that the review process and final adoption of the updated policies would take two months to complete, assuming that the new or revised policies were provided within one month of the Second Order's issuance. The sheer volume of policies, as well as the extensive modifications they contain, rendered that target date unachievable. This is due, in large measure, to researched and well-considered recommendations by the Parties, and robust discussion about policy language, application, and outcomes during our site visit meetings.

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

Paragraph 167. *The policies shall include the following provisions:*

- a. *Conflicts of interest in internal affairs investigations or in those assigned by the MCSO to hold hearings and make disciplinary decisions shall be prohibited. This provision requires the following:*
 - i. *No employee who was involved in an incident shall be involved in or review a misconduct investigation arising out of the incident.*
 - ii. *No employee who has an external business relationship or close personal relationship with a principal or witness in a misconduct investigation may investigate the misconduct. No such person may make any disciplinary decisions with respect to the misconduct including the determination of any grievance or appeal arising from any discipline.*
 - iii. *No employee shall be involved in an investigation, whether criminal or administrative, or make any disciplinary decisions with respect to any persons who are superior in rank and in their chain of command. Thus, investigations of the Chief Deputy's conduct, whether civil or criminal, must be referred to an outside authority. Any outside authority retained by the MCSO must possess the requisite background and level of experience of internal affairs investigators and must be free of any actual or perceived conflicts of interest.*
- b. *If an internal affairs investigator or a commander who is responsible for making disciplinary findings or determining discipline has knowledge of a conflict of interest affecting his or her involvement, he or she should immediately inform the Commander of*

the Professional Standards Bureau or, if the holder of that office also suffers from a conflict, the highest-ranking, non-conflicted chief-level officer at MCSO or, if there is no non-conflicted chief-level officer at MCSO, an outside authority. Any outside authority retained by the MCSO must possess the requisite background and level of experience of internal affairs investigators and must be free of any actual or perceived conflicts of interest.

- c. Investigations into an employee's alleged untruthfulness can be initiated by the Commander of the Professional Standards Bureau or the Chief Deputy. All decisions not to investigate alleged untruthfulness must be documented in writing.*
- d. Any MCSO employee who observes or becomes aware of any act of misconduct by another employee shall, as soon as practicable, report the incident to a Supervisor or directly to the Professional Standards Bureau. During any period in which a Monitor is appointed to oversee any operations of the MCSO, any employee may, without retaliation, report acts of alleged misconduct directly to the Monitor.*
- e. Where an act of misconduct is reported to a Supervisor, the Supervisor shall immediately document and report the information to the Professional Standards Bureau.*
- f. Failure to report an act of misconduct shall be considered misconduct and may result in disciplinary or corrective action, up to and including termination. The presumptive discipline for a failure to report such allegations may be commensurate with the presumptive discipline for the underlying misconduct.*
- g. No MCSO employee with a rank lower than Sergeant will conduct an investigation at the District level.*

Phase 1: In compliance

- CP-2 (Code of Conduct), most recently amended on January 6, 2017.
- CP-3 (Workplace Professionalism), most recently amended on December 15, 2016.
- CP-5 (Truthfulness), most recently amended on December 21, 2016.
- CP-11 (Anti-Retaliation), most recently amended on December 1, 2016.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we review administrative and criminal misconduct investigations.

For the last reporting period, we reviewed 123 closed administrative investigations and seven closed internal criminal investigations. Seventy-one cases involved sworn personnel. One case involved a Posse member. Forty cases involved Detention personnel, and 11 involved civilian employees. Sworn or Detention personnel assigned to PSB conducted 74 of the investigations. Sworn supervisors in Districts or other divisions investigated the remaining 49 cases. Seventy-two of the investigations were generated because of external complaints, and 51 were generated based on internal complaints. Six of the 123 administrative cases were generated because of a third-party complaint.

During this reporting period, we reviewed 91 closed administrative investigations. Fifty-three of the investigations involved sworn personnel. Three involved a Posse member. Thirty of the cases involved Detention personnel, and five involved civilian personnel. Sworn or Detention personnel assigned to PSB conducted sixty-one of the investigations. Sworn supervisors in Districts conducted 28 of the investigations. One investigation was conducted by the Compliance Division, due to an identified conflict; and one was investigated by an outside law enforcement agency, also due to an identified conflict.

Paragraph 167.a.i-iii. prohibits any employee with any conflicts of interest from participating in, holding hearings on, or making any disciplinary decisions in a misconduct investigation. During this reporting period, there were three instances where a potential conflict of interest was identified that would affect the investigation, findings, or discipline in the case. In all three cases, the investigation was properly reassigned. No other potential conflict was disclosed, and our case reviews did not discover any potential conflicts that should have been reported.

Paragraph 167.b. requires that if the internal affairs investigator or a commander responsible for making disciplinary decisions identifies a conflict of interest, appropriate notifications must be made immediately. Our review of the 91 completed administrative investigations for this reporting period revealed one instance where a conflict of interest by an MCSO member responsible for discipline was identified. This instance involved an investigation in which the PSB Commander was a witness. All responsibility for the investigation, findings, and discipline was reassigned in compliance with the requirement of this Paragraph. There are pending investigations that were previously outsourced by PSB based on the Court's May 2016 Findings of Fact. Those cases outsourced to another law enforcement agency have been completed. The cases being investigated by the private vendor are still in process.

Paragraph 167.c. requires that investigations into truthfulness be initiated by the Chief Deputy or the PSB Commander. There were six completed misconduct investigations during this reporting period where the Chief Deputy or the PSB Commander authorized a truthfulness allegation. We did not note any additional cases where we believe MCSO should have conducted a truthfulness investigation and did not.

Paragraph 167.d. requires that any MCSO employee who observes or becomes aware of misconduct by another employee shall immediately report such conduct to a supervisor or directly to PSB. During the period in which the Monitor has authority to oversee any operations of MCSO, any employee may also report alleged misconduct to the Monitor. Of the 91 completed administrative cases we reviewed for this reporting period, there were 16 investigations where an employee reported potential misconduct. There were no indications that any employee failed to report potential misconduct by another employee as required.

Paragraph 167.e. requires that when supervisors learn of an act of misconduct, the supervisor shall immediately document and report the information to PSB. Of the 16 cases where employees brought forward potential misconduct, 15 were properly documented and forwarded by the supervisor, as required. In one case, a supervisor failed to report the misconduct in a timely manner and an internal investigation into this misconduct was initiated

Paragraph 167.f. provides for the potential for a disciplinary sanction or other corrective action if an employee fails to bring forth an act of misconduct. During this reporting period, one misconduct investigation was initiated when a supervisor failed to immediately report potential misconduct he had been made aware of.

Paragraph 167.g. requires that a sergeant or higher-ranking employee conduct all misconduct investigations conducted at the District level. All District-level cases that were reviewed for this reporting period complied with this requirement.

Paragraph 168. *All forms of reprisal, discouragement, intimidation, coercion, or adverse action against any person, civilian, or employee because that person reports misconduct, attempts to make or makes a misconduct complaint in good faith, or cooperates with an investigation of misconduct constitute retaliation and are strictly prohibited. This also includes reports of misconduct made directly to the Monitor, during any period in which a Monitor is appointed to oversee any operations of the MCSO.*

Phase 1: In compliance

- CP-2 (Code of Conduct), most recently amended on January 6, 2017.
- CP-3 (Workplace Professionalism), most recently amended on December 15, 2016.
- CP-5 (Truthfulness), most recently amended on December 21, 2016.
- CP-11 (Anti-Retaliation), most recently amended on December 1, 2016.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 91 administrative misconduct investigations that were completed during this reporting period.

During this reporting period, there were no investigations initiated where there were allegations of reprisal, discouragement, intimidation, coercion, or adverse actions against any person because that person reported misconduct, attempted to report misconduct, or cooperated in any misconduct investigation. There was one investigation completed during this reporting period where an employee had alleged reprisal because of misconduct he had brought forward. This investigation included allegations against the former Chief Deputy, and was outsourced to another law enforcement agency for investigation as required for those cases where allegations are made against the organization's Chief Deputy.

Paragraph 169. *Retaliating against any person who reports or investigates alleged misconduct shall be considered a serious offense and shall result in discipline, up to and including termination.*

Phase 1: In compliance

- CP-2 (Code of Conduct), most recently amended on January 6, 2017.
- CP-3 (Workplace Professionalism), most recently amended on December 15, 2016.
- CP-5 (Truthfulness), most recently amended on December 21, 2016.
- CP-11 (Anti-Retaliation), most recently amended on December 1, 2016.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 91 administrative misconduct investigations that were completed during this reporting period.

During this reporting period, there were no allegations reported by MCSO regarding acts of retaliation related to the requirements of this Paragraph.

As noted in Paragraph 168, there was one investigation completed during this reporting period where an employee had alleged reprisal or retaliation because of misconduct he had brought forward. This investigation included allegations against the former Chief Deputy and was outsourced to another law enforcement agency for investigation as required for those cases where allegations are made against the organization's Chief Deputy.

Paragraph 170. *The Sheriff shall investigate all complaints and allegations of misconduct, including third-party and anonymous complaints and allegations. Employees as well as civilians shall be permitted to make misconduct allegations anonymously.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 91 completed administrative misconduct investigations conducted during this reporting period. We reviewed an additional four CRM misconduct cases and six criminal misconduct investigations. Sixty-six of these investigations resulted from external complaints. Thirty-five were generated due to employee reports of misconduct, or discovery of potential misconduct by MCSO supervisory personnel.

Of the investigations reviewed this reporting period, two involved anonymous complaints from external parties; and two involved internally generated anonymous complaints. Four external third-party complaints were also received. All were completed as required for compliance. We have not become aware of any evidence that indicates that MCSO has refused to accept and complete investigations in compliance with the requirements of this Paragraph. None of the 101 misconduct investigations that we reviewed during this reporting period had any allegations indicating that any third-party or anonymous complaint had not been appropriately accepted and investigated.

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

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 91 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

We determined that eight of the 91 completed administrative investigations involved complainants who sought to withdraw their complaints; or were unavailable, unwilling, or unable to cooperate. MCSO completed all eight investigations and reached a finding as required. We also found that in three of the 91 investigations, the principal resigned during the investigation. MCSO completed all three of these investigations and reached a finding. Of the 91 investigations we evaluated for compliance, none were prematurely terminated.

Paragraph 172. *Employees are required to provide all relevant evidence and information in their custody and control to internal affairs investigators. Intentionally withholding evidence or information from an internal affairs investigator shall result in discipline.*

Phase 1: In compliance

- CP-5 (Truthfulness), most recently amended on December 21, 2016.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph during this reporting period, we reviewed 91 completed administrative misconduct investigations conducted by MCSO personnel.

There were two investigations identified by PSB where the principal failed to accurately provide all information or evidence required during the investigation. In both cases, truthfulness allegations resulted, and both employees were ultimately dismissed from the agency. We did not identify any cases during our reviews where we believe that an employee intentionally failed to provide all required information or evidence during an investigation and MCSO failed to act.

Paragraph 173. *Any employee who is named as a principal in an ongoing investigation of serious misconduct shall be presumptively ineligible for hire or promotion during the pendency of the investigation. The Sheriff and/or the MCSO shall provide a written justification for hiring or promoting an employee or applicant who is a principal in an ongoing investigation of serious misconduct. This written justification shall be included in the employee's employment file and, during the period that the MCSO is subject to Monitor oversight, provided to the Monitor.*

Phase 1: Not in compliance

- GC-4 (Employee Performance Appraisals), currently under revision.
- GC-11 (Employee Probationary Periods), most recently amended on December 7, 2016.
- GC-12 (Hiring and Promotion Procedures), most recently amended on February 1, 2017.

Phase 2: Deferred

During our April 2017 site visit, we met with PSB representatives regarding policy updates and status. PSB command personnel once again affirmed that the current process to ensure compliance with this Paragraph is that when the promotion list is established for Detention or sworn personnel, PSB receives the promotion list of candidates. Prior to any finalized promotion, PSB conducts a disciplinary check in the automated system (IAPro). The results of the check are provided to attendees at the promotion meeting as part of the promotional consideration process. Additionally, the PSB Commander attends the promotion meetings for both Detention and sworn promotion candidates. Regarding the hiring of personnel from a civilian employment position to a sworn employment position, a thorough background investigation is completed. The background process involves an updated review of the candidate's PSB files, which is completed by Pre-Employment Services. The candidate's background from his/her original hire into a Detention position is refreshed when s/he is considered for the sworn position. We have a standing monthly document request to MCSO to ensure that MCSO informs us of any circumstance associated with this Paragraph.

During our October 2017 site visit, we reviewed promotion files for numerous employees who had been promoted during the previous months. In our reviews, we found multiple instances of employees being promoted with open IA investigations. Several of the files we reviewed did not include any justification for these promotions. It was MCSO's position that although these employees had open IA investigations, none would likely have resulted in a finding of serious misconduct. We also found that because different personnel at MCSO are conducting the reviews of past discipline and pending investigations, there were some disparities in the information that was being provided. We provided input to MCSO regarding the necessity to conduct consistent reviews of each employee's IA and discipline history.

Since our site visit, we have received a justification memo for each of the employees who were promoted with open IA investigations. Some of the investigations have now been completed with findings that support MCSO's assertion that serious discipline would not have resulted. In one case however, the investigation is still pending; and MCSO noted in the justification memo that the case would likely result in a finding of serious misconduct.

We cannot find MCSO in compliance with the requirements of this Paragraph, given promotions based on the belief that there will not be a finding of serious misconduct without the proper written justification. During future site visits, we will review all promotions and the associated IA history of the employees considered for promotion to ensure that MCSO fully meets the requirements of this Paragraph. Until we have an opportunity to review additional promotion files and MCSO has addressed the disparities in reviews and provides proper justification documents, we are deferring our compliance assessment with this Paragraph.

Paragraph 174. *Employees' and applicants' disciplinary history shall be considered in all hiring, promotion, and transfer decisions, and this consideration shall be documented. Employees and applicants whose disciplinary history demonstrates multiple sustained allegations of misconduct, or one sustained allegation of a Category 6 or Category 7 offense from MCSO's disciplinary matrices, shall be presumptively ineligible for hire or promotion. MCSO shall provide a written justification for hiring or promoting an employee or applicant who has a history demonstrating multiple sustained allegations of misconduct or a sustained Category 6 or Category 7 offense. This written justification shall be included in the employee's employment file and, during the period that the MCSO is subject to Monitor oversight, provided to the Monitor.*

Phase 1: In compliance

- GC-12 (Hiring and Promotional Procedures), most recently amended on February 1, 2017.

Phase 2: In compliance

As of August 1, 2016, MCSO began submitting advance notice of transfers of personnel to and from the Professional Standards Bureau, the Bureau of Internal Oversight, and the Court Implementation Division. During this reporting period, MCSO submitted the resumes and disciplinary history of 16 incoming transfer requests to PSB, CID, and BIO for approval. In addition, six employees were transferred out of these units. We reviewed the documentation submitted for each transfer request to ensure that each employee transferred into these units met the requirements of this Paragraph. We also reviewed each outgoing transfer to ensure that they were based on need, and were not a result of punitive measures. We approved all of the submitted transfers based on the information provided. During our July site visit, we audited the files of the 22 total transferred employees to verify the accuracy of the information submitted.

During this reporting period, MCSO promoted one deputy who had a Category 6 offense in 2012. MCSO submitted a justification for the promotion and transfer in a memorandum written by the Commanding Officer of the Court Implementation Division to the Executive Chief of the Court Implementation Bureau. The incident that resulted in a sustained violation of MCSO policy occurred while the deputy was off-duty. Another negative entry noted in his file was an on-duty vehicle accident in which he was found at fault. The deputy's personnel records reflect he has a combined total of 10 letters of appreciation and commendations. During this reporting period, MCSO also promoted two Executive Chiefs and four Deputy Chiefs. One of the employees promoted had a written reprimand, but none of the employees promoted to the executive level had a disciplinary history that would make them ineligible for promotion.

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

Phase 1: In compliance

- GH-5 (Early Identification System), most recently amended on March 24, 2017.

Phase 2: Not in compliance

For April, MCSO submitted 77 Supervisory Notes that documented EIS review of personnel transferred to new assignments. For May, MCSO submitted 79 Supervisory Notes that documented EIS review of personnel transferred to new assignments. For June, MCSO submitted 42 Supervisory Notes that documented EIS review of personnel transferred to new assignments. Per MCSO policy, the EIS review is to be conducted within 14 days of the employee's transfer. We compared the Supervisory Notes with the list of transfers received for each respective month. We found that more than 23% of employees on the transfer list did not have a documented EIS review within 14 days of their transfer.

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

Phase 1: Not in compliance

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

Phase 2: Not in compliance

We reviewed Employee Performance Appraisals for 40 supervisors and commanders who received EPAs during this reporting period. Although we noted some EPAs with comments related to the requirements of this Paragraph, most of the supervisors' EPAs did not address the quality of investigations or quality of reviews of investigations of the employee being evaluated. The requirements of this Paragraph were not consistently addressed in the Employee Performance Appraisals reviewed for this reporting period.

Paragraph 177. *There shall be no procedure referred to as a "name-clearing hearing." All pre-disciplinary hearings shall be referred to as "pre-determination hearings," regardless of the employment status of the principal.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 91 administrative misconduct investigations that were completed during this reporting period.

In misconduct investigations that resulted in serious discipline and in which the employee was afforded the opportunity for an administrative hearing, the only reference to the hearing was “pre-determination hearing.”

B. Misconduct-Related Training

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

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

Phase 1: Not applicable

Phase 2: Not in compliance

During this reporting period, we continued to provide lesson plan development through technical assistance to MCSO. The publication of both GH-2 (Internal Investigations) and GC-17 (Employee Disciplinary Procedures), which occurred on May 18, 2017, was required before the lesson plan could be finalized. The curriculum for the Internal Investigations Training is a robust curriculum that incorporates multiple scenarios, report review exercises, peer review exercises, and an all-encompassing written exam. A Train-the-Trainer program was scheduled for September 12-13, 2017. MCSO did not provide Internal Investigations Training during this reporting period.

Paragraph 179. *All Supervisors and all personnel assigned to the Professional Standards Bureau also will receive eight hours of in-service training annually related to conducting misconduct investigations. This training shall be delivered by a person with subject matter expertise in misconduct investigation who shall be approved by the Monitor.*

Phase 1: Not in compliance

- GG-1 (Peace Officer Training Administration), most recently amended on May 17, 2017.
- GG-2 (Detention/Civilian Training Administration), most recently amended on May 17, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Deferred

The initial Internal Investigations Training was not approved and delivered during this reporting period. The training required by Paragraph becomes applicable one year after the initial Internal Investigations Training is offered.

Paragraph 180. *Within three months of the finalization of these policies consistent with ¶ 165 of this Order, the Sheriff will provide training that is adequate in quality, quantity, scope, and type, as determined by the Monitor, to all employees on MCSO's new or revised policies related to misconduct investigations, discipline, and grievances. This training shall include instruction on identifying and reporting misconduct, the consequences for failing to report misconduct, and the consequences for retaliating against a person for reporting misconduct or participating in a misconduct investigation.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.

Phase 2: Not in compliance

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

Paragraph 181. *Within three months of the finalization of these policies consistent with ¶ 165 of this Order, the Sheriff will provide training that is adequate in quality, quantity, scope, and type, as determined by the Monitor, to all employees, including dispatchers, to properly handle civilian complaint intake, including how to provide complaint materials and information, and the consequences for failing to take complaints.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.

Phase 2: Not in compliance

During this reporting period, MCSO presented for initial review an E-Learning curriculum for all employees on Complaint Reception and Processing. MCSO did not deliver this training during this reporting period.

***Paragraph 182.** Within three months of the finalization of these policies consistent with ¶ 165 of this Order, the Sheriff will provide training that is adequate in quality, quantity, scope, and type, as determined by the Monitor, to all Supervisors on their obligations when called to a scene by a subordinate to accept a civilian complaint about that subordinate's conduct and on their obligations when they are phoned or emailed directly by a civilian filing a complaint against one of their subordinates.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.

Phase 2: Not in compliance

During this reporting period, MCSO did not develop or deliver training for all supervisors on their obligations when called to a scene by a subordinate to accept a civilian complaint about that subordinate's conduct and on their obligations when they are phoned or emailed directly by a civilian filing a complaint against one of their subordinates.

C. Administrative Investigation Review

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

***Paragraph 184.** All findings will be based on the appropriate standard of proof. These standards will be clearly delineated in policies, training, and procedures, and accompanied by detailed examples to ensure proper application by internal affairs investigators.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: Not in compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 91 completed administrative misconduct investigations conducted during this reporting period.

Of these, there were 11 cases (11%) where the final investigative finding reached was not based on an appropriate standard of proof. As was true in the last reporting period, where 18% of the findings were not properly supported, our review this reporting period indicated that there is still not one primary reason for these inappropriate findings. We noted cases that were not adequately investigated, and cases where the facts of the investigation supported a different finding from what was determined. We also noted two cases where we believe that the PSB Commander determined appropriate findings, but the Appointing Authority later changed them. Three of these investigations involved Detention personnel, and Detention personnel assigned to PSB conducted the investigations. Eight of the cases involved sworn personnel. Four were investigated by sworn PSB personnel, and three were investigated by sworn personnel outside of PSB.

During our next site visit, we will specifically address these investigations and discuss with MCSO personnel our ongoing concerns relative to compliance with this Paragraph.

Paragraph 185. *Upon receipt of any allegation of misconduct, whether internally discovered or based upon a civilian complaint, employees shall immediately notify the Professional Standards Bureau.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed a total of 91 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

In all but one of the 91 administrative cases reviewed, PSB was properly and immediately notified of the complaint. In one case, a District supervisor became aware of potential misconduct and did not immediately report it to his supervisor or to PSB. As a result, PSB initiated a misconduct investigation.

Paragraph 186. *Effective immediately, the Professional Standards Bureau shall maintain a centralized electronic numbering and tracking system for all allegations of misconduct, whether internally discovered or based upon a civilian complaint. Upon being notified of any allegation of misconduct, the Professional Standards Bureau will promptly assign a unique identifier to the incident. If the allegation was made through a civilian complaint, the unique identifier will be provided to the complainant at the time the complaint is made. The Professional Standards Bureau's centralized numbering and tracking system will maintain accurate and reliable data regarding the number, nature, and status of all misconduct allegations, from initial intake to final disposition, including investigation timeliness and notification to the complainant of the interim status, if requested, and final disposition of the complaint. The system will be used to determine the status of misconduct investigations, as well as for periodic assessment of compliance with relevant policies and procedures and this Order, including requirements of timeliness of investigations. The system also will be used to monitor and maintain appropriate caseloads for internal affairs investigators.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

During our October 2016, January 2017, and July 2017 site visits, we met with the PSB lieutenant who serves as the primary administrator for the IAPro database system. The demonstration that was provided represented IAPro as a technology instrument that meets the compliance criteria of this Paragraph, to include logging of critical dates and times, alerts regarding timelines and deadlines, chronological misconduct investigation status, notifications, and dispositions. The lieutenant conducts a weekly evaluation of closed cases to ensure that data is entered into the system. A monthly review is conducted to audit timelines associated with open investigations. The tracking system provides estimates of key timelines for all investigators to ensure that they learn of previous and upcoming investigative milestones.

PSB has confirmed that civil notice claims are entered into the tracking system. The IAPro system integrates exceptionally well with the EIS and Blue Team technology systems. The system can be accessed remotely. Additionally, PSB has hired a management analyst dedicated to the administration of the centralized tracking system. The documentation that is provided to us for review, and the direct user access that one Team member has to the centralized numbering and tracking system, indicates that the system possesses the functionality as required by this Paragraph and is being used according to the requirements of this Paragraph.

During this reporting period, we found that all 91 of the administrative misconduct investigations were properly assigned a unique identifier. All but nine of the cases were both initiated and completed after July 20, 2016. Fifty-eight of the cases involved an external complainant requiring that PSB provide the complainant with this unique identifier. There were eight cases where this identifier was either not provided to an external complainant or not supplied in the case files MCSO produced for our reviews. MCSO was in compliance with the requirements the last reporting period. We remind MCSO of the importance of making this notification to external complainants and providing the required documentation for review, or Phase 2 Compliance may be withdrawn.

Paragraph 187. *The Professional Standards Bureau shall maintain a complete file of all documents within the MCSO's custody and control relating to any investigations and related disciplinary proceedings, including pre-determination hearings, grievance proceedings, and appeals to the Maricopa County Law Enforcement Merit System Council or a state court.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: In compliance

To determine compliance with this Paragraph, we verified that PSB maintains both hardcopy and electronic files intended to contain all of the documents required for compliance with this Paragraph.

A Monitoring Team member has inspected the file rooms where hardcopies of investigations are stored and randomly reviewed case files to verify compliance. Criminal and administrative investigation files are stored in separate rooms, and access to these rooms is restricted. A Monitoring Team member also has access to IAPro and has verified that case files are maintained in an electronic format.

Paragraph 188. *Upon being notified of any allegation of misconduct, the Professional Standards Bureau will make an initial determination of the category of the alleged offense, to be used for the purposes of assigning the administrative investigation to an investigator. After initially categorizing the allegation, the Professional Standards Bureau will promptly assign an internal affairs investigator.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 91 administrative misconduct investigations that were conducted and completed by MCSO personnel during this reporting period.

We previously concurred with MCSO that Phase 2 compliance with this Paragraph would be based on PSB's determination of the initial allegations, and not which category of offense is determined once the investigation is completed.

All 91 administrative misconduct investigations that we reviewed for this reporting period complied with the requirements of this Paragraph.

With the approved revisions to the PSB and discipline policies, PSB is now authorized to determine that some complaints can be classified as service complaints. PSB has initiated both a process and a complaint-tracking system for these complaints. Only one such case was initiated during this reporting period, and it was properly categorized and reported.

Consistent with the provisions of the revised policies on internal investigations and discipline, the PSB Commander now has the discretion to determine that internal complaints alleging minor policy violations can be addressed without a formal investigation if certain criteria exists. If made, this decision must be documented. There were no internal complaints during this reporting period where the PSB Commander determined that a formal investigation of an internal complaint did not require an administration investigation.

Paragraph 189. *The Professional Standards Bureau shall administratively investigate:*

- a. misconduct allegations of a serious nature, including any allegation that may result in suspension, demotion, or termination; and*
- b. misconduct indicating apparent criminal conduct by an employee.*

Phase 1: In compliance

- CP-2 (Code of Conduct), most recently amended on January 6, 2017.
- CP-3 (Workplace Professionalism), most recently amended on December 15, 2016.
- CP-5 (Truthfulness), most recently amended on December 21, 2016.
- CP-11 (Anti-Retaliation), most recently amended on December 1, 2016.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph during this reporting period, we reviewed 91 completed administrative misconduct investigations conducted by MCSO personnel.

Of the total 91 administrative misconduct investigations conducted during this reporting period, 28 were investigated by Division or District personnel other than PSB. None involved serious or criminal allegations that should have been investigated by PSB.

Paragraph 190. *Allegations of employee misconduct that are of a minor nature may be administratively investigated by a trained and qualified Supervisor in the employee's District.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: Deferred

To determine Phase 2 compliance with this Paragraph, we reviewed a total of 101 misconduct investigations conducted by MCSO personnel and completed during this reporting period. Ninety-one were administrative investigations, four were administrative CRMs and six involved alleged criminal misconduct. All CRM and criminal investigations were conducted by PSB personnel.

Of the remaining 91 administrative misconduct cases we reviewed for compliance with this Paragraph, PSB investigators conducted 61 of the investigations. Twenty-eight were investigated at the District or Division level. One case was outsourced to another law enforcement agency due to identified conflicts, and another was investigated by the Compliance Division due to an identified conflict. We did not identify any investigations conducted at the Division or District level that we believe should have been investigated by PSB.

We have indicated previously that supervisors in the Districts do not yet meet the requirements of this Paragraph related to qualifications and training. The required training module has not yet been delivered. Paragraph 178 does not require this training to occur until after finalization of those policies related to misconduct investigations, which occurred on May 18, 2017.

Members of the Monitoring Team are working with MCSO staff to finalize the training curricula regarding misconduct investigations. This training will incorporate revisions and updates to MCSO policies related to the investigation of misconduct complaints.

Paragraph 191. *If at any point during a misconduct investigation an investigating Supervisor outside of the Professional Standards Bureau believes that the principal may have committed misconduct of a serious or criminal nature, he or she shall immediately notify the Professional Standards Bureau, which shall take over the investigation.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 91 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

During this reporting period, there were no cases reported where an investigating supervisor outside of PSB discovered serious or criminal misconduct during an investigation that resulted in the case being transferred to PSB. Our Team also did not discover any investigations where a case should have been forwarded to PSB due to serious or criminal misconduct being discovered and was not.

Paragraph 192. *The Professional Standards Bureau shall review, at least semi-annually, all investigations assigned outside the Bureau to determine, among the other matters set forth in ¶ 251 below, whether the investigation is properly categorized, whether the investigation is being properly conducted, and whether appropriate findings have been reached.*

Phase 1: Not in compliance

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

During our July 2017 site visit, PSB command personnel advised us that the management analyst hired on January 16, 2017 has become acclimated to IAPro and bureau procedures. To date, MCSO has not yet published a semi-annual report. The report, when published, should identify problematic trends or patterns, and ensure that the aggregate data is reported as required. PSB command personnel advised investigations are being reviewed as they come into the bureau. The Monitoring Team suggested the completed daily reviews be tracked and captured on a monthly basis to facilitate the required documentation to support the semi-annual review of investigations and meet the requirements of this Paragraph.

See Paragraph 251 below, regarding the additional summary information, analysis, and aggregate data PSB is required to assess for the semi-annual public report.

Paragraph 193. *When a single act of alleged misconduct would constitute multiple separate policy violations, all applicable policy violations shall be charged, but the most serious policy violation shall be used for determining the category of the offense. Exoneration on the most serious offense does not preclude discipline as to less serious offenses stemming from the same misconduct.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 91 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period. In all 30 cases with sustained allegations, the most serious policy violation was used to determine the category of the offense. In cases where multiple violations of policy occurred, this information was also listed on the preliminary discipline document. There were no cases where the exoneration of any offense precluded discipline for other sustained allegations.

Paragraph 194. *The Commander of the Professional Standards Bureau shall ensure that investigations comply with MCSO policy and all requirements of this Order, including those related to training, investigators' disciplinary backgrounds, and conflicts of interest.*

Phase 1: Not in compliance

- CP-2 (Code of Conduct), most recently amended on January 6, 2017.
- CP-3 (Workplace Professionalism), most recently amended on December 15, 2016.
- CP-5 (Truthfulness), most recently amended on December 21, 2016.
- CP-11 (Anti-Retaliation), most recently amended on December 1, 2016.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

Compliance with Phase 2 of this Paragraph is determined by a review of completed misconduct investigations conducted by MCSO personnel, the review of attendance by internal investigators at required misconduct training, and the disciplinary backgrounds of internal investigators.

During the last reporting period, we reviewed 123 administrative misconduct investigations and seven criminal misconduct investigations. All were completed after the issuance of the Second Order on July 20, 2016. All but 28 of these cases were both initiated and completed after July 20, 2016. We found that in 83 (62%) of the 130 cases reviewed, the PSB Commander had ensured there was full compliance with MCSO policy and all requirements of the Second Order. While MCSO still fell short of full compliance with all requirements of the Second Order, this was an improvement of 42% from the last reporting period.

During this reporting period, we reviewed a total of 95 administrative misconduct investigations and six criminal misconduct investigations. All but nine were both initiated and completed after July 20, 2016. We found that in 50 (50%) of the 101 cases we reviewed, the PSB Commander ensured there was full compliance with MCSO policy and all requirements of the Second Order. This compliance is lower than what we found during the last reporting period. We noted that of those cases found not in compliance for this reporting period, a large number had administrative errors that led to the non-compliance. We did not note any overall reduction in the general investigative quality of the cases.

We recognize there are many factors that impact the PSB Commander's ability to ensure compliance in all cases. The most significant factors we noted during this reporting period include the necessary reliance on other members of PSB to conduct some case reviews and ensure proper documents are prepared and forwarded for review, deficiencies in investigations conducted outside of PSB that cannot be corrected after the fact, and a lack of training for some who conduct internal investigations.

While there continue to be challenges to ensuring that completed internal investigations are reaching full compliance with both MCSO policy and the Order of the Court, PSB has continued to make efforts to improve compliance. Were it not for many of the corrective emails sent out by PSB to Districts and Divisions conducting cases, many cases that we ultimately found in compliance would not have been.

Beyond the technical and procedural compliance issues we found in our reviews, there are several areas where we continue to note deficiencies. Some examples include:

- Failure to locate and interview all potential investigative leads or witnesses;
- Failure to properly investigate all potential policy violations;
- Poorly conducted investigative interviews;
- Findings that are not supported by the facts of the investigation.

A Monitoring Team member meets personally with the PSB Commander weekly to discuss Class Remedial Matters. We also use this opportunity to discuss other ongoing related concerns that affect compliance with the Second Order. The PSB Commander is attentive to our concerns and we have observed that she takes immediate action when we bring serious concerns to her attention.

During our October 2016, January 2017, April 2017, and July 2017 site visits, we initiated meetings with PSB command personnel and District and Division command staff, to update them on our identification of training and performance issues that adversely affect compliance. Since January 2017, Detention personnel assigned to PSB to oversee investigations have also attended these meetings. We have found them all to be attentive and responsive to our input during these meetings.

Since we have been conducting these site visit meetings, the PSB Commander has taken a number of actions to address issues we have brought forward. Based on concerns regarding those cases investigated by Detention supervisors, the PSB Commander assigned a sworn lieutenant in the Bureau to serve as a secondary reviewer of these cases, and she intends to ensure additional training is provided to Detention supervisors. To address some of the concerns with those cases conducted outside of PSB, the PSB Commander has assigned PSB liaisons to every District; and in some cases these PSB personnel provide oversight and assistance while the investigation is being conducted. There are also PSB personnel assigned to review District cases, provide feedback, and when necessary return the cases for additional investigation or analysis by the District personnel.

Over the past several months we have noticed a significant decline in the number of closed misconduct cases that are being forwarded by MCSO for our review each month. We have discussed this with the PSB Commander to determine if this is indicative of a reduction in the number of complaints, or if other factors created or contributed to this reduction.

The PSB Commander informed our Team that in 2013, PSB initiated 76 internal investigations. In 2014, there were 717 cases initiated, 986 cases were initiated in 2015, and 847 cases were initiated in 2016. For the first six months of 2017, 481 internal investigations were initiated. If there are an equal amount of internal investigations initiated the second half of 2017, the year-end total will exceed that of the 2016 total.

The Second Order, issued in July 2016, added numerous additional and important requirements for all internal investigations. These requirements ensure that MCSO conducts proper and thorough investigations. These requirements also result in investigative personnel appropriately spending more time on investigations, to ensure their overall quality and compliance with the Court's Order.

The PSB Commander is dedicating many of the Bureau's existing resources to ensuring that District cases are properly investigated, and receive a thorough review when they reach PSB. This has reduced the number of investigators available to conduct investigations assigned to PSB. PSB sworn investigators currently have an average of 18 ongoing cases they are responsible for each month. In 2016, the average ongoing caseload for sworn investigations in PSB each month was eight. Detention supervisors conducting investigations in PSB currently have an average of 12 cases assigned per investigator and a sworn supervisor has been assigned to review these cases to address concerns previously identified by our Team. As we have reported in Paragraph 195, the PSB Commander informed our Team at both the April and July site visits that the assignment of additional sworn sergeants and detention sergeants or lieutenants is necessary for PSB to handle the number of cases they investigate, and the number that they review. We believe the assignment of additional personnel to PSB is beyond necessary, it is critical, if MCSO is to reach compliance with the requirements of the Second Order.

While we are encouraged by the responsiveness of PSB, MCSO still falls far short in overall compliance. The PSB Commander is held responsible for compliance with all requirements for the completion of internal investigations. Both the Commander and the staff assigned to PSB must have the cooperation and commitment of District and Division personnel and executive staff for MCSO to achieve compliance with this Paragraph.

Over our past several site visits, PSB staff have sufficiently communicated that they are properly outsourcing those cases where a conflict of interest exists. PSB has contracted with a qualified private vendor to conduct these investigations. Additionally, PSB has outsourced investigations to another local law enforcement agency. PSB updated us on these investigations during our July 2017 site visit. Of the three cases outsourced to another law enforcement agency, one has been completed, one has been completed but under appeal by the employee, and one was closed as the potential violations duplicated those already being investigation by the Independent Investigator.

MCSO finalized and published the revised internal investigation and discipline policies on May 18, 2017. The required training has not yet been delivered.

After the Second Order was implemented, PSB reviewed the disciplinary backgrounds of all those who might conduct internal investigations and notified us of those supervisors that would be prohibited from conducting such investigations due to their backgrounds. Two supervisors were determined to be ineligible to conduct internal investigations. Since January 2017, PSB personnel have reported they have not identified any additional MCSO members who are disqualified from conducting misconduct investigations. We receive a monthly document submission from MCSO to ensure we remain aware of any additional employees who may be prohibited from conducting misconduct investigations in compliance with this Paragraph.

Paragraph 195. *Within six months of the entry of this Order, the Professional Standards Bureau shall include sufficient trained personnel to fulfill the requirements of this Order.*

Phase 1: Not in compliance

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Deferred

In conjunction with this Paragraph, Paragraph 178 mandates that within three months of the finalization of policies consistent with Paragraph 165 of the Order, all PSB personnel will receive 40 hours of comprehensive training. Paragraph 178 requires training of all supervisors within three months of the finalization of policies. However, as documented in Paragraph 165, we and the Parties continue to review and revise a multitude of policies and manuals. Paragraph 178 requires sufficient trained personnel in PSB within six months of the entry of the Order (three months of the finalization of policies), which would have been January 20, 2017. MCSO cannot commence with the required training of sufficient personnel because many of the applicable policies have not been finalized and published. We are working diligently with MCSO to complete the training curricula and processes. During our July 2017 site visit, we and MCSO continued to advance and finalize the training curricula, to include scenario-based training modalities, testing, and incorporating feedback from the Parties.

During our July 2017 site visit, we inquired of the PSB Commander whether any staffing issues existed. The PSB Commander communicated that, due to a reorganization of MCSO and promotions, PSB is presently understaffed by four sworn sergeants' positions. The PSB Commander indicated that PSB is understaffed by four sergeants/lieutenants on the Detention investigative side of the bureau. The PSB Commander advised that an additional sergeant has been added to the bureau; this sergeant will be responsible for complaint intake processes. The PSB Commander elaborated that there is a concern about a minimal pool of sufficiently qualified candidates; she believes that the volume of civilian support staff resources is adequate. The PSB Commander previously explained that any additional staffing to PSB would be automatically logged into the IAPro database. In place of monthly document requests, we will continue to inquire about the adequacy of staffing during our site visits. Additionally, our future site visits will include review of PSB staff training files after the mandatory training is completed.

Paragraph 196. *Where appropriate to ensure the fact and appearance of impartiality, the Commander of the Professional Standards Bureau or the Chief Deputy may refer administrative misconduct investigations to another law enforcement agency or may retain a qualified outside investigator to conduct the investigation. Any outside investigator retained by the MCSO must possess the requisite background and level of experience of Internal Affairs investigators and must be free of any actual or perceived conflicts of interest.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

During our April 2017 site visit, the PSB Commander indicated that MCSO had not found any necessity to hire additional contract investigators beyond the one investigator that had been already hired. The PSB Commander serves as MCSO's single point-of-contact to assist with liaising and scheduling for the contract investigator. The private investigator will advance the investigations to the level of recommending findings.

PSB outsourced three misconduct investigations to a separate regional law enforcement agency. During our July 2017 site visit, the PSB Commander explained that, of the three cases, one has been completed and closed, one has been completed and is being appealed by the employee, and one was closed as the alleged misconduct was being investigated by the Independent Investigator.

During this reporting period, we reviewed 91 administrative misconduct investigations. One of these was completed by a separate regional law enforcement agency. We have not yet received or reviewed any investigations conducted and completed by the contract investigator hired by MCSO.

***Paragraph 197.** The Professional Standards Bureau will be headed by a qualified Commander. The Commander of the Professional Standards Bureau will have ultimate authority within the MCSO for reaching the findings of investigations and preliminarily determining any discipline to be imposed. If the Sheriff declines to designate a qualified Commander of the Professional Standards Bureau, the Court will designate a qualified candidate, which may be a Civilian Director in lieu of a sworn officer.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

The PSB Commander continues to demonstrate the requisite qualifications and capabilities to fulfill the requirements of this Paragraph. We have found that the PSB Commander consistently demonstrates the ability to identify priorities, immediately address serious compliance issues, ensure that PSB resources are used appropriately, address ongoing compliance issues in those investigations conducted outside of PSB, and manage those investigations determined to be Class Remedial Matters. PSB has been reorganized to create specific assignments and provide additional oversight and review of internal investigations. We have noted the improvement in investigative processes and outcomes under the guidance of this Commander, and we are optimistic that additional improvement will occur. As we have previously noted, MCSO must support the PSB Commander with resources and executive leadership.

Paragraph 198. *To promote independence and the confidentiality of investigations, the Professional Standards Bureau shall be physically located in a facility that is separate from other MCSO facilities, such as a professional office building or commercial retail space. This facility shall be easily accessible to the public, present a non-intimidating atmosphere, and have sufficient space and personnel for receiving members of the public and for permitting them to file complaints.*

Phase 1: Not applicable

Phase 2: Deferred

The MCSO has made a final decision to use the former East Court Building Library as an off-site PSB facility. PSB has designated a command officer who will serve as the project manager. During our July 2017 site visit, PSB advised us that the building is currently undergoing asbestos abatement, while design engineers and the construction team are actively seeking the required permits. The projected move-in date for PSB is April-May 2018.

Paragraph 199. *The MCSO will ensure that the qualifications for service as an internal affairs investigator shall be clearly defined and that anyone tasked with investigating employee misconduct possesses excellent investigative skills, a reputation for integrity, the ability to write clear reports, and the ability to be fair and objective in determining whether an employee committed misconduct. Employees with a history of multiple sustained misconduct allegations, or one sustained allegation of a Category 6 or Category 7 offense from MCSO's disciplinary matrices, will be presumptively ineligible to conduct misconduct investigations. Employees with a history of conducting deficient investigations will also be presumptively ineligible for these duties.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

During our July 2017 site visit, the PSB Commander stated that there had not been any additional MCSO supervisors, or command or executive personnel who had been disqualified. PSB command personnel also indicated there have been no additional supervisors identified to conduct internal investigations. PSB staff is developing a formal review process to ensure that, at the time a minor misconduct case is referred to a District for investigation, the District Captain is notified of any supervisors under his/her command who are ineligible to conduct misconduct investigations. We have developed a standing monthly document request to ensure our future notification of MCSO employees prohibited from conducting misconduct investigations in compliance with this Paragraph.

Paragraph 200. *In each misconduct investigation, investigators shall:*

- a. conduct investigations in a rigorous and impartial manner designed to determine the facts;*
- b. approach investigations without prejudging the facts and without permitting any preconceived impression of the principal or any witness to cloud the investigation;*
- c. identify, collect, and consider all relevant circumstantial, direct, and physical evidence, including any audio or video recordings;*
- d. make reasonable attempts to locate and interview all witnesses, including civilian witnesses;*
- e. make reasonable attempts to interview any civilian complainant in person;*
- f. audio and video record all interviews;*
- g. when conducting interviews, avoid asking leading questions and questions that may suggest justifications for the alleged misconduct;*
- h. make credibility determinations, as appropriate; and*
- i. attempt to resolve material inconsistencies between employee, complainant, and witness statements.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 91 administrative misconduct investigations that were completed by MCSO personnel during this reporting period. All 91 administrative misconduct investigations we reviewed were completed after the issuance of the Second Order. PSB investigated 61 of these cases. District or Division supervisory personnel not assigned to PSB investigated 28 of the cases. One case was investigated by the Compliance Division, and one was investigated by an outside agency. Of the cases reviewed, 58 involved external complaints and the remaining 33 were internally generated. Eighty-three of the investigations reviewed were both initiated and completed after the issuance of the Second Order. As previously noted in this report, compliance for all CRM cases will be reported in Paragraphs 275-289.

Paragraph 200.a. requires that misconduct investigations be conducted in a rigorous and impartial manner. During the last reporting period, we identified 12 investigations (10%) that did not comply with the requirements of this Subparagraph. During this reporting period, two investigations (2%) fell short of the requirements of this Subparagraph.

Paragraph 200.b. requires that investigations be approached without prejudging the facts or permitting preconceived impressions. During the last reporting period, six completed investigations (5%) did not comply with the requirements of this Subparagraph. During this reporting period, one of the investigations (1%) fell short of the requirements of this Subparagraph.

Paragraph 200.c. requires that investigators identify, collect, and consider all relevant evidence. During the last reporting period, two completed investigations (2%) were not in compliance with the requirements of this Subparagraph. During this reporting period, one investigation (1%) fell short of compliance with this Subparagraph.

Paragraph 200.d. requires that investigators make reasonable attempts to locate and interview all witnesses. During the last reporting period, seven completed investigations (6%) were not in compliance with this Subparagraph. During this reporting period, five investigations (5%) fell short of compliance with this Subparagraph.

Paragraph 200.e. requires that investigators make reasonable attempts to interview civilian complaints in person. During the last reporting period, 11 completed investigations (12%) did not comply with the requirements of this Subparagraph. During this reporting period, five investigations (5%) fell short of compliance with this Subparagraph.

Paragraph 200.f. requires audio- and video-recording of all interviews. During the last reporting period, 32 completed investigations (26%) did not comply with the requirements of this Subparagraph. During this reporting period, 22 investigations (24%) fell short of compliance with this Subparagraph.

Paragraph 200.g. requires that when conducting interviews, investigators avoid asking leading questions or questions that may suggest justification for the alleged misconduct. During the last reporting period, 10 completed investigations (8%) did not comply with the requirements of this Subparagraph. During this reporting period, five investigations (5%) fell short of compliance with this Subparagraph.

Paragraph 200.h. requires that proper credibility determinations be made. During the last reporting period, seven completed investigations (6%) did not comply with the requirements of this Subparagraph. During this reporting period, two completed investigations (2%) fell short of compliance with this Subparagraph.

Paragraph 200.i. requires that investigators attempt to resolve all material inconsistencies. During the last reporting period, two completed investigations (2%) did not comply with the requirements of this Subparagraph. During this reporting period, two investigations (2%) fell short of compliance with this Subparagraph.

Paragraph 201. *There will be no automatic preference for an employee's statement over a non-employee's statement. Internal affairs investigators will not disregard a witness's statement solely because the witness has some connection to either the complainant or the employee or because the witness or complainant has a criminal history, but may consider the witness's criminal history or any adjudicated findings of untruthfulness in evaluating that witness's statement. In conducting the investigation, internal affairs investigators may take into account the record of any witness, complainant, or officer who has been determined to have been deceptive or untruthful in any legal proceeding, misconduct investigation, or other investigation.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 91 administrative misconduct investigations conducted by MCSO personnel that were completed during this reporting period.

Of the 91 completed investigations we reviewed, we identified one where we interpreted an automatic preference for an employee's statement over a non-employee's statement. We did not identify any completed investigations where a witness's statement was disregarded solely because of any connection identified in this Paragraph, nor where a witness's criminal history or findings of truthfulness were considered. There were no instances where we identified that any witness, complainant, or deputy had a history of deception or untruthfulness in any legal proceeding, misconduct investigation, or other investigation.

Paragraph 202. *Internal affairs investigators will investigate any evidence of potential misconduct uncovered during the course of the investigation, regardless of whether the potential misconduct was part of the original allegation.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 91 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period. We identified one completed investigation where additional potential misconduct that was not part of the original allegation was discovered but not investigated.

Paragraph 203. *If the person involved in the encounter with the MCSO pleads guilty or is found guilty of an offense, internal affairs investigators will not consider that information alone to be determinative of whether an MCSO employee engaged in misconduct, nor will it by itself justify discontinuing the investigation. MCSO training materials and policies on internal investigations will acknowledge explicitly that the fact of a criminal conviction related to the administrative investigation is not determinative of whether an MCSO employee engaged in misconduct and that the mission of an internal affairs investigator is to determine whether any misconduct occurred.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 91 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

There were no indications in any of the 91 completed investigations we reviewed that any MCSO investigators considered alone any pleading or finding of guilty by any person as a reason to make any determination regarding the potential misconduct of any MCSO personnel, nor were any investigations discontinued for this reason.

Paragraph 204. *Internal affairs investigators will complete their administrative investigations within 85 calendar days of the initiation of the investigation (60 calendar days if within a Division). Any request for an extension of time must be approved in writing by the Commander of the Professional Standards Bureau. Reasonable requests for extensions of time may be granted.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: Not in compliance

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

During the last reporting period, 62 (46%) of the 123 administrative investigations we reviewed exceeded the required timeframes for completion. Twenty-seven (44%) of these 62 cases did not contain a no request for, or approval of, an extension. The remaining 35 (56%) that exceeded the investigative time limit contained a request for, and approval of, an extension.

During this reporting period, we reviewed 91 administrative investigations. Thirty-seven (41%) exceeded the required investigative time limits. Eighteen (49%) of these 37 investigations did not contain a request for, or approval of, an extension. The remaining 19 (51%) cases contained a request for, and approval of, an extension.

The percentage of cases that were not completed within the required 85-day timeframe by PSB that had no request for, or approval of, an extension increased during this reporting period. Twenty-six investigations conducted by PSB were not completed within 85-days. Of these 26, 11 (42%) did not have requests for extension. Of these 11 cases, nine (82%) involved investigations of detention or civilian employees. The overall increase in the percentage of cases conducted by PSB that did not have an extension approval appears directly related to an increase in the number of detention cases that were not compliant with the requirement. This increase, and the apparent cause, has been discussed with the PSB Commander.

Of the 28 administrative misconduct investigations conducted by Districts or Divisions outside of PSB, 10 (36%) were not completed within the required timeframes. Seven (70%) of these 10 investigations did not contain any request for an extension. This is the same percentage of non-compliant cases noted in the last reporting period.

We continue to note during our reviews that in some cases where an extension was not requested, doing so would likely have been appropriate. During our April and July 2017 site visits, we reminded PSB and District and Division command personnel of these timeline requirements, and encouraged them to ensure that their investigators request extensions when it is appropriate to do so. We have also reinforced these timeframe requirements during our District visits.

Paragraph 205. *The Professional Standards Bureau shall maintain a database to track all ongoing misconduct cases, and shall generate alerts to the responsible investigator and his or her Supervisor and the Commander of the Professional Standards Bureau when deadlines are not met.*

Phase 1: Not in compliance

- Professional Standards Bureau Operations Manual, currently under revision.
- GH-5 (Early Identification System), most recently amended on March 24, 2017.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: In compliance

We determine compliance with this Paragraph by assigning a Monitoring Team member to observe a real-time demonstration of the IAPro database. The IAPro technology serves as the centralized electronic numbering and tracking system for all allegations of misconduct, whether internally discovered or based on an external complaint. This database contains the capacity to manage and store information required for compliance with this Paragraph.

During our July 2017 site visit, Team representatives met with the PSB lieutenant who is the primary administrator for the IAPro database system. The lieutenant is assisted by a civilian analyst. The demonstration that was provided in July 2017 once again represented IAPro as a technology instrument that meets the compliance criteria of this Paragraph, to include logging of critical dates and times, alerts regarding timelines and deadlines, chronological misconduct investigation status, notifications, and dispositions. Regarding timelines, the PSB lieutenant has incorporated a practice whereby at the time a PSB investigation is initiated, the Chief Deputy and commander of the principal employee are notified of the commencement of the investigation and the associated case number. The case number then serves as the primary reference for additional information in EIPro, a software program used by supervisors and managers in MCSO. A monthly review is conducted to audit timelines associated with open investigations. Moreover, the tracking system provides estimates of key timelines for all investigators to ensure that they learn of previous and upcoming investigative milestones. We also note that the system is secure, but can be accessed remotely with the correct permissions. The PSB Commander noted that all PSB investigators have direct access to the IAPro system and each uses the system to manage their individual investigations and caseloads.

The civilian PSB management analyst's primary responsibility is the administration of the centralized tracking system. In addition, as a failsafe measure, all PSB and Division investigators can access the electronic Blue Team database – a system that integrates with IAPro – at any time to view the assignment and status of administrative investigations to which they are assigned. In response to our previous concerns about ensuring system administration redundancy, PSB has trained two lieutenants to administer the system, in addition to the analyst.

Finally, we continue to receive monthly notifications from PSB regarding closed administrative investigations, and we evaluate closed investigations for the entirety of a reporting period against a multitude of criteria, including whether the cases were completed in a timely fashion. (See Paragraph 204.)

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

- a. *a narrative description of the incident;*
- b. *documentation of all evidence that was gathered, including names, phone numbers, and addresses of witnesses to the incident. In situations in which there are no known witnesses, the report will specifically state this fact. In situations in which witnesses were present but circumstances prevented the internal affairs investigator from determining the identification, phone number, or address of those witnesses, the report will state the reasons why. The report will also include all available identifying information for anyone who refuses to provide a statement;*
- c. *documentation of whether employees were interviewed, and a transcript or recording of those interviews;*
- d. *the names of all other MCSO employees who witnessed the incident;*

- e. *the internal affairs investigator's evaluation of the incident, based on his or her review of the evidence gathered, including a determination of whether the employee's actions appear to be within MCSO policy, procedure, regulations, orders, or other standards of conduct required of MCSO employees;*
- f. *in cases where the MCSO asserts that material inconsistencies were resolved, explicit credibility findings, including a precise description of the evidence that supports or detracts from the person's credibility;*
- g. *in cases where material inconsistencies must be resolved between complainant, employee, and witness statements, explicit resolution of the inconsistencies, including a precise description of the evidence relied upon to resolve the inconsistencies;*
- h. *an assessment of the incident for policy, training, tactical, or equipment concerns, including any recommendations for how those concerns will be addressed;*
- i. *if a weapon was used, documentation that the employee's certification and training for the weapon were current; and*
- j. *documentation of recommendations for initiation of the disciplinary process; and*
- k. *in the instance of an externally generated complaint, documentation of all contacts and updates with the complainant.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 91 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

Paragraph 206.a. requires a written description on the incident be included in the investigative report. All completed investigations that we reviewed complied with the requirements of this Subparagraph.

Paragraph 206.b. requires documentation of all evidence gathered, including all known information about witnesses. All completed investigations complied with the requirements of this Subparagraph.

Paragraph 206.c. requires documentation of whether employees were interviewed, and a transcript or recording of these interviews. All completed investigations complied with the requirements of this Subparagraph.

Paragraph 206.d. requires that the names of all MCSO employees who witnessed the incident be included in the report. All completed investigations that we reviewed complied with the requirements of this Subparagraph.

Paragraph 206.e requires that the internal affairs investigator's evaluation of the incident includes a determination of whether the employee's actions appear to be within MCSO policy, procedure, regulations, orders, or other standards of conduct required of MCSO employees. All completed investigations we reviewed complied with the requirements of this Subparagraph.

Paragraph 206.f. requires that investigative reports include a precise description of evidence that supports or detracts from credibility assessments. One of the 91 completed investigations did not comply with the requirements of this Subparagraph.

Paragraph 206.g. requires that when material inconsistencies must be resolved, a precise description of the evidence be included in the report. One of the 91 completed investigations did not comply with the requirements of this Subparagraph.

Paragraph 206.h. requires that assessment of the incident for policy, training, tactical, or equipment concerns be included in the investigative report, to include any recommendations. PSB personnel have advised us that when the checklist is revised, they will include these requirements. In the interim, the PSB Commander has advised investigators to include this information in the report narratives when applicable.

Of the 91 administrative investigations that we reviewed for this reporting period, all included the required assessment, where appropriate, for compliance with this Paragraph. Five cases were identified that had identified policy, training, tactical, or equipment concerns. In three of these cases, documentation was included that indicated how the issue was addressed. In one case, the investigative report identified a training issue and noted that it would be addressed, but there was no documentation in the case that this occurred. In one case, the complainant identified what she believed was a procedural or policy concern. Her concern was not properly addressed by the investigator.

Paragraph 206.i. requires that if a weapon was used, documentation that the employee's certification and training for the weapon must be included in the investigative written report. In the 91 investigations that we reviewed for this reporting period, we did not note any complaint where this Subparagraph was applicable.

Paragraph 206.j. requires that documentation of the initiation of the disciplinary process be included in the investigation. Compliance is achieved when the misconduct investigator completes the investigation with a finding of sustained, when applicable, and the PSB Commander subsequently approves the finding. This is considered the initiation of the disciplinary process. All 30 of the 91 administrative investigations that we reviewed for this reporting period that had sustained allegations complied with the requirements of this Subparagraph.

Paragraph 206.k. requires that any contacts and updates with the complainant be documented in the investigative report. Only one of the 91 investigations that we reviewed for compliance with this Subparagraph did not comply with this requirement.

Paragraph 207. *In assessing the incident for policy, training, tactical, or equipment concerns, investigation reports will include an assessment of whether:*

- a. *the law enforcement action was in compliance with training and legal standards;*
- b. *the use of different tactics should or could have been employed;*
- c. *the incident indicates a need for additional training, counseling, or other non-disciplinary corrective actions; and*
- d. *the incident suggests that the MCSO should revise its policies, strategies, tactics, or training.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

During our January 2017 site visit and in other meetings with PSB, we have discussed this Paragraph requirement. PSB personnel informed us that they would include this information in the checklist when it is revised. In the interim, the PSB Commander directed investigative personnel to include this information in the narrative portion of the report.

During this reporting period, we found that MCSO is now meeting the requirements of this Paragraph. Of the 91 investigations that we reviewed, we noted that MCSO investigators properly identified those cases in which there were policy, training, or equipment concerns. While proper assessments occurred, there were two cases where there is no indication that identified policy failures were addressed. In the remaining 89 cases, we did not note any cases where we believe that concerns identified in this Paragraph existed and were left unaddressed by MCSO.

Paragraph 208. *For each allegation of misconduct, internal affairs investigators shall explicitly identify and recommend one of the following dispositions for each allegation of misconduct in an administrative investigation:*

- a. *“Unfounded,” where the investigation determines, by clear and convincing evidence, that the allegation was false or not supported by fact;*
- b. *“Sustained,” where the investigation determines, by a preponderance of the evidence, that the alleged misconduct did occur and justifies a reasonable conclusion of a policy violation;*
- c. *“Not Sustained,” where the investigation determines that there is insufficient evidence to prove or disprove the allegation; or*
- d. *“Exonerated,” where the investigation determines that the alleged conduct did occur but did not violate MCSO policies, procedures, or training.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: Not in compliance

To assess Phase 2 compliance with this Paragraph, we review administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period. We evaluate compliance with this Paragraph against the standard of whether a finding was made, and whether the finding was correct.

During the last reporting period, we did not concur with the findings in 14 (11%) of the 123 cases that were completed after the issuance of the Second Order.

During this reporting period, we did not agree with the findings by PSB in 10 (11%) of the 91 cases that were completed after the issuance of the Second Order. There were two additional cases where we concurred with the PSB Commander's findings, but disagreed with the final findings by the Appointing Authority. As is our practice, we will discuss those cases where we disagree with the findings with PSB and the Appointing Authority during our next site visit.

***Paragraph 209.** For investigations carried out by Supervisors outside of the Professional Standards Bureau, the investigator shall forward the completed investigation report through his or her chain of command to his or her Division Commander. The Division Commander must approve the investigation and indicate his or her concurrence with the findings.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 91 administrative misconduct investigations not conducted by PSB personnel and completed during this reporting period.

All 28 of the investigations completed outside of PSB were forwarded to PSB as required and all contained the approval of the responsible District or Division Commander. As noted in the last reporting period, and found again during *this* reporting period, many of the District-level investigations were not in compliance with various requirements of the Second Order – as indicated throughout our report. However, we assessed MCSO's compliance with this Paragraph based on District-level cases being forwarded through the chain of command for approval of the investigation and findings.

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

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 61 administrative misconduct investigations conducted by PSB investigative personnel and completed during this reporting period. All 61 complied with the requirements of this Paragraph.

Paragraph 211. *If the Commander—meaning the Commander of the PSB or the Commander of the Division in which the internal affairs investigation was conducted—determines that the findings of the investigation report are not supported by the appropriate standard of proof, the Commander shall return the investigation to the investigator for correction or additional investigative effort, shall document the inadequacies, and shall include this documentation as an addendum to the original investigation. The investigator’s Supervisor shall take appropriate action to address the inadequately supported determination and any investigative deficiencies that led to it. The Commander shall be responsible for the accuracy and completeness of investigation reports prepared by internal affairs investigators under his or her command.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: Not in compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 91 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

We have previously identified that neither the PSB Commander or other District or Division Commanders appear to use any formal mechanism to ensure that the investigator’s supervisor has taken appropriate action to address any instances of unsupported findings. The issue will be included in the training curricula required under Paragraph 178.

During the last reporting period, we did not concur with the findings by the PSB Commander in 14 (11%) of the 123 cases, an improvement from 17% in the last reporting period. We also identified that of the 49 investigations conducted by personnel outside of PSB, 32 (65%) of the cases had some concern or inadequacy. Commanders outside of PSB did not identify and address any of the inadequacies in these investigations prior to forwarding them. Many of these investigations required corrections – and in some cases, additional investigation – after review by PSB.

In those cases investigated by PSB, our concerns during the last reporting period primarily involved investigations that were conducted by Detention supervisors assigned to PSB. PSB acknowledged the necessity to provide further training and mentoring to Detention personnel conducting administrative investigations, as some lack necessary investigative experience. PSB also added another level of review for these investigations.

During this reporting period, we did not concur with the findings by the PSB Commander in 10 (11%) of the 91 investigations reviewed. Seven were investigated by PSB, and the remaining three were investigated outside of PSB.

We also identified during this reporting period that of the 28 investigations investigated outside of PSB, 12 cases (43%) had some concern. In only one of the 12 cases were the concerns identified and addressed at the District level, prior to forwarding the case to PSB for review. Many of the District cases again required corrections – and in some cases, additional investigation – after review by PSB. We note the reduction in the percentage of inadequate cases being conducted at the District level, but remain concerned that when deficiencies do exist, they are not being identified and addressed by District Command personnel.

In the cases investigated by PSB for this reporting period, we had some concern with seven (11%) of the 61 investigations. Four of these investigations involved sworn personnel and three involved detention personnel.

During our next site visit, we will discuss those cases of concern with both PSB and District and Division Command personnel.

Paragraph 212. *Where an internal affairs investigator conducts a deficient misconduct investigation, the investigator shall receive the appropriate corrective and/or disciplinary action. An internal affairs investigator's failure to improve the quality of his or her investigations after corrective and/or disciplinary action is taken shall be grounds for demotion and/or removal from a supervisory position or the Professional Standards Bureau.*

Phase 1: Not in compliance

- GB-2 (Command Responsibility), most recently amended on February 1, 2017.
- GC-4 (Employee Performance Appraisals), currently under revision.

Phase 2: Deferred

To assess Phase 2 compliance with this Paragraph, we reviewed 91 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

None of the investigations that we reviewed for this reporting period included any allegations that an internal affairs investigator had conducted a deficient misconduct investigation that was the basis for an internal investigation.

Unless a formal misconduct investigation is associated with MCSO policy and the requirements of the Second Order, our review of misconduct investigations does not disclose documentation about what corrective action may have occurred as a result of conducting a deficient investigation or a failure to improve. During our site visits in January and April 2017, we discussed with District Captains and the PSB Commander the necessity to document any corrective action that is taken as a result of an investigator failing to conduct a proper investigation. The PSB Commander assured us that, along with Paragraph 211, internal methods to ensure compliance with this Paragraph will be included in the training curricula being developed in compliance with Paragraph 178. We anticipate that Blue Team will be used to document any corrective actions taken. We initiated a monthly document request to ensure that MCSO notifies us of documentation related to this Paragraph for future reporting periods.

During this reporting period, MCSO provided documentation that there has not been any corrective or disciplinary action taken for the failure by a supervisor to conduct an adequate misconduct investigation. We will defer our Phase 2 compliance assessment with this Paragraph until MCSO completes the 40-hour training for supervisory personnel on conducting internal investigations.

Paragraph 213. *Investigations of minor misconduct conducted outside of the Professional Standards Bureau must be conducted by a Supervisor and not by line-level deputies. After such investigations, the investigating Supervisor's Commander shall forward the investigation file to the Professional Standards Bureau after he or she finds that the misconduct investigation is complete and the findings are supported by the evidence. The Professional Standards Bureau shall review the misconduct investigation to ensure that it is complete and that the findings are supported by the evidence. The Professional Standards Bureau shall order additional investigation when it appears that there is additional relevant evidence that may assist in resolving inconsistencies or improving the reliability or credibility of the findings. Where the findings of the investigation report are not supported by the appropriate standard of proof, the Professional Standards Bureau shall document the reasons for this determination and shall include this documentation as an addendum to the original investigation.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 91 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

Of the 91 investigations, 61 were investigated by PSB personnel. One was investigated by the Compliance Division and one was investigated by an outside law enforcement agency. Twenty-eight were investigated by MCSO personnel outside of PSB.

None of the documentation we received regarding investigations conducted outside of PSB indicated that any person below the rank of sergeant was responsible for the investigation.

All 28 District-level approved cases were forwarded to PSB and reviewed by PSB as required.

Twelve (43%) of the 28 cases investigated at the District level were returned to the Districts by PSB personnel for additional investigation, corrections, proper documentation, or other changes. While a notable improvement from the 64% of District cases that required further follow-up or corrections during the last reporting period, the current percentage still falls far short of compliance.

PSB documented all of the cases returned to District investigators for additional investigation or corrections, and this information was included with the investigations.

Paragraph 214. *At the discretion of the Commander of the Professional Standards Bureau, a misconduct investigation may be assigned or re-assigned to another Supervisor with the approval of his or her Commander, whether within or outside of the District or Bureau in which the incident occurred, or may be returned to the original Supervisor for further investigation or analysis. This assignment or re-assignment shall be explained in writing.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 91 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

Our analysis for this reporting revealed that of the 28 investigations conducted outside of PSB, 12 investigations were returned by PSB to the original investigating supervisor for further investigation, analysis, or corrections. PSB did not assign or reassign any investigations to another supervisor during this reporting period.

Paragraph 215. *If, after an investigation conducted outside of the Professional Standards Bureau, an employee's actions are found to violate policy, the investigating Supervisor's Commander shall direct and ensure appropriate discipline and/or corrective action. Where the incident indicates policy, training, tactical, or equipment concerns, the Commander shall also ensure that necessary training is delivered and that policy, tactical, or equipment concerns are resolved.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 28 administrative misconduct investigations conducted by MCSO personnel outside of PSB and completed during this reporting period.

Seven of the 28 completed misconduct investigations conducted outside of PSB resulted in sustained findings. In six of these cases, the reports included documentation that appropriate discipline or corrective action was taken. In the seventh case, no discipline was imposed, as the employee resigned prior to the completion of the investigation.

There were no cases investigated outside of PSB that resulted in the need for employee training.

Paragraph 216. *If, after an investigation conducted by the Professional Standards Bureau, an employee's actions are found to violate policy, the Commander of the Professional Standards Bureau shall direct and ensure appropriate discipline and/or corrective action. Where the incident indicates policy, training, tactical, or equipment concerns, the Commander of the Professional Standards Bureau shall also ensure that necessary training is delivered and that policy, tactical, or equipment concerns are resolved.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 91 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

Sixty-one of the completed investigations were conducted by PSB, and 22 of these resulted in a sustained finding against one or more MCSO employees. One additional sustained investigation was conducted by the Compliance Unit due to a conflict in PSB.

In all of the 22 sustained investigations conducted by PSB, the PSB Commander ensured appropriate discipline and/or corrective action was recommended. The investigation conducted by the Compliance Unit also resulted in sustained findings and appropriate discipline and/or corrective action was also recommended. The preliminary determination of the range of discipline was provided by the PSB Commander in the 22 cases, and by the Compliance Unit in one of the investigations. Neither the PSB Commander or Compliance personnel can ensure appropriate discipline or corrective action are the final *outcomes* of a Pre-Determination Hearing (PDH), as these hearings are held after the initial recommendations for discipline but prior to the imposition of discipline. The hearing officer has the authority to change the findings or reduce the discipline; and in three cases this reporting period, we disagreed with his decision to do so.

Of the 61 completed misconduct investigations conducted in PSB, three indicated policy, training, tactical, or equipment concerns. In two of these cases, while the report identified the concerns, there is no documentation included in the report submission that indicates that the issues were fully addressed. In the third case, the investigator provided documentation of how the training issue was addressed. During our next site visit, we will remind PSB of the need to ensure that documentation is provided that addresses the outcome of any identified policy, training, tactical, or equipment concerns.

Paragraph 217. *The Professional Standards Bureau shall conduct targeted and random reviews of discipline imposed by Commanders for minor misconduct to ensure compliance with MCSO policy and legal standards.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not applicable

Based on the requirements of the Second Order, District and Division Commanders will not impose discipline for minor misconduct. In all cases, the PSB Commander will determine the final findings for internal investigations and the presumptive range of discipline for those cases with sustained findings. The appointing authority will then make the final determination of discipline.

Paragraph 218. *The Professional Standards Bureau shall maintain all administrative investigation reports and files after they are completed for record-keeping in accordance with applicable law.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine compliance with this Paragraph, we observed that PSB maintains both hardcopy and electronic files intended to contain all documents required for compliance with this Paragraph.

Our Team has verified during our site visits that the administrative files and reports are being maintained by PSB as required. We have inspected the file room where hardcopies are stored, and conducted a random selection of case files to verify compliance. A Monitoring Team member also has access to IAPro and has verified that case files are maintained in an electronic format.

D. Discipline

Paragraph 219. *The Sheriff shall ensure that discipline for sustained allegations of misconduct comports with due process, and that discipline is consistently applied, fair, and based on the nature of the allegation, and that mitigating and aggravating factors are identified and consistently applied and documented regardless of the command level of the principal of the investigation.*

Paragraph 220. *To ensure consistency in the imposition of discipline, the Sheriff shall review the MCSO's current disciplinary matrices and, upon approval of the parties and the Monitor, will amend them as necessary to ensure that they:*

- a. establish a presumptive range of discipline for each type of violation;*
- b. increase the presumptive discipline based on an employee's prior violations;*
- c. set out defined mitigating and aggravating factors;*
- d. prohibit consideration of the employee's race, gender, gender identity, sexual orientation, national origin, age, or ethnicity;*
- e. prohibit conflicts, nepotism, or bias of any kind in the administration of discipline;*
- f. prohibit consideration of the high (or low) profile nature of the incident, including media coverage or other public attention;*
- g. clearly define forms of discipline and define classes of discipline as used in policies and operations manuals;*
- h. provide that corrective action such as coaching or training is not considered to be discipline and should not be used as a substitute for discipline where the matrix calls for discipline;*
- i. provide that the MCSO will not take only non-disciplinary corrective action in cases in which the disciplinary matrices call for the imposition of discipline;*
- j. provide that the MCSO will consider whether non-disciplinary corrective action is also appropriate in a case where discipline has been imposed;*
- k. require that any departures from the discipline recommended under the disciplinary matrices be justified in writing and included in the employee's file; and*
- l. provide a disciplinary matrix for unclassified management level employees that is at least as demanding as the disciplinary matrix for management level employees.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Deferred

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

During the last reporting period, 42 of the total 123 administrative misconduct investigations cases resulted in sustained findings against one or more members of MCSO. Five of the sustained findings did not have a disciplinary outcome as the employee with sustained allegations left MCSO employment prior to a disciplinary finding. In the remaining 37 cases, discipline ranged from coaching to dismissal.

During this reporting period, 30 of the 91 administrative misconduct investigations resulted in sustained findings against one or more members of MCSO. In four of the cases, there was no disciplinary outcome as the employee left MCSO employment prior to discipline being imposed. In two cases, while MCSO was able to identify that misconduct occurred, they were unable to identify the employee who was involved. The remaining 24 cases resulted in discipline ranging from coaching to dismissal. All of the investigations were completed after July 20, 2016, but prior to May 18, 2017 when the reviewed IA investigation and discipline policies became effective.

Paragraph 220.a. requires a presumptive range of discipline for each type of violation. In all of the sustained investigations we reviewed for this reporting period, the PSB Commander determined and documented the preliminary proposed discipline range.

Paragraph 220.b. requires that presumptive discipline be increased if an employee has prior violations. In 15 of the sustained investigations we reviewed for this reporting period, the employee had prior sustained violations. The PSB Commander considered and increased the presumptive discipline range of discipline based on these prior violations in accordance with the discipline policy in effect prior to May 18, 2017.

Paragraph 220.c. requires that mitigating and aggravating factors be defined. Aggravating and mitigating factors are not specifically defined in the IA investigation or discipline policy in effect prior to May 18, 2017. Though the revised discipline policy, effective May 18, 2017, does define these factors, none of the cases we reviewed for this reporting period were initiated and completed after the revised policies became effective. We note that aggravating or mitigating factors are not identified by the PSB Commander, but are identified and considered by the Appointing Authority when making the final disciplinary decisions. During this reporting period, the Appointing Authority provided documentation in support of his final decisions. In some of the cases, his documentation appears to include aggravating or mitigating factors, but these factors are not clearly identified as such. We noted, as did Plaintiffs, that in some cases, factors considered in the decision-making process are not appropriate. We will discuss these concerns with the Appointing Authority and the Compliance Division during our next site visit.

Paragraph 220.d. prohibits the consideration of any prohibited biases when determining discipline. None of the sustained cases reviewed for compliance during this reporting period that resulted in discipline included any indication that any biases were considered when determining discipline.

Paragraph 220.e. prohibits any conflicts, nepotism, or bias of any kind in the administration of discipline. None of the sustained cases reviewed for compliance during this reporting period had any indication of conflicts, nepotism, or bias of any kind when determining the disciplinary sanction.

Paragraph 220.f. prohibits the consideration of the high (or low) profile nature of an incident when determining discipline. None of the sustained cases reviewed for compliance during this reporting period showed any indication of consideration of the high or low profile nature of the incident when considering discipline.

Paragraph 220.g. requires that clearly defined forms of discipline and classes of discipline be defined. Phase 2 compliance is not applicable to this Subparagraph.

Paragraph 220.h. requires that corrective action such as coaching or training is not considered to be discipline and should not be used as a substitute for discipline. None of the sustained investigations resulted in the use of coaching or training as a substitute for discipline required in the MCSO discipline policy in effect prior to May 18, 2017.

Paragraph 220.i. requires that MCSO will not take only non-disciplinary action in cases where the Disciplinary Matrices call for the imposition of discipline. None of the sustained cases reviewed during this reporting period resulted in MCSO taking non-disciplinary action when the Disciplinary Matrices in effect prior to May 18, 2017 required the imposition of discipline.

Paragraph 220.j. requires that MCSO consider whether non-disciplinary corrective action is also appropriate in a case where discipline has been imposed. We reviewed 30 sustained investigations for this reporting period, and found that MCSO investigators did not identify any case where non-disciplinary corrective action was also appropriate.

Paragraph 220.k. requires that any departure from the discipline recommended under the Disciplinary Matrices be justified in writing and included in the employee's file. During the last reporting period, 16 of the 37 sustained cases had recommendations for serious discipline. In five of these cases, the appointing authority deviated from the findings or preliminary discipline range. In one of the cases, we disagreed with his decision to change the findings made by the PSB Commander and in another, we disagreed with his decision to reduce the discipline from the presumptive range. In the remaining three cases, we concurred with his decision to modify the findings or reduce the discipline from the presumptive range.

During this reporting period, we reviewed 30 investigations with sustained findings against one or more employees. Fourteen of these cases resulted in the recommendation for serious discipline against current employees. In each case, a PDH was conducted as required. The Appointing Authority changed the findings or preliminary discipline recommendation in five of these cases. We concur with his decision to reduce the discipline in two of the cases, and disagree with his decision to do so in three others. In one of the cases where we disagree with his decision to reduce the discipline, we also disagree with his decision to change some of the findings from sustained to not sustained. In one additional case that was sustained but did not result in a recommendation for serious discipline, we again disagree with the Appointing Authority's decision to change some of the findings from sustained to exonerated. The Plaintiffs also noted concerns with the final disciplinary decision in some of the cases submitted during this reporting period. These cases will be discussed with the Appointing Authority during our next site visit.

Paragraph 220.1. requires that a Disciplinary Matrix for unclassified management employees be at least as demanding as the Disciplinary Matrix for management-level employees. We have reviewed the recently approved policies that affect discipline for unclassified management employees, and they comply with this requirement. During this reporting period, no administrative investigations involving unclassified management employees were completed and submitted.

Paragraph 221. *The Sheriff shall mandate that each act or omission that results in a sustained misconduct allegation shall be treated as a separate offense for the purposes of imposing discipline.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.

Phase 2: In compliance

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

During the last reporting period, we reviewed 37 sustained misconduct investigations that resulted in discipline for current MCSO employees. We found that MCSO met the requirements of this Paragraph for the reporting period.

During this reporting period, we reviewed 24 sustained misconduct investigations that resulted in discipline for current MCSO employees. We again found that MCSO met the requirements of this Paragraph for this reporting period.

Paragraph 222. *The Sheriff shall also provide that the Commander of the Professional Standards Bureau shall make preliminary determinations of the discipline to be imposed in all cases and shall document those determinations in writing, including the presumptive range of discipline for the sustained misconduct allegation, and the employee's disciplinary history.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.

Phase 2: In compliance

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

During the last reporting period, we reviewed 37 sustained investigations that were completed after July 20, 2016 where discipline was assessed. In all but one of these cases, MCSO provided documentation verifying that the PSB Commander determined and documented in writing the presumptive range of discipline based on the Discipline Matrices currently in effect. All of the documentation provided included the category, offense number, and employee's discipline history.

During this reporting period, there were 24 sustained investigations that were completed after July 20, 2016 where discipline was assessed. In 23 of these cases, the PSB Commander determined and documented in writing the presumptive range of discipline based on the Discipline Matrices that were in effect prior to May 18, 2017. This documentation included the category, offense number, and employee's discipline history. In one case, the responsibility for determining and documenting the presumptive range of discipline was appropriately delegated to another MCSO employee due to the PSB Commander being a witness in the investigation.

E. Pre-Determination Hearings

Paragraph 223. *If the Commander of the Professional Standards Bureau makes a preliminary determination that serious discipline (defined as suspension, demotion, or termination) should be imposed, a designated member of MCSO's command staff will conduct a pre-determination hearing and will provide the employee with an opportunity to be heard.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we review completed misconduct investigations conducted by MCSO personnel where a Pre-Determination Hearing (PDH) occurs.

During this reporting period, 30 investigations resulted in sustained findings against current employees of MCSO. Twenty-four resulted in discipline for current MCSO employees. Fourteen of the cases resulted in the recommendation for serious discipline as defined in this Paragraph. All were scheduled for a Pre-Determination Hearing, and the hearing took place as required.

Paragraph 224. *Pre-determination hearings will be audio and video recorded in their entirety, and the recording shall be maintained with the administrative investigation file.*

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.

Phase 2: In compliance

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

During this reporting period, 14 cases were referred for a PDH based on the serious nature of the sustained violations. In all cases, the hearing was audio- and video-recorded as required; and the recording was included in the administrative file.

Paragraph 225. *If an employee provides new or additional evidence at a pre-determination hearing, the hearing will be suspended and the matter will be returned to the internal affairs investigator for consideration or further investigation, as necessary. If after any further investigation or consideration of the new or additional evidence, there is no change in the determination of preliminary discipline, the matter will go back to the pre-determination hearing. The Professional Standards Bureau shall initiate a separate misconduct investigation if it appears that the employee intentionally withheld the new or additional evidence during the initial misconduct investigation.*

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.

Phase 2: In compliance

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

During the last reporting period, 16 investigations resulted in the recommendation for serious discipline. In two cases, the employee chose not to attend the hearing. In the remaining 14 cases, MCSO conducted a PDH as required. None of these 14 hearings resulted in new or additional information being presented that would necessitate that the case be returned for further investigation.

During this reporting period, 14 investigations resulted in the recommendation for serious discipline. In all 14 cases, a PDH occurred as required. In one of these cases, the employee brought forth numerous concerns regarding the investigation and the conduct of other employees. A review of the PDH recording did not identify that any action was taken, or that the employee's concerns were documented or forwarded to PSB for review and potential additional action. In this case, the PSB Commander had been considered conflicted with the investigative process as she was a witness, and forwarding any information to her would not have been appropriate. We have since discussed this case with MCSO Executive staff and determined that this employee's concerns were addressed verbally by the Hearing Officer after the Hearing, but there was no documentation completed. During our next site visit, we will discuss with the Appointing Authority and Compliance Division staff the necessity to ensure proper documentation occurs in these types of occurrences.

Paragraph 226. *If the designated member of MCSO's command staff conducting the pre-determination hearing does not uphold the charges recommended by the Professional Standards Bureau in any respect, or does not impose the Commander of the Professional Standards Bureau's recommended discipline and/or non-disciplinary corrective action, the Sheriff shall require the designated member of MCSO's command staff to set forth in writing his or her justification for doing so. This justification will be appended to the investigation file.*

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.

Phase 2: Not in compliance

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

During the previous three reporting periods, we reviewed a total of 25 cases that were completed after July 20, 2016 and resulted in a Pre-Determination Hearing based on the serious sustained allegations. In these cases, the appointing authority authored a written justification for his decisions, and this document was included with the investigation file. Despite his written justifications, we disagreed with his final decisions in 10 of the total 25 cases that resulted in a PDH. In others, we had questions or concerns with the documentation provided.

During our April and July 2017 site visits, we met with the Appointing Authority and the Compliance Division to discuss our concerns with final outcomes and decisions that fell outside of the standards established by MCSO. We emphasized the need to comply with the policies in existence at MCSO when determining disciplinary outcomes and encouraged the Appointing Authority to provide more detailed written justification in those cases where he determined that a sustained finding should be changed, or discipline should be reduced.

During this reporting period, 14 cases resulted in a PDH. In five of these cases, the appointing authority reduced the discipline from the presumptive range identified by the PSB Commander. In one of these same cases, the appointing authority changed several of the findings from sustained to not sustained. We disagree with his decisions in three of the cases. In two other cases, the Appointing Authority reduced the discipline sanction and we agree with his decision to do so.

In addition to conducting PDHs in those cases with serious policy violations, the Appointing Authority also makes the final disciplinary decision in all other cases that have sustained findings. In one of these cases, in which the violations had a discipline range of a written reprimand to an eight-hour suspension, the Appointing Authority changed several of the violations sustained by PSB from sustained to exonerated. This employee received a written reprimand for those violations that remained sustained, but we have concerns with the justification for changing several of the findings.

We have noted in our reviews, as have the Plaintiffs, that the documents completed by the Appointing Authority to justify his discipline decisions typically includes a list of the factors considered. It does not identify which factors are simply statements of facts, and which are being used to either mitigate or aggravate the final discipline decision. In some cases, factors identified in the documents as considerations should not have been used as part of any justification for the final decision. These investigations were completed prior to the finalization of the revised discipline policies that became effective on May 18, 2017.

With the implementation of the new discipline policies, further discussion will occur with the Appointing Authority and the Compliance Division regarding the justification and documentation that is provided for the final discipline decision. During our next site visit, we will discuss our concerns with the justification documents, and provide specific examples of these concerns.

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

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

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.

Phase 2: In compliance

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

During this reporting period, we reviewed 24 administrative misconduct investigations where discipline was imposed. The serious sustained allegations in 14 of these investigations resulted in their referral for a Pre-Determination Hearing

Paragraph 227.a. prohibits the designated member of command staff conducting a Pre-Determination Hearing from considering a personal opinion of an employee's reputation when determining discipline. There were no indications in our reviews of these investigations that any personal opinion was considered in making a disciplinary decision.

Paragraph 227.b. prohibits the consideration of the employee's past disciplinary history (or lack thereof), except as provided in the Disciplinary Matrix. There were no instances where we determined that the member of command staff responsible for conducting the PDH considered disciplinary history outside of the requirements of this Paragraph.

Paragraph 227.c. prohibits the consideration of others jointly responsible for misconduct, except that the decision-maker may consider such discipline to the extent that discipline on others had been previously imposed and the conduct was similarly culpable. There were no indications in our reviews that the misconduct of others was improperly considered in the disciplinary decisions that were made.

Paragraph 228. *The Sheriff or his designee has the authority to rescind, revoke or alter any disciplinary decision made by either the Commander of the Professional Standards Bureau or the appointed MCSO disciplinary authority so long as:*

- that decision does not relate to the Sheriff or his designee;*
- the Sheriff or his designee provides a thorough written and reasonable explanation for the grounds of the decision as to each employee involved;*
- the written explanation is placed in the employment files of all employees who were affected by the decision of the Sheriff or his designee; and*
- the written explanation is available to the public upon request.*

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.

Phase 2: In compliance

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

During this and the last three reporting periods, there were no instances where the Sheriff or his designee rescinded, revoked, or altered any disciplinary decision made by either the Commander of PSB or the appointed MCSO disciplinary authority.

F. Criminal Misconduct Investigations

***Paragraph 229.** Whenever an internal affairs investigator or Commander finds evidence of misconduct indicating apparent criminal conduct by an employee, the Sheriff shall require that the internal affairs investigator or Commander immediately notify the Commander of the Professional Standards Bureau. If the administrative misconduct investigation is being conducted by a Supervisor outside of the Professional Standards Bureau, the Sheriff shall require that the Professional Standards Bureau immediately take over the administrative investigation. If the evidence of misconduct pertains to someone who is superior in rank to the Commander of the Professional Standards Bureau and is within the Commander's chain of command, the Sheriff shall require the Commander to provide the evidence directly to what he or she believes is the appropriate prosecuting authority—the Maricopa County Attorney, the Arizona Attorney General, or the United States Attorney for the District of Arizona—without notifying those in his or her chain of command who may be the subject of a criminal investigation.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

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

During the last three reporting periods, we reviewed a total of 14 criminal investigations that were completed after July 20, 2016. Of these, seven were generated based on external complaints, and seven were internally generated. In one of the internally generated cases, a District supervisor observed potential criminal misconduct during his investigation of an administrative misconduct complaint. He immediately forwarded the case to PSB, which initiated a companion administrative investigation, as required. All were in compliance with the requirements of this Paragraph.

During this reporting period, we reviewed six internal criminal investigations. Five were externally generated and one was internally generated. All were completed after July 20, 2016 and appropriately assigned to criminal investigators assigned to PSB. The potential misconduct was brought to the attention of the PSB Commander as required; and in all cases, an administrative misconduct investigation was also initiated. None involved someone superior in rank to the PSB Commander.

Paragraph 230. *If a misconduct allegation will be investigated criminally, the Sheriff shall require that the Professional Standards Bureau not compel an interview of the principal pursuant to Garrity v. New Jersey, 385 U.S. 493 (1967), until it has first consulted with the criminal investigator and the relevant prosecuting authority. No other part of the administrative investigation shall be held in abeyance unless specifically authorized by the Commander of the Professional Standards Bureau in consultation with the entity conducting the criminal investigation. The Sheriff shall require the Professional Standards Bureau to document in writing all decisions regarding compelling an interview, all decisions to hold any aspect of an administrative investigation in abeyance, and all consultations with the criminal investigator and prosecuting authority.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we review completed misconduct investigations conducted by both criminal and administrative investigators to ensure that they contain appropriate documentation that complies with the requirements of this Paragraph.

We previously determined that in many cases, the administrative investigation was not submitted and reviewed during the same reporting period as the criminal investigation, as administrative investigations are generally finalized after the completion of the criminal investigation. To ensure our ability to verify that MCSO meets compliance with this Paragraph on an ongoing basis, we discussed this issue with PSB during our January 2017 site visit. To resolve the issue, PSB agreed to provide us with a copy of any criminal investigation at the same time PSB submits the administrative misconduct investigation for our review, even if the criminal investigation has been previously submitted.

During the last reporting period, we reviewed 10 administrative misconduct investigations that had companion criminal investigations. In eight of these cases, all requirements for this Paragraph were met. In two, the administrative reports lacked the specific documentation that portions of the administrative investigation had been held in abeyance; as a result, MCSO did not achieve compliance with this Paragraph.

During this reporting period, we reviewed one administrative misconduct investigation where there was a companion completed criminal investigation. MCSO initiated and completed the criminal investigation in 2015, yet there was insufficient documentation that the criminal investigation had been closed in 2015, significantly delaying the start of the administrative investigation. While we have concerns with the administrative investigation that was conducted, none of our concerns prevented MCSO from achieving compliance with this Paragraph.

Paragraph 231. *The Sheriff shall require the Professional Standards Bureau to ensure that investigators conducting a criminal investigation do not have access to any statements by the principal that were compelled pursuant to Garrity.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

PSB is separated into criminal and administrative sections. Criminal investigators and administrative investigators are housed on separate floors of the building. Criminal investigators do not have access to the IAPro database for administrative investigations, and there are separate file rooms for criminal and administrative investigative documents and reports. We have verified during our site visits that the required separation of criminal and administrative investigations and restricted access to IAPro is in place.

Paragraph 232. *The Sheriff shall require the Professional Standards Bureau to complete all such administrative investigations regardless of the outcome of any criminal investigation, including cases in which the prosecuting agency declines to prosecute or dismisses the criminal case after the initiation of criminal charges. The Sheriff shall require that all relevant provisions of MCSO policies and procedures and the operations manual for the Professional Standards Bureau shall remind members of the Bureau that administrative and criminal cases are held to different standards of proof, that the elements of a policy violation differ from those of a criminal offense, and that the purposes of the administrative investigation process differ from those of the criminal investigation process.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine MCSO's compliance with this Paragraph, we review on a monthly basis administrative and criminal misconduct investigations conducted by MCSO.

During the previous two reporting periods, we reviewed a total of 14 criminal investigations that were completed after July 20, 2016 and subject to the requirements of the Second Order. All had companion administrative investigations as required.

During this reporting period, we reviewed six criminal misconduct investigations conducted by MCSO personnel. All had a companion administrative misconduct investigation as required by this Paragraph and were completed after July 20, 2016. We found all of the criminal investigations to be properly completed. Two have criminal charges pending, two were turned down for prosecution by a prosecutorial agency, and two were unfounded.

Paragraph 233. *If the investigator conducting the criminal investigation decides to close the investigation without referring it to a prosecuting agency, this decision must be documented in writing and provided to the Professional Standards Bureau. The Commander of the Professional Standards Bureau shall separately consider whether to refer the matter to a prosecuting agency and shall document the decision in writing.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine MCSO's compliance with this Paragraph, we review on a monthly basis administrative and criminal misconduct investigations conducted by MCSO.

Five of the criminal misconduct investigations that we reviewed for the last reporting period resulted in findings of unfounded. These decisions were supported by the facts of the investigations, video evidence, interviews of involved parties, or other investigative follow-up conducted by investigators.

During this reporting period, there were two criminal misconduct investigations closed as unfounded. These decisions were supported by the facts of the investigation, interviews, or other investigative follow-up. In both cases, the investigators documented their conclusions and decisions to close the case without submittal. The PSB Commander then approved these decisions in writing.

Paragraph 234. *If the investigator conducting the criminal investigation decides to refer the matter to a prosecuting agency, the Professional Standards Bureau shall review the information provided to the prosecuting agency to ensure that it is of sufficient quality and completeness. The Commander of the Professional Standards Bureau shall direct that the investigator conduct additional investigation when it appears that there is additional relevant evidence that may improve the reliability or credibility of the investigation. Such directions shall be documented in writing and included in the investigatory file.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine MCSO's compliance with this Paragraph, we review on a monthly basis administrative and criminal misconduct investigations conducted by MCSO.

During the last reporting period, we reviewed seven internal criminal investigations – all conducted by PSB personnel – completed after July 20, 2016. One involved the arrest of an Office employee. Upon review of the criminal investigation report, the PSB Commander directed, in writing, that an additional interview be conducted and added to the report. We concurred with the submission and charging decision in this case. The case submitted to Maricopa County Attorney's Office for charging involved a Class 5 felony, and the investigation was properly conducted. The MCAO deferred this case to the Attorney General's Office for prosecution and it has since been adjudicated through the criminal justice process.

During this reporting period, we reviewed six internal criminal investigations, all conducted by PSB personnel. Four of the cases were referred to an appropriate prosecutorial agency. None of the cases required the PSB Commander to direct any further investigation prior to the submittals. Two of the cases were turned down for prosecution, and two are pending criminal charges.

Paragraph 235. *If the prosecuting agency declines to prosecute or dismisses the criminal case after the initiation of criminal charges, the Professional Standards Bureau shall request an explanation for this decision, which shall be documented in writing and appended to the criminal investigation report.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine MCSO's compliance with this Paragraph, we review on a monthly basis administrative and criminal misconduct investigations conducted by MCSO.

During the last reporting period, we reviewed one internal criminal investigation where an Office employee was arrested and charged with a felony. The case was originally submitted to the MCAO. The MCAO deferred the case to the Attorney General's Office. This case has since been adjudicated through the court system. There were no prosecutorial turndowns during the reporting period.

During this reporting period, we reviewed two internal criminal investigations that were submitted to a prosecuting agency, but turned down for prosecution. In both cases, the written decision to decline prosecution was included in the case file. The turndowns were not related to any failure on behalf of the investigator to conduct a thorough investigation. Both were turned down due to the prosecutorial decision that there was no reasonable likelihood of conviction.

Paragraph 236. *The Sheriff shall require the Professional Standards Bureau to maintain all criminal investigation reports and files after they are completed for record-keeping in accordance with applicable law.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine compliance with this Paragraph, we have observed that PSB maintains both hardcopy and electronic files that are intended to contain all of the documents required for compliance with this Paragraph.

During our site visits, we have inspected the file rooms where hardcopies of investigations are stored. Criminal and administrative investigation files are stored in separate rooms, and access to these rooms is restricted. Our random review of criminal investigation case files verified that PSB is maintaining files as required. A Monitoring Team member also has access to IAPro and has verified that case files are maintained in an electronic format.

G. Civilian Complaint Intake, Communication, and Tracking

Paragraph 237. *Within six months of the entry of this Order, the Monitor, in consultation with the Community Advisory Board, will develop and implement a program to promote awareness throughout the Maricopa County community about the process for filing complaints about the conduct of MCSO employees.*

Phase 1: Not applicable

Phase 2: Not applicable

The Monitoring Team developed and implemented a Complaint Process Community Awareness Program to promote awareness throughout the Maricopa County community about the process for filing complaints about the conduct of MCSO employees. The program provides for distributing brochures describing the complaint process at the Monitoring Team's community meetings and using public service announcements – made via local media outlets and social media – to provide basic information (in both English and Spanish) about the MCSO's complaint process.

During this reporting period, we distributed complaint process information brochures at our community meeting, and several attendees requested small stacks of the brochures to distribute to their own groups. The program also provides for the Monitoring Team to provide copies of the brochures to faith organizations and civic groups throughout Maricopa County requesting that they make them available to members of their congregations.

The Complaint Process Community Awareness Program incorporates input from the CAB, MCSO, and the ACLU of Arizona.

Paragraph 238. *The Sheriff shall require the MCSO to accept all civilian complaints, whether submitted verbally or in writing; in person, by phone, by mail, or online; by a complainant, someone acting on the complainant's behalf, or anonymously; and with or without a signature from the complainant. MCSO will document all complaints in writing.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: In compliance

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

During the last reporting period, we reviewed 123 administrative misconduct investigations. Seventy-two of these investigations were initiated based on a civilian complaint, including some in which the complaints were made by third parties or were anonymous. None of the investigations we reviewed involved an allegation that any MCSO employee had failed to accept a civilian complaint. We did not discover – nor become aware of – any evidence that civilians had attempted to make a complaint to MCSO and the complaint was not accepted.

During this reporting period, we reviewed 91 administrative misconduct investigations. Fifty-eight of these investigations were initiated based on a civilian complaint, including some in which the complaints were made by third parties (four instances) or were anonymous (two instances). None of the investigations we reviewed involved an allegation that any MCSO employee failed to accept a civilian complaint. We identified one investigation conducted at the District level where the investigator explained the policies and procedures of MCSO as the reason deputies had taken the actions they did. When the complainant stated that MCSO should consider changing these policies, the investigator informed the complainant that she would have to address these concerns with PSB herself. The investigator should have taken some action on the concerns of the complainant, instead of insisting that she contact PSB herself to address these concerns. We will discuss this case with PSB during our next site visit.

Paragraph 239. *In locations clearly visible to members of the public at the reception desk at MCSO headquarters and at all District stations, the Sheriff and the MCSO will post and maintain permanent placards clearly and simply describing the civilian complaint process that is visible to the public at all hours. The placards shall include relevant contact information, including telephone numbers, email addresses, mailing addresses, and Internet sites. The placards shall be in both English and Spanish.*

Phase 1: In compliance

- GJ-24 (Community Relations and Youth Programs), most recently amended on January 7, 2017.

Phase 2: In compliance

During this reporting period, on April 13, 2017, the approved permanent placards were received from the vendor; MCSO distributed the permanent placards to all District facilities the following day. Monitoring Team members visiting District offices during this reporting period reported that the placards were prominently displayed. The placard states that anyone who has a concern regarding the performance of any MCSO employee has the right to file a complaint in English or Spanish or their preferred language, to include American Sign Language; in person at any District facility or at the Professional Standards Bureau, by mail, by telephone, by fax, or online. The placard includes relevant contact information, including telephone numbers, email addresses, mailing addresses, and websites.

Paragraph 240. *The Sheriff shall require all deputies to carry complaint forms in their MCSO vehicles. Upon request, deputies will provide individuals with complaint forms and information about how to file a complaint, their name and badge number, and the contact information, including telephone number and email address, of their immediate supervising officer. The Sheriff must provide all supervising officers with telephones. Supervising officers must timely respond to such complaints registered by civilians.*

Phase 1: In compliance

- GJ-24 (Community Relations and Youth Programs), most recently amended on January 7, 2017.

Phase 2: In compliance

During this reporting period, Monitoring Team members visiting District offices verified that MCSO maintained adequate supplies of complaint forms for deputies to carry in their vehicles. All deputies with whom Monitoring Team members made contact understood their obligations to provide individuals with complaint forms and information about how to file a complaint, their name and badge number, and the contact information for their immediate supervising officer.

Also during this reporting period, Monitoring Team members verified that the supervisors with whom they made contact were in possession of MCSO-issued cellular phones.

Paragraph 241. *The Sheriff will ensure that the Professional Standards Bureau facility is easily accessible to members of the public. There shall be a space available for receiving walk-in visitors and personnel who can assist the public with filing complaints and/or answer an individual's questions about the complaint investigation process.*

Phase 1: Not applicable

Phase 2: Not in compliance

During this reporting period, MCSO Facility Management received authorization from the County to proceed with its plans to establish the PSB off-site location at 100 West Jefferson Street, in downtown Phoenix. The facility is easily accessible to members of the public. The County Court facilities in the building are separate from the future PSB reception area and offices. The future PSB area is accessible from First Avenue, a major thoroughfare; and there will be no required security screening of individuals entering the building through the First Avenue entrance.

Paragraph 242. *The Sheriff will also make complaint forms widely available at locations around the County including: the websites of MCSO and Maricopa County government; the lobby of MCSO's headquarters; each patrol District; and the Maricopa County government offices. The Sheriff will ask locations, such as public library branches and the offices and gathering places of community groups, to make these materials available.*

Phase 1: In compliance

- GJ-24 (Community Relations and Youth Programs), most recently amended on January 7, 2017.

Phase 2: In compliance

MCSO has complaint forms available in English and Spanish on the MCSO and Maricopa County websites; and widely available at MCSO facilities, County offices, and public locations where community groups meet.

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

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: In compliance

The free 24-hour hotline for members of the public to make complaints was established in July 2016 and continued to be operational during this reporting period. A Monitoring Team representative periodically called the hotline during this reporting period, and verified that the hotline is operational in both English and Spanish, and provides instructions in both languages on how to register a complaint. Callers are advised that if the call is an emergency, they are to call 911. Callers are requested to provide their name, phone number, and a brief summary of their complaint. If callers leave a recorded message, they are advised they will be contacted as soon as possible. If callers do not wish to leave a recorded message, they are provided with a phone number to call to speak to a supervisor. That number connects the callers to the MCSO switchboard operator, who will connect the caller to an appropriate supervisor. Callers are further advised of MCSO's operating hours if they wish to contact PSB directly.

The hotline is housed in PSB, and PSB personnel access any recorded messages at the beginning of each business day. During this reporting period, PSB personnel reported that they had not received any complaints on the hotline.

Paragraph 244. *The Sheriff shall ensure that the MCSO's complaint form does not contain any language that could reasonably be construed as discouraging the filing of a complaint, such as warnings about the potential criminal consequences for filing false complaints.*

Phase 1: In compliance

- GJ-24 (Community Relations and Youth Programs), most recently amended on January 7, 2017.

Phase 2: In compliance

Our review of the English and Spanish complaint forms' content did not reveal any language that could reasonably be construed as discouraging the filing of a complaint.

Paragraph 245. *Within two months of the entry of this Order, complaint forms will be made available, at a minimum, in English and Spanish. The MCSO will make reasonable efforts to ensure that complainants who speak other languages (including sign language) and have limited English proficiency can file complaints in their preferred language. The fact that a complainant does not speak, read, or write in English, or is deaf or hard of hearing, will not be grounds to decline to accept or investigate a complaint.*

Phase 1: In compliance

- GJ-24 (Community Relations and Youth Programs), most recently amended on January 7, 2017.

Phase 2: In compliance

Complaint forms in English and Spanish are accessible on MCSO's website. The complaint form states that anyone who has a concern regarding the performance of any MCSO employee has the right to file a complaint – in English or Spanish or their preferred language, to include American Sign Language – in person at any District facility or at the Professional Standards Bureau, by mail, by telephone, by fax, or online. The forms provide street addresses, contact numbers, and website information.

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

- within seven days of receipt of a complaint, the Professional Standards Bureau will send non-anonymous complainants a written notice of receipt, including the tracking number assigned to the complaint and the name of the investigator assigned. The notice will inform the complainant how he or she may contact the Professional Standards Bureau to inquire about the status of a complaint;*

- b. *when the Professional Standards Bureau concludes its investigation, the Bureau will notify the complainant that the investigation has been concluded and inform the complainant of the Bureau's findings as soon as is permitted by law; and*
- c. *in cases where discipline is imposed, the Professional Standards Bureau will notify the complainant of the discipline as soon as is permitted by law.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: Not in compliance

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

During the last reporting period, we reviewed 123 administrative misconduct investigations conducted by MCSO personnel. Seventy-two of these complaints were generated by external complainants. Nine of these externally generated complaints did not meet all of the requirements of this Paragraph.

During this reporting period, we reviewed 91 administrative misconduct investigations conducted by MCSO personnel. Fifty-eight of these complaints were generated externally. Nineteen of the fifty-eight cases reviewed did not meet all of the requirements of this Paragraph. We have discussed the increase in non-compliance with this Paragraph with PSB personnel. PSB has identified some consistent errors in how documentation is being initiated and sent to complainants, and has instituted procedural changes to address these concerns.

Paragraph 246.a. requires that a civilian complainant receive a written notice of receipt of their complaint within seven days. This letter must include the tracking number, the name of the investigator assigned, and information regarding how the complainant can inquire about the status of their complaint. In 16 of the 58 external complaints, while a complaint receipt was provided to the complainant, it was not provided within the required seven-day time period requirement, or was missing from the material provided to our Team for review. All of the letters sent included the name of the investigator and information regarding how the complainant could inquire about the status of the complaint.

Paragraph 246.b. requires that PSB notify a civilian complainant of the outcome of the investigation. In two of the 58 externally generated complaints, the complainant was not provided a notice of the outcome of the investigation even though MCSO had adequate contact information for the complainant. In 10 of the outcome letters sent to complainants, the findings provided to the complainant were not consistent with the findings that were noted on internal documents. We have brought the inconsistent findings letters to the attention of PSB, and changes have been made to their procedures to address this deficiency.

Paragraph 246.c. requires that PSB notify a civilian complainant of the discipline imposed as soon as permitted by law. In one of the external complaints with sustained findings, the complainant was not provided a notice of the discipline imposed as required.

Paragraph 247. *Notwithstanding the above written communications, a complainant and/or his or her representative may contact the Professional Standards Bureau at any time to determine the status of his or her complaint. The Sheriff shall require the MCSO to update the complainant with the status of the investigation.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: In compliance

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

During the last reporting period, we reviewed 123 administrative misconduct investigations conducted by MCSO. Seventy-two were generated by external complaints. We did not identify any instances where a complainant was discouraged from, or denied, contact with MCSO investigators to determine the status of their complaint, or to request and receive an update.

During this reporting period, we reviewed 91 administrative misconduct investigations conducted by MCSO. Fifty-eight were externally generated complaints. We did not identify any instances where a complainant was discouraged from, or denied, contact with MCSO investigators to determine the status of their complaint, or to request and receive an update.

Paragraph 248. *The Professional Standards Bureau will track, as a separate category of complaints, allegations of biased policing, including allegations that a deputy conducted an investigatory stop or arrest based on an individual's demographic category or used a slur based on an individual's actual or perceived race, ethnicity, nationality, or immigration status, sex, sexual orientation, or gender identity. The Professional Standards Bureau will require that complaints of biased policing are captured and tracked appropriately, even if the complainant does not so label the allegation.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

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

Each month, PSB provides a list of new complaints alleging biased policing. PSB also provides all closed investigations where biased policing was alleged. For this Paragraph, only allegations of biased policing that do not affect the Plaintiffs' class are reported. Those complaints alleging bias against members of the Plaintiffs' class are captured in a separate category and reported under Paragraphs 275-288.

During this reporting period, PSB completed three investigations where potential bias was alleged and did not affect members of the Plaintiffs' class. All of these investigations were initiated and completed after July 20, 2016, investigated by PSB, and tracked in a separate category as required by this Paragraph.

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

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine Phase 2 compliance for this Paragraph, we review a monthly report from PSB that provides the information required for compliance.

To ensure that we are consistently informed of both the identification and investigation of complaints relative to this Paragraph, PSB now includes information regarding both newly initiated and closed investigations in their monthly document submission relative to this Paragraph. They also include a copy of any administrative misconduct investigation conducted related to the requirements of this Paragraph.

During this reporting period, there were no investigations completed that are subject to the requirements of this Paragraph. One new investigation related to the requirements of this Paragraph was initiated.

Paragraph 250. *The Professional Standards Bureau will conduct regular assessments of the types of complaints being received to identify and assess potential problematic patterns and trends.*

Phase 1: Not in compliance

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

During our July 2017 site visit, PSB command personnel indicated that the recently hired management analyst has become acclimated to IAPro and bureau procedures. The PSB analyst will be working collaboratively with the BIO analyst to identify problematic trends or patterns of complaints to meet the requirements of this Paragraph. PSB has not completed a formal assessment to date as required by this Paragraph.

H. Transparency Measures

Paragraph 251. *The Sheriff shall require the Professional Standards Bureau to produce a semi-annual public report on misconduct investigations, including, at a minimum, the following:*

- a. summary information, which does not name the specific employees involved, about any sustained allegations that an employee violated conflict-of-interest rules in conducting or reviewing misconduct investigations;*
- b. aggregate data on complaints received from the public, broken down by district; rank of principal(s); nature of contact (traffic stop, pedestrian stop, call for service, etc.); nature of allegation (rudeness, bias-based policing, etc.); complainants' demographic information; complaints received from anonymous complainants or third parties; and principals' demographic information;*
- c. analysis of whether any increase or decrease in the number of civilian complaints received from reporting period to reporting period is attributable to issues in the complaint intake process or other factors;*
- d. aggregate data on internally-generated misconduct allegations, broken down by similar categories as those for civilian complaints;*
- e. aggregate data on the processing of misconduct cases, including the number of cases assigned to Supervisors outside of the Professional Standards Bureau versus investigators in the Professional Standards Bureau; the average and median time from the initiation of an investigation to its submission by the investigator to his or her chain of command; the average and median time from the submission of the investigation by the investigator to a final decision regarding discipline, or other final disposition if no discipline is imposed; the number of investigations returned to the original investigator due to conclusions not being supported by the evidence; and the number of investigations returned to the original investigator to conduct additional investigation;*
- f. aggregate data on the outcomes of misconduct investigations, including the number of sustained, not sustained, exonerated, and unfounded misconduct complaints; the number of misconduct allegations supported by the appropriate standard of proof; the number of sustained allegations resulting in a non-disciplinary outcome, coaching, written reprimand, suspension, demotion, and termination; the number of cases in which findings were changed after a pre-determination hearing, broken down by initial finding and final finding; the number of cases in which discipline was changed after a pre-determination hearing, broken down by initial discipline and final discipline; the number of cases in which findings were overruled, sustained, or changed by the Maricopa County Law Enforcement Merit System Council, broken down by the finding reached by the MCSO and the finding reached by the Council; and the number of cases in which discipline was altered by the Council, broken down by the discipline imposed by the MCSO and the disciplinary ruling of the Council; and similar information on appeals beyond the Council; and*

- g. *aggregate data on employees with persistent or serious misconduct problems, including the number of employees who have been the subject of more than two misconduct investigations in the previous 12 months, broken down by serious and minor misconduct; the number of employees who have had more than one sustained allegation of minor misconduct in the previous 12 months, broken down by the number of sustained allegations; the number of employees who have had more than one sustained allegation of serious misconduct in the previous 12 months, broken down by the number of sustained allegations; and the number of criminal prosecutions of employees, broken down by criminal charge.*

Phase 1: Not in compliance

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

The proposed PSB Operations Manual reviewed by the Monitoring Team identifies the PSB Commander as responsible for preparing the Semi-Annual Public Report on misconduct investigations. The proposed manual also contains provisions for the production of summary information regarding sustained conflict of interest violations; an analysis of the complaint intake process; and aggregate data on complaints (internal and external), processing of misconduct cases, outcomes of misconduct cases, and employees with persistent misconduct problems.

During our July 2017 site visit, PSB command personnel indicated that they had produced a semi-annual public report on misconduct investigations during this reporting period, and placed it on the homepage of the MCSO website. The Monitoring Team reviewed the semi-annual report for the period July 1-December 31, 2016 and provided feedback to PSB. We noted that the report does not capture all of the requirements of this Paragraph, including, but not limited to: sustained allegations that an employee violated conflict-of-interest rules; aggregate data on the nature of the contact; aggregate data on the complainant's demographic information; Maricopa County Law Enforcement Merit System Council findings/disposition broken down by discipline and Council ruling (overruled, sustained or changed); and similar information on appeals beyond the Council.

Paragraph 252. *The Sheriff shall require the MCSO to make detailed summaries of completed internal affairs investigations readily available to the public to the full extent permitted under state law, in electronic form on a designated section of its website that is linked to directly from the MCSO's home page with prominent language that clearly indicates to the public that the link provides information about investigations of misconduct alleged against MCSO employees.*

Phase 1: Not in compliance

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

PSB provided its template for the information that will be captured from completed misconduct investigations for posting as required on the MCSO website. The following data fields have been identified for public disclosure: IA Number; Date Opened; Incident Type; Original Complaint; Policy Violation(s) Alleged/Outcome; Discipline; Investigative Summary; and Date Completed. During our April 2017 site visit, we approved the PSB template containing detailed summaries of completed misconduct investigations for placement on the MCSO website.

During this reporting period, PSB made detailed summaries of completed internal investigations readily available to the public in electronic form in a designated section on the homepage of the MCSO website.

Paragraph 253. *The MCSO Bureau of Internal Oversight shall produce a semi-annual public audit report regarding misconduct investigations. This report shall analyze a stratified random sample of misconduct investigations that were completed during the previous six months to identify any procedural irregularities, including any instances in which:*

- a. complaint notification procedures were not followed;*
- b. a misconduct complaint was not assigned a unique identifier;*
- c. investigation assignment protocols were not followed, such as serious or criminal misconduct being investigated outside of the Professional Standards Bureau;*
- d. deadlines were not met;*
- e. an investigation was conducted by an employee who had not received required misconduct investigation training;*
- f. an investigation was conducted by an employee with a history of multiple sustained misconduct allegations, or one sustained allegation of a Category 6 or Category 7 offense from the MCSO's disciplinary matrices;*
- g. an investigation was conducted by an employee who was named as a principal or witness in any investigation of the underlying incident;*
- h. an investigation was conducted of a superior officer within the internal affairs investigator's chain of command;*
- i. any interviews were not recorded;*
- j. the investigation report was not reviewed by the appropriate personnel;*
- k. employees were promoted or received a salary increase while named as a principal in an ongoing misconduct investigation absent the required written justification;*
- l. a final finding was not reached on a misconduct allegation;*
- m. an employee's disciplinary history was not documented in a disciplinary recommendation; or*
- n. no written explanation was provided for the imposition of discipline inconsistent with the disciplinary matrix.*

Phase 1: In compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.

Phase 2: Not in compliance

During our July 2017 site visit, the BIO Commander indicated that BIO has not produced a semi-annual public audit report regarding misconduct investigations. The BIO Commander indicated that the matrix is still under development for the 120 cases previously identified for inspection. The BIO Commander related the inspection process will begin during the next reporting period and expects the initial audit to take two to three months to complete.

I. Testing Program for Civilian Complaint Intake

Paragraph 254. *The Sheriff shall initiate a testing program designed to assess civilian complaint intake. Specifically, the testing program shall assess whether employees are providing civilians appropriate and accurate information about the complaint process and whether employees are notifying the Professional Standards Bureau upon the receipt of a civilian complaint.*

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- Audits and Inspections Unit Operations Manual, currently under revision.

Phase 2: Not in compliance

During our July 2017 site visit, the BIO Commander indicated that the vendor responsible for auditing telephone, email, U.S. Mail, and website complaints is moving along in the process. The second vendor, who will conduct the required in-person testing, met during this reporting period with BIO to discuss program expectations, methodology, and required documentation for review.

Paragraph 255. *The testing program is not intended to assess investigations of civilian complaints, and the MCSO shall design the testing program in such a way that it does not waste resources investigating fictitious complaints made by testers.*

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- Audits and Inspections Unit Operations Manual, currently under revision.

Phase 2: Not in compliance

BIO has selected and signed contracts with two vendors to develop the required CIT program. The Parties agreed to initiate the CIT program once GH-2 (Internal Investigations) was published. (GH-2 was published on May 18, 2017.)

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

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- Audits and Inspections Unit Operations Manual, currently under revision.

Phase 2: Not in compliance

BIO has selected and signed contracts with two vendors to develop the required CIT program. The Parties agreed to initiate the CIT program once GH-2 (Internal Investigations) was published. (GH-2 was published on May 18, 2017.)

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

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- Audits and Inspections Unit Operations Manual, currently under revision.

Phase 2: Not in compliance

BIO has selected and signed contracts with two vendors to develop the required CIT program. The Parties agreed to initiate the CIT program once GH-2 (Internal Investigations) was published. (GH-2 was published on May 18, 2017.)

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

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- Audits and Inspections Unit Operations Manual, currently under revision.

Phase 2: Not in compliance

BIO has selected and signed contracts with two vendors to develop the required CIT program. The Parties agreed to initiate the CIT program once GH-2 (Internal Investigations) was published. (GH-2 was published on May 18, 2017.)

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

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- Audits and Inspections Unit Operations Manual, currently under revision.

Phase 2: Not in compliance

BIO has selected and signed contracts with two vendors to develop the required CIT program. The Parties agreed to initiate the CIT program once GH-2 (Internal Investigations) was published. (GH-2 was published on May 18, 2017.)

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

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

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- Audits and Inspections Unit Operations Manual, currently under revision.

Phase 2: Not in compliance

BIO has selected and signed contracts with two vendors to develop the required CIT program. The Parties agreed to initiate the CIT program once GH-2 (Internal Investigations) was published. (GH-2 was published on May 18, 2017.)

Section 13: Community Outreach and Community Advisory Board

COURT ORDER XVI. COMMUNITY OUTREACH AND COMMUNITY ADVISORY BOARD

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

Phase 1: Not applicable

Phase 2: Not applicable

During this reporting period, the Monitoring Team continued exploring with the CAB members the possibility of retaining a consultant to conduct a study to identify barriers to the filing of civilian complaints against MCSO personnel. As noted previously, one CAB member resigned in October. While CAB awaits the appointment of an additional member, we placed those discussions on hold, but we look forward to continuing these discussions with the CAB during our upcoming site visit.

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

Phase 1: Not applicable

Phase 2: Not applicable

During this reporting period, the Monitoring Team continued our discussions with the CAB members on how CAB could propose an annual budget. ACLU of Arizona staff offered assistance to CAB from their office to prepare a budget and define budget categories. After the resignation of one CAB member, we placed the discussions on hold, but we look forward to continuing these discussions with the CAB during our upcoming site visit.

Section 14: Supervision and Staffing

COURT ORDER XVII. SUPERVISION AND STAFFING

Paragraph 263. *The following Section of this Order represents additions and amendments to Section X of the first Supplemental Permanent Injunction, Supervision and Evaluations of Officer Performance, and the provisions of this Section override any conflicting provisions in Section X of the first Supplemental Permanent Injunction.*

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

Phase 1: In compliance

- GB-2 (Command Responsibility), most recently amended on February 1, 2017.

Phase 2: In compliance

During this reporting period, consistent with our methodology, for April we reviewed a sample of shift rosters from Districts 1 and 2; for May, we reviewed a sample of shift rosters from Districts 3 and 4; and for June, we reviewed a sample of shift rosters from Districts 6, 7, and Lake Patrol. Monthly and daily rosters showed that deputies were assigned to a primary, clearly identified supervisor, and that supervisors were generally assigned no more than eight deputies.

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

Phase 1: In compliance

- GB-2 (Command Responsibility), most recently amended on February 1, 2017.

Phase 2: Not in compliance

As Paragraph 265 is a general directive that covers many aspects of supervision, there are several requirements covered in other Paragraphs of this Order that directly impact this Paragraph; these requirements must be met before MCSO can establish compliance with Paragraph 265. We have determined that MCSO is in compliance with Paragraphs 83, 85, 89, 93, and 94 as they relate to this Paragraph. We recognize that supervision has improved and that supervisors have been more attentive to their responsibilities in providing guidance to their subordinates. There are still some areas that need improvement – specifically, those that relate to traffic stops and investigatory detentions. In addition to the previously referenced Paragraphs, MCSO must be in compliance with Paragraphs 90 and 91 to achieve compliance with Paragraph 265.

Paragraph 266. *First-line patrol supervisors shall be assigned as primary supervisor to no more persons than it is possible to effectively supervise. The Sheriff should seek to establish staffing that permits a supervisor to oversee no more than eight deputies, but in no event should a supervisor be responsible for more than ten persons. If the Sheriff determines that assignment complexity, the geographic size of a district, the volume of calls for service, or other circumstances warrant an increase or decrease in the level of supervision for any unit, squad, or shift, it shall explain such reasons in writing, and, during the period that the MCSO is subject to the Monitor, shall provide the Monitor with such explanations. The Monitor shall provide an assessment to the Court as to whether the reduced or increased ratio is appropriate in the circumstances indicated.*

Phase 1: In compliance

- GB-2 (Command Responsibility), most recently amended on February 1, 2017.

Phase 2: In compliance

To verify Phase 2 compliance with this Paragraph, we reviewed monthly rosters and shift rosters for the second quarter of 2017. We also reviewed the April, May, and June 2017 Patrol Bureau shift roster inspection summaries, which discuss the results of BIO's examination of every MCSO shift roster during those months to verify that shifts did not exceed the 1:10 supervisor-to-deputy ratio. The BIO inspection summary dated May 31, 2017 noted a compliance rate of 99.76% in April. The BIO inspection summary dated June 19, 2017 noted a compliance rate of 99.87% in May. The BIO inspection summary for June noted a compliance rate of 99.73%

During this reporting period, consistent with our methodology, for April we reviewed a sample of shift rosters from Districts 1 and 2; for May, we reviewed a sample of shift rosters from Districts 3 and 4; and for June, we reviewed a sample of shift rosters from Districts 6 and 7, and Lake Patrol. Monthly and daily rosters showed that deputies were assigned to one single consistent supervisor and that supervisors were generally assigned no more than eight deputies.

District 1 had three days in April where a squad listed a ratio of 1:10, and another day where one squad had a ratio of 1:9. District 2 had one day where one squad listed a ratio of 1:11. District 3 had one day where one squad had a ratio of 1:10, and another day where the ratio was 1:9. With the exception of these dates, all Districts have maintained a supervisor deputy ratio of 1:8 or less.

During this reporting period, we did not receive any notification from MCSO with regard to any adjustments related to supervisor-to-deputy ratios in any unit, squad, or shift.

Paragraph 267. *Supervisors shall be responsible for close and effective supervision of deputies under their command. Supervisors shall ensure that all deputies under their direct command comply with MCSO policy, federal, state and local law, and this Court's orders.*

Phase 1: In compliance

- GB-2 (Command Responsibility), most recently amended on February 1, 2017.

Phase 2: Not in compliance

Close and effective supervision requires that supervisors consistently apply the concepts established in several Paragraphs of the First Order. There are requirements covered in other Paragraphs that directly impact Paragraph 267, and must therefore be in compliance for MCSO to establish compliance with this Paragraph. We have determined that MCSO is in compliance with Paragraphs 83, 85, 89, 93, 94, and 96 as they relate to this Paragraph. While we acknowledge that supervisors have improved their performance with regard to directing subordinates and ensuring that MCSO policies are adhered to, some areas of weakness remain. Our compliance reviews of the Paragraphs related to traffic stops and investigatory detentions have shown that improvement is needed in the accuracy of the documentation, and improvement is needed in the supervisory review process. In order for MCSO to achieve compliance with Paragraph 267, in addition to the Paragraphs previously referenced, MCSO must be in compliance with Paragraphs 90 and 91.

Paragraph 268. *During the term that a Monitor oversees the Sheriff and the MCSO in this action, any transfer of sworn personnel or supervisors in or out of the Professional Standards Bureau, the Bureau of Internal Oversight, and the Court Implementation Division shall require advanced approval from the Monitor. Prior to any transfer into any of these components, the MCSO shall provide the Court, the Monitor, and the parties with advance notice of the transfer and shall produce copies of the individual's résumé and disciplinary history. The Court may order the removal of the heads of these components if doing so is, in the Court's view, necessary to achieve compliance in a timely manner.*

Phase 1: Deferred

- Court Implementation Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.
- Bureau of Internal Oversight Operations Manual, currently under revision.

Phase 2: In compliance

During this reporting period, MCSO submitted the resumes and disciplinary history of 16 incoming transfer requests to PSB, CID, and BIO for approval. In addition, six employees were transferred out of these units. We reviewed the documentation submitted for each transfer request to ensure that each employee transferred into these units met the requirements of Paragraph 268. We also reviewed each outgoing transfer to ensure that the transfers were based on MCSO needs, and were not punitive in nature. We approved all of the submitted transfers based on the information provided. During our July site visit, we audited the files of the

employees transferred and verified the accuracy of the information submitted for each employee. In our inspection of personnel files, we noted that 10 of the employees, whose transfer requests were submitted for the Monitor's approval, had memorandums in their files noting that their effective dates of transfers had occurred prior to the Monitor's approval. Although the twenty-two transfer requests were ultimately approved, the personnel transfers that occurred prior to the approval of the Monitor were not consistent with previously established procedures and were in violation of this Paragraph. Whereas MCSO has been in compliance with this Paragraph, we will retain the compliance rating for this reporting period. However, any future deviations from this Paragraph's requirements will result in a non-compliance rating.

Section 15: Document Preservation and Production

COURT ORDER XVIII. DOCUMENT PRESERVATION AND PRODUCTION

Paragraph 269. *The Sheriff shall ensure that when the MCSO receives a document preservation notice from a litigant, the MCSO shall promptly communicate that document preservation notice to all personnel who might possibly have responsive documents.*

Phase 1: Not in compliance

- GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices), currently under revision.

Phase 2: Not in compliance

To verify MCSO's Phase 2 compliance with this Paragraph, we reviewed monthly submittals of document preservation notices to MCSO employees for the reporting period. We also reviewed a sample of cases during our July 2017 site visit to verify if a search for the documents identified in the Document Preservation Notice was performed and if responsive documents were appropriately identified and preserved.

Document preservation is set in motion when a party sends a litigation hold notice or written directive to MCSO requesting the preservation of relevant documents or records and electronically stored information (ESI), in anticipation of future litigation against the agency. MCSO's Legal Liaison Section (LLS) handles litigation holds. Upon the receipt of a litigation hold which is usually sent by the Maricopa County Attorney's Office (MCAO), the LLS conducts initial research to determine what agency divisions can properly address the hold, and then it drafts a Document Preservation Notice which is sent out to the divisions within five business days.

During our July site visit, we reviewed a sample of the third-party source documents that generate the litigation holds that the LLS receives from MCAO. First, we were able to ascertain that the information contained in the third-party source document is correctly conveyed in the Document Preservation Notices drafted and distributed by the LLS. In addition, we determined that the LLS is distributing the Document Preservation Notices to MCSO divisions that may have responsive documents in a timely manner.

We conducted a sample review of document preservation files at the LLS to verify if an adequate search was performed and if the correct documents had been identified. By examining the LLS files and the communications within the different MCSO divisions, we were able to determine that the agency was searching for the documents requested by the LLS, and that the different MCSO divisions – both within MCSO headquarters and off-site – identified responsive documents for the litigation holds. In the future, MCSO is aiming to perform the searches and preservations in a centralized process through Open Axes, a discovery software program. MCSO informed us that Open Axes is a search tool where keyword searches across all of the MCSO search files can be performed. The system will allow for preservation of records in a centralized location.

MCSO acquired the software in May 2017 and during this reporting period, the Technology Management Bureau Chief confirmed that the software has not been tested in the LLS. MCSO is still examining how to apply the software at the LLS and how to extend its functionality across other systems, including Blue Team. Meanwhile, the agency does not receive either an itemized list of documents being preserved by each division, nor does it require that each division copy them of the responsive documents. Therefore, the LLS is not certain of what documents are being preserved and how they are being preserved since each MCSO division preserves and sequesters documents in a different manner. We met with some division commanders, including detention, sworn and civilian personnel, and inquired about their knowledge of GD-9 requirements. Most understood the basic requirements of the Order, but there were some that expressed uncertainty as to the procedure for preserving and sequestering documents. One commander informed us that he did not know how to preserve and sequester ESI.

As part of our July site visit, we discussed the need to have GD-9 in place to standardize the document preservation and production procedure within the agency. GD-9 is currently under review for some recommendations regarding the LLS's oversight of the process that, to this day, remain insufficiently addressed. In addition, during our site visit, and in light of the delay on the software tool implementation, MCSO recommended the elimination of any reference to the software in the policy to get it approved. The Monitoring Team and the Parties discussed the possibility of a software protocol to be developed at a later time once the software is in place with any revisions to be added to the policy as soon as practicable or in the annual review. In order to aid the agency in establishing a uniform procedure, we approved the attachments to GD-9, which consist of three forms: Attachment – A Document Preservation Acknowledgment, Attachment B – Document Preservation Questionnaire, and Attachment C – Document Production Acknowledgment.

Attachment A contains an attestation by the employee stating that he has received a Document Preservation Notice and he must return it to the LLS and his chain of command along with the Document Preservation Questionnaire. In Attachment B, the Document Preservation Questionnaire, the employee must identify: a) the steps taken to search for records, documents and electronically stored information; b) the outcome of the search; and c) an itemization of each one of the records, documents or ESI that are being preserved. Attachment C, Document Production Acknowledgement, requires the same information as Attachment B but on document production. Once GD-9 is approved, MCSO employees will receive training on preserving and sequestering documents. However, we recommend that, in the meantime, MCSO provide some immediate guidance to its personnel so that preservation and sequestering are conducted in a proper and consistent manner. We will follow up on the preservation and sequestering of documents both within MCSO divisions located at Headquarters and those that are off-site.

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

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

Phase 1: Not in compliance

- GD-9 (Litigation Initiation, Document Preservation and Document Production Notices), currently under revision.

Phase 2: Not in compliance

To verify MCSO's Phase 2 compliance with this Paragraph, we reviewed monthly submittals of requests for documents to MCSO employees for the reporting period and documents drafted by the Legal Liaison Section (LLS) in search of documents from other divisions of the agency. For this reporting period, we have identified a sample of document requests and requested a copy of the responsive documents sequestered and/or produced.

Paragraph 270.a. requires prompt communication of document requests to all personnel who might possibly be in possession of responsive documents. The most recent GD-9 draft requires the Legal Liaison Section to enter the data into a tracking system within five days and to draft a Document Production Notice within five additional days. The LLS is required, within five business days, to respond to the request for production if sourced within LLS, or to forward to the required division of MCSO for production. We reviewed the document production for this Paragraph, and LLS is currently using a document called Request for Production of Records in lieu of a Document Production Notice to request the data from personnel who may have responsive documents. At the close of this reporting period, the data reflects that in 56% of the instances, MCSO complied with the draft policy's new timeframes between the receipt of the request and the transmittal of the Request for Production of Records. We will follow up on our next site visit to learn the reasons for the delay in the remaining 44% of the cases.

Paragraph 270.b. requires that all requested electronic files be stored, sequestered, and preserved by MCSO through a centralized process. MCSO is aiming to perform the searches and preservations in a centralized process through Open Axes, a discovery software program. We have been informed that Open Axes is a search tool where keyword searches across all of the MCSO search files can be performed. The system will allow for preservation of records in a centralized location. MCSO acquired the software in May 2017; and during this reporting period, the Technology Management Bureau Chief confirmed that the software has not been tested in the LLS. MCSO is still examining how to apply the software at the LLS and how to extend its functionality across other systems, including Blue Team. However, as of the close of this reporting period, there was no date for its implementation at a central level or a plan for how it will be rolled out into the other organizational components.

Paragraph 270.c. requires that MCSO conduct an adequate search for documents and that each employee who might possibly be in possession of responsive documents conducts a thorough and adequate search of all relevant physical and electronic files. We reviewed a sample of responsive documents for this reporting period, and report that MCSO has forwarded responsive documents to the parties requesting them, in 93% of the cases.

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

Phase 1: Not in compliance

- GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices), currently under revision.
- Compliance Division Operations Manual, currently under revision.

Phase 2: Not in compliance

MCSO has informed us that it will not fully revise the Compliance Division Operations Manual until GD-9 is finalized.

Paragraph 272. *The Sheriff shall ensure that MCSO policy provides that all employees must comply with document preservation and production requirements and that violators of this policy shall be subject to discipline and potentially other sanctions.*

Phase 1: Not in compliance

- GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices), currently under revision.

Phase 2: Not in compliance

Although no internal investigations were completed against any MCSO employee during this reporting period for failure to preserve or produce documents, we have yet to ascertain whether MCSO employees are conducting adequate searches for documents. The Legal Liaison Section does not yet have an oversight process in place to determine if employees are conducting adequate and accurate searches for documents.

Section 16: Additional Training

COURT ORDER XIX. ADDITIONAL TRAINING

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

Phase 1: Not applicable

Phase 2: In compliance

MCSO delivers this training on the E-Policy platform. During the last reporting period, there were five individuals who were on military leave who required this training. During this reporting period, MCSO reduced the number of individuals requiring this training to one.

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

COURT ORDER XX. COMPLAINTS AND MISCONDUCT INVESTIGATIONS RELATING TO MEMBERS OF THE PLAINTIFF CLASS

***Paragraph 274.** In light of the Court's finding that the MCSO, and in particular Sheriff Arpaio and Chief Deputy Sheridan, willfully and systematically manipulated, misapplied, and subverted MCSO's employee disciplinary policies and internal affairs processes to avoid imposing appropriate discipline on MCSO deputies and command staff for their violations of MCSO policies with respect to members of the Plaintiff class, the Court further orders as follows:*

A. Investigations to be Overseen and/or Conducted by the Monitor

***Paragraph 275.** The Monitor is vested with the authority to supervise and direct all of the MCSO's internal affairs investigations pertaining to Class Remedial Matters. The Monitor is free from any liability for such matters as is set forth in ¶ 144 of the Supplemental Permanent Injunction.*

***Paragraph 276.** The Monitor shall have the authority to direct and/or approve all aspects of the intake and investigation of Class Remedial Matters, the assignment of responsibility for such investigations including, if necessary, assignment to his own Monitor team or to other independent sources for investigation, the preliminary and final investigation of complaints and/or the determination of whether they should be criminally or administratively investigated, the determination of responsibility and the imposition of discipline on all matters, and any grievances filed in those matters.*

Phase 1: Not applicable

Phase 2: In compliance

The Second Order requires oversight by the Monitor for all internal investigations determined to be Class Remedial Matters (CRMs). PSB holds a weekly meeting to discuss existing and incoming complaints to determine which, if any, could be CRMs. During these meetings, PSB personnel also discuss cases pending a CRM decision, cases determined to be CRMs, and any cases where the decision may be made that the case would not be classified as a CRM. During these meetings, the PSB Commander makes a decision on the classification of the cases.

Beginning on August 17, 2016, PSB has held weekly meetings for this purpose. A Monitoring Team member attends the meetings to provide the oversight required by this Paragraph.

At the end of the July-September 2016 reporting period, PSB had reviewed 442 administrative investigations that were open as of July 20, 2016; and determined that 42 of them met the basic criteria that could make them CRMs. These cases were reviewed during the weekly CRM meetings. In addition, a Monitoring Team member randomly selected an additional 52 cases from the remaining 400 pending cases and concurred with PSB's assessment that they did not meet the basic criteria that could make them CRMs. In addition to the 42 cases determined to be potential CRMs from the pending case list as of July 20, 2016, PSB identified an additional 10 cases that were potential CRM cases. By the end of the reporting period, nine cases had been determined to be CRMs and one other was pending a CRM decision. The remaining cases had been determined not to be CRMs.

During the previous two reporting periods, an additional 53 cases were reviewed as possible CRMs. Ten were determined to be CRMs and processed as required by this and other Paragraphs related to CRMs. The remaining cases were either pending a CRM decision or determined not to be CRMs. A total of 115 cases had been reviewed as potential CRMs since July 20, 2016. Twenty were determined to be CRMs.

During this reporting period, an additional 19 cases were reviewed as potential CRM cases. Five were determined to be CRMs. At the end of this reporting period, a total of 134 cases have been reviewed as potential CRMs since July 20, 2016. Twenty-five have been determined to be CRMs, three are pending a CRM classification decision, and 106 have been determined not to be CRMs.

A total of 19 CRM cases have been closed since July 20, 2016, including 4 during this reporting period. Three cases had sustained findings on a deputy who is deceased. Four have resulted in sustained findings against current deputies. Two of these sustained CRM cases have resulted in the dismissal of the involved deputies for truthfulness issues that were discovered during the investigations. One case resulted in a sustained allegation that the employee had made an inappropriate comment (used profanity) during a contact with a community member. While this conduct was inappropriate and discipline resulted, the sustained allegation was not related to any bias. In the fourth sustained case, a deputy received discipline for failing to properly complete the report of an incident and the sergeant received discipline for signing off on the incomplete report. The remaining CRM cases were closed with findings of exonerated, unfounded, or not sustained. The Monitoring Team has approved the investigation, findings, and where appropriate, the discipline in all of these cases.

During the weekly meetings, case investigators continue to provide investigative updates on all cases that could be, or are, CRMs. Their briefings are thorough, and they continue to be responsive to any questions or input from Monitoring Team members. In all cases where we have provided oversight since July 20, 2016, we have concurred with the decisions made by the PSB Commander regarding the case classifications and findings.

Paragraph 277. *This authority is effective immediately and shall remain vested in the Monitor until the MCSO's internal affairs investigations reach the benchmarks set forth in ¶ 288 below. With respect to Class Remedial Matters, the Monitor has plenary authority, except where authority is vested in the Independent Investigative and Disciplinary Authorities separately appointed by the Court, as is further set forth in ¶¶ 296–337 below.*

Paragraph 278. *The Sheriff shall alert the Monitor in writing to all matters that could be considered Class Remedial Matters, and the Monitor has the authority to independently identify such matters. The Monitor shall provide an effective level of oversight to provide reasonable assurance that all Class Remedial Matters come to his attention.*

Phase 1: Not applicable

Phase 2: In compliance

Since the first CRM meeting held on August 17, 2016, PSB has consistently completed the required notification to us regarding the cases that could be considered CRMs. A Monitoring Team member has attended every CRM meeting with PSB where these matters are discussed and personally reviewed a number of the cases that were pending on July 20, 2016; and our Monitoring Team member reviews the new cases that are presented each week. There has been no need for us to independently identify CRMs, as PSB has consistently properly identified and reported these cases as required.

Paragraph 279. *The Monitor shall have complete authority to conduct whatever review, research, and investigation he deems necessary to determine whether such matters qualify as Class Remedial Matters and whether the MCSO is dealing with such matters in a thorough, fair, consistent, and unbiased manner.*

Phase 1: Not applicable

Phase 2: In compliance

During the weekly CRM meetings attended by a Monitoring Team member, PSB has consistently properly identified cases that could be, or are, CRMs. PSB personnel brief each case during the weekly meetings, and we have found that their briefings generally include all appropriate information. They have been responsive to any questions from Monitoring Team members during the meetings, and have responded appropriately to any suggestions we have brought forward. There has been no need for us to independently conduct any review, research, or investigation; as PSB is consistently properly identifying and investigating these cases.

Paragraph 280. *The Monitor shall provide written notice to the Court and to the parties when he determines that he has jurisdiction over a Class Remedial Matter. Any party may appeal the Monitor's determination as to whether he has jurisdiction over a Class Remedial Matter to this Court within seven days of the Monitor's notice. During the pendency of any such appeal the Monitor has authority to make orders and initiate and conduct investigations concerning Class Remedial Matters and the Sheriff and the MCSO will fully comply with such action by the Monitor.*

Phase 1: Not applicable

Phase 2: Not applicable

During the last reporting period, there were nine cases determined to be CRMs. Counsel for MCSO appealed the CRM classification on four of these cases, all involving detention personnel. We continued to monitor these cases while they were under appeal. As with all other cases classified as CRMs, the decision to classify these cases as CRMs was made by the PSB Commander; and we concurred with the decisions. The Court determined that since the determination to classify these cases as CRMs had been made by MCSO, not the Monitor, there was no action necessary and all remained classified as CRMs.

During this reporting period, cases involving both sworn and non-sworn members of MCSO have continued to be reviewed as possible CRMs when appropriate. All five of the cases determined to be CRMs for this reporting period involved sworn personnel. There were no appeals by any Party regarding these classifications.

Paragraph 281. *Subject to the authority of the Monitor, the Sheriff shall ensure that the MCSO receives and processes Class Remedial Matters consistent with: (1) the requirements of this Order and the previous orders of this Court, (2) MCSO policies promulgated pursuant to this Order, and (3) the manner in which, pursuant to policy, the MCSO handles all other complaints and disciplinary matters. The Sheriff will direct that the Professional Standards Bureau and the members of his appointed command staff arrive at a disciplinary decision in each Class Remedial Matter.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To evaluate Phase 2 compliance with this Paragraph, a Monitoring Team member has attended each weekly meeting conducted by PSB to discuss Class Remedial Matters. PSB has consistently provided thorough briefings, and the PSB Commander has made appropriate decisions regarding these matters.

During the last reporting period, our review of the four completed CRM cases determined that while all were properly investigated and resulted in appropriate outcomes, only two of the four cases were in full compliance with the requirements for all administrative investigations conducted by MCSO. The remaining two cases were missing one or more of the required components of the Second Order – primarily timely notifications to complainants regarding the investigative process and timely completion of the investigation. While none of the missing components would have resulted in a change in the findings or case outcomes, MCSO did not achieve Phase 2 compliance with this Paragraph.

During this reporting period, PSB completed and closed an additional four CRM cases. Two of these investigations had sustained findings. In one of these cases, the employee was dismissed from employment as the result of a truthfulness issue related to the investigation. In the second case, a deputy was sustained for failing to properly complete a report and his sergeant was sustained for signing off on the incomplete report. Both received coachings. The remaining two investigations resulted in not sustained, unfounded, or exonerated findings for all allegations.

We reviewed all four of the completed CRM cases during this reporting period for compliance with requirements specific to the investigation of CRMs, and all requirements for administrative misconduct investigations. All four were properly investigated. Each case report reviewed was consistent with the briefings that had been provided during the weekly CRM meetings. The investigators continue to conduct appropriate follow-up on these cases, expend extensive efforts to locate and contact all involved parties and witnesses, and provide detailed information on the allegations and the justifications for findings in their investigative reports. In all sustained cases, MCSO arrived at a disciplinary decision as required.

Paragraph 282. *The Sheriff and/or his appointee may exercise the authority given pursuant to this Order to direct and/or resolve such Class Remedial Matters, however, the decisions and directives of the Sheriff and/or his designee with respect to Class Remedial Matters may be vacated or overridden in whole or in part by the Monitor. Neither the Sheriff nor the MCSO has any authority, absent further order of this Court, to countermand any directions or decision of the Monitor with respect to Class Remedial Matters by grievance, appeal, briefing board, directive, or otherwise.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

There were no CRM cases completed during this, or previous reporting periods, in which the Sheriff and/or his appointee exercised their authority to resolve CRMs, which we needed to vacate or override.

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

Phase 1: Not applicable

Phase 2: Not applicable

A total of 19 CRM cases have been closed since July 20, 2016. Three had sustained findings on a deputy who is deceased. Four resulted in sustained findings against current deputies. In two of these cases, the deputy was terminated as a result of conduct discovered by investigators during the investigation. In both of these cases, the conduct for which the employee was terminated involved a sustained truthfulness allegation. In one case, the sustained finding was for an inappropriate comment (used profanity) made by the deputy during a contact with a community member. While this conduct was inappropriate, the allegation was appropriately sustained, and the case was not related to any biased conduct. In the final sustained case, the misconduct involved the failure of a deputy to properly complete a report and the failure of his supervisor to identify that the report had not been properly completed. We reviewed and approved all of these disciplinary findings.

***Paragraph 284.** The Sheriff and the MCSO shall expeditiously implement the Monitor's directions, investigations, hearings, and disciplinary decisions. The Sheriff and the MCSO shall also provide any necessary facilities or resources without cost to the Monitor to facilitate the Monitor's directions and/or investigations.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

During this, and the previous reporting periods, a Monitoring Team member attended all weekly CRM meetings conducted in an appropriate location determined by MCSO. PSB also provided a password and access to the IAPro system to a Monitoring Team member so that we can complete independent case reviews when necessary.

PSB personnel continue to be professional and responsive to all input, questions, or concerns we have brought forward.

Paragraph 285. *Should the Monitor decide to deviate from the Policies set forth in this Order or from the standard application of the disciplinary matrix, the Monitor shall justify the decision in writing and place the written explanation in the affected employee's (or employees') file(s).*

Phase 1: Not applicable

Phase 2: Not applicable

As of the end of this reporting period, there have been a total of seven CRM cases with sustained findings. Three involved deputies who are now deceased and thus no disciplinary findings were made. Two cases resulted in the termination of employees for sustained truthfulness allegations. The remaining two sustained cases resulted in appropriate sanctions based on MCSO policy and the Discipline Matrices in effect at the time the cases were completed. No action by us has been necessary relative to this Paragraph.

Paragraph 286. *Should the Monitor believe that a matter should be criminally investigated, he shall follow the procedures set forth in ¶¶ 229–36 above. The Commander of the Professional Standards Bureau shall then either confidentially initiate a Professional Standards Bureau criminal investigation overseen by the Monitor or report the matter directly and confidentially to the appropriate prosecuting agency. To the extent that the matter may involve the Commander of the Professional Standards Bureau as a principal, the Monitor shall report the matter directly and confidentially to the appropriate prosecuting agency. The Monitor shall then coordinate the administrative investigation with the criminal investigation in the manner set forth in ¶¶ 229–36 above.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

During this reporting period, none of the CRM cases that we reviewed included both a criminal and an administrative investigation; nor did we find that these, or any other CRM case, should have included a criminal investigation. No action on our part relative to this Paragraph was necessary.

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

- a. *When minor discipline is imposed, a grievance may be filed with the Sheriff or his designee consistent with existing MCSO procedure. Nevertheless, the Sheriff or his designee shall immediately transmit the grievance to the Monitor who shall have authority to and shall decide the grievance. If, in resolving the grievance, the Monitor changes the disciplinary decision in any respect, he shall explain his decision in writing.*
- b. *disciplined MCSO employee maintains his or her right to appeal serious discipline to the Maricopa County Law Enforcement Merit System Council to the extent the employee has such a right. The Council may exercise its normal supervisory authority over discipline imposed by the Monitor.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

Of the total seven sustained CRM cases since the issuance of the Second Order, two have resulted in minor discipline. We concurred with MCSO's decision in these cases. In one case reviewed for this reporting period, the involved employee filed a grievance regarding the discipline he received. MCSO did not forward this grievance to the Monitor for adjudication as required. We have since discussed this requirement with PSB and Compliance personnel, and are confident that this was an inadvertent administrative processing error and the case was not properly identified as a CRM when the grievance was filed. MCSO has already made changes to the processing procedures for CRMs to ensure this does not occur again in the future. MCSO appropriately upheld the discipline in the initial grievance. Though it was not forwarded to our Team for adjudication, we concur with the grievance decision that was made. The employee did not appeal the grievance decision to the next level. In the remaining five sustained cases, the deputies were either deceased or were dismissed from employment. In the two cases where the employees were dismissed from the agency, neither filed an appeal. While we will continue to find MCSO in compliance with the requirements of this Paragraph, additional errors of this kind in the future could result in our withdrawal of Phase 2 compliance.

Paragraph 288. *The Monitor's authority over Class Remedial Matters will cease when both:*

- a. The final decision of the Professional Standards Bureau, the Division, or the Sheriff, or his designee, on Class Remedial Matters has concurred with the Monitor's independent decision on the same record at least 95% of the time for a period of three years.*
- b. The Court determines that for a period of three continuous years the MCSO has complied with the complaint intake procedures set forth in this Order, conducted appropriate internal affairs procedures, and adequately investigated and adjudicated all matters that come to its attention that should be investigated no matter how ascertained, has done so consistently, and has fairly applied its disciplinary policies and matrices with respect to all MCSO employees regardless of command level.*

Phase 1: Not applicable

Phase 2: In compliance

During this and the last reporting period, we and PSB concurred on the investigative outcome of each CRM investigation completed.

PSB, now responsible for the investigation of all CRM cases, has continued to appropriately identify cases that could be, or are, CRMs. PSB personnel are professional in our contacts with them and responsive to any concerns or questions we have brought forward; and they provide detailed information and updates in their weekly briefings. Their written reports are thoroughly prepared, and the reports have been consistent with the information provided during the weekly case briefings.

During the last reporting period, PSB's investigations of CRMs were thorough and complete. We found PSB not in compliance with this Paragraph due to the incidence of incomplete or missing documentation in the investigative reports. During this reporting period, the CRM investigations conducted by PSB were again thorough and complete. There were no instances where documentation was incomplete or missing from the investigative reports.

Paragraph 289. *To make the determination required by subpart (b), the Court extends the scope of the Monitor's authority to inquire and report on all MCSO internal affairs investigations and not those merely that are related to Class Remedial Matters.*

Phase 1: Not in compliance

- CP-2 (Code of Conduct), most recently amended on January 6, 2017.
- CP-3 (Workplace Professionalism), most recently amended on December 15, 2016.
- CP-5 (Truthfulness), most recently amended on December 21, 2016.
- CP-11 (Anti-Retaliation), most recently amended on December 1, 2016.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.

- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

During the last reporting period, we reviewed 134 internal investigations. Seven of these were criminal misconduct investigations, and 127 were administrative investigations. All seven criminal investigations were in compliance with the Second Order. Of the 127 administrative misconduct investigations that we reviewed, four were CRM cases. All but 25 of the total administrative investigations were both initiated and completed after the issuance of the Second Order. We found MCSO in compliance with all requirements of the Second Order in 67 (53%) of the 127 administrative misconduct cases reviewed. MCSO's compliance increased from the last reporting period by 32%.

During this reporting period, we reviewed a total of 101 internal investigations. All but nine of the total administrative investigations were both initiated and completed after the issuance of the Second Order. Six of these were criminal investigations, and 95 were administrative investigations. All six criminal investigations were in compliance with the Second Order. Of the 95 administrative investigations we reviewed, four were CRMs. All four of the CRM investigations were compliant with the Second Order. We found MCSO in compliance with all requirements of the Second Order in 40 (42%) of the 95 administrative conduct investigations reviewed. MCSO's compliance decreased from the last reporting period by 11%.

In the 55 (58%) cases that were not in full compliance, we noted some continuing concerns with failure to complete thorough investigations, unsupported findings, and inconsistent discipline. We did not, however, determine that the investigative quality of the cases submitted this reporting period decreased from the last reporting period. The increase in non-compliant cases for this reporting period was primarily a result of a greater number of investigations that did not include timely notification to complainants of the receipt of the complaint or inconsistent information in the case closure documents. We have discussed these concerns with PSB, who has advised us that it would place additional focus on the timely and proper completion of these documents. Consistent deficiencies from prior reporting periods continue to include: the failure to complete the investigation within the required timelines without any extension request or approval; failure to attempt in person interviews with complainants; or failure to audio and video tape all interviews unless there is an articulated reason this could not occur. PSB has been made aware of our concerns with the quality of investigations conducted by Detention personnel and has implemented a number of new policies to address the issues that have been identified. Those cases completed outside of PSB continue to have a low compliance rate.

While MCSO still falls short of the compliance requirements for the completion of internal investigations and their overall compliance decreased from the last reporting period, we note the efforts by PSB to address concerns we have brought to their attention, and the efforts they continue to make to assist District personnel in the completion of investigations.

We will discuss overall compliance and the concerns we have identified with PSB and District and Division personnel during our next site visit and provide them with specific case examples.

Effective with the revisions to IA and discipline policies on May 18, 2017, the PSB Commander may now determine that a received complaint can be classified as a “service complaint” if certain specified criteria exists. Service complaint documentation must then be completed and will be reviewed for compliance under this Paragraph.

PSB investigated and reported one service complaint during this reporting period. The complainant alleged that he had been improperly arrested. Research conducted by PSB determined that MCSO had not had contact with this subject on the date and time he alleged the incident occurred, but that he had been contacted and arrested by another law enforcement agency. The complainant was properly advised of this and provided contact information for the law enforcement agency involved in his arrest. PSB completed the required documentation, provided recordings of the contact with this subject, copies of the written communication they had with the complainant, and administratively closed this complaint.

Also, effective with the revisions to the IA and discipline policies, the PSB Commander is authorized to determine that an internal complaint of misconduct does not necessitate a formal investigation if certain criteria exist. The PSB Commander’s use of this discretion will also be reported in this Paragraph. No such incidents occurred during this reporting period.

Paragraph 290. *This requirement is necessitated by the Court’s Findings of Fact that show that the MCSO manipulates internal affairs investigations other than those that have a direct relation to the Plaintiff class. The Court will not return the final authority to the Sheriff to investigate matters pertaining to members of the Plaintiff class until it has assurance that the MCSO uniformly investigates misconduct and applies appropriate, uniform, and fair discipline at all levels of command, whether or not the alleged misconduct directly relates to members of the Plaintiff Class.*

Paragraph 291. *The Monitor shall report to the Court, on a quarterly basis, whether the MCSO has fairly, adequately, thoroughly, and expeditiously assessed, investigated, disciplined, and made grievance decisions in a manner consistent with this Order during that quarter. This report is to cover all internal affairs matters within the MCSO whether or not the matters are Class Remedial Matters. The report shall also apprise the Court whether the MCSO has yet appropriately investigated and acted upon the misconduct identified in the Court’s Findings of Fact, whether or not such matters constitute Class Remedial Matters.*

Phase 1: Not applicable

Phase 2: Not applicable

This report, including all commentary regarding MCSO’s compliance with investigative and disciplinary requirements, serves as our report to the Court on these matters. An overall summary of our compliance observations and findings is provided here.

During the last reporting period, we reviewed a total of 127 administrative misconduct investigations, including four that were classified as CRMs, and seven criminal misconduct investigations conducted by MCSO personnel. All were completed after the issuance of the Second Order.

We found 67 (53%) of the administrative misconduct investigations conducted in full compliance with both Orders, an improvement of 32% from reporting period prior where MCSO's compliance was only 21%. The investigations conducted by PSB had the highest compliance rate. In the 60 administrative cases that were not in full compliance, we continued to observe many of the same concerns as in the last two reporting periods. We found that all seven of the internal criminal misconduct investigations met the requirements of the Paragraphs related to criminal investigations.

During this reporting period, we reviewed a total of 95 administrative misconduct investigations, including four that were classified as CRMs, and an additional six criminal misconduct investigations. All were completed after the issuance of the Second Order.

We found all four CRM investigations in full compliance with the Second Order, as were the six criminal investigations conducted. Of the remaining 91 administrative investigations, 36 (40%) were in full compliance with the Second Order. While MCSO is now meeting many of the requirements of the Second Order on a regular basis, there continues to be areas of compliance where we consistently note concerns. These concerns have been identified throughout this report.

During the reporting period covering July-December 2016, PSB provided us with a memorandum describing PSB's efforts in meeting the requirements of this Paragraph related to the Court's Findings of Fact. MCSO had outsourced three cases to another law enforcement agency, and an additional four investigations were pending outsourcing to an outside investigator. These cases were outsourced due to the involvement of the Chief Deputy, or other conflicts of interest identified by MCSO, and include the investigations identified in Paragraph 300. MCSO has since processed a Request for Proposal and retained an outside investigator who meets the requirements of Paragraphs 167.iii. and 196 to conduct the investigations it has identified. One potential misconduct case identified in the Court's Findings of Fact was retained and investigated by PSB, as no identifiable conflict of interest appears to exist.

PSB has provided us with a document they received from the Independent Investigator assigned by the Court to investigate, or reinvestigate, some of the misconduct that is related to the Plaintiffs' class. In this document, the Independent Investigator clarified his intent to investigate the matters assigned to him by the Court, as well as the matters that the Court determined were within the discretion of the Independent Investigator. He further clarified that his investigations would include the initial misconduct alleged, as well as any misconduct that might have occurred during the process of review or issuance of discipline by MCSO personnel.

In January 2017, we requested that PSB provide us with a list that included the status of all cases that had been outsourced to any contract vendor, other law enforcement agency, or other person or entity, so that we could continue to monitor these investigations and ensure that the cases identified in the Findings of Fact are properly and thoroughly investigated. PSB has since provided this list.

During this reporting period, PSB advised us that of the three cases that were outsourced to another law enforcement agency, one is completed and closed, one is completed and under appeal by the employee, and one was closed as it duplicated an investigation being conducted by the Independent Investigator. There have been no cases completed and submitted for review that were investigated by the contract vendor. The Independent Investigator is continuing investigations identified by the Court and we are notified of the status of these cases on a regular basis.

Paragraph 292. *To make this assessment, the Monitor is to be given full access to all MCSO internal affairs investigations or matters that might have been the subject of an internal affairs investigation by the MCSO. In making and reporting his assessment, the Monitor shall take steps to comply with the rights of the principals under investigation in compliance with state law. While the Monitor can assess all internal affairs investigations conducted by the MCSO to evaluate their good faith compliance with this Order, the Monitor does not have authority to direct or participate in the investigations of or make any orders as to matters that do not qualify as Class Remedial Matters.*

Phase 1: Not applicable

Phase 2: In compliance

PSB personnel continue to inform us of ongoing criminal and administrative misconduct investigations. A Monitoring Team member attends each weekly CRM meeting, reviews the lists of new internal investigations, and has access to the PSB IAPro database. The only cases for which any oversight occurs during the investigative process are those that are determined to be CRMs. We review all other misconduct investigations once they are completed, reviewed, and approved by MCSO personnel.

Paragraph 293. *The Monitor shall append to the quarterly reports it currently produces to the Court its findings on the MCSO's overall internal affairs investigations. The parties, should they choose to do so, shall have the right to challenge the Monitor's assessment in the manner provided in the Court's previous Order. (Doc. 606 ¶¶ 128, 132.)*

Phase 1: Not applicable

Phase 2: Not applicable

Since we began reviewing internal investigations conducted by MCSO more than three years ago, we have reviewed hundreds of investigations into alleged misconduct by MCSO personnel. As noted in our previous reports and elsewhere in this report, we continue to note numerous concerns with internal investigations but have also noted many improvements. For this reporting period, though overall compliance decreased by 11% in administrative misconduct investigations, we found that this overall reduction was primarily a result of the untimely completion of documents and inconsistent notifications to complainants. Again, for this reporting period, the highest compliance (50%) was in those cases completed by sworn supervisors in PSB. The reduction in compliance (22%) from the last reporting period in these cases was primarily a result of documentation that was inaccurate or not completed in a timely manner. We did not observe an overall decrease in the investigative quality of these cases.

Investigations completed by Detention personnel were compliant with all of the requirements of the Order in 33% of the investigations. This is a reduction in compliance of 33% from the last reporting period. As with those cases investigated by sworn supervisors, the reduction in overall compliance resulted from a significant increase in documentation that was inaccurate or not completed in a timely manner. Some of the concerns from the last reporting period, including lack of thoroughness and failure to employ appropriate investigative techniques, also continue to exist, but the overall investigative quality of these investigations has shown some improvement from the last reporting period.

Of the cases investigated outside of PSB, 29% were compliant with all requirements of the Order, a reduction of 3% from the last reporting period. The slight decrease in compliance appears, again, related to additional errors in timely documentation and accuracy of paperwork. The cases investigated outside of PSB continue to be of concern, due to the continuing low overall rate of compliance. Most of these cases were investigated at the District level. In many of these cases, non-compliance is still a result of procedural errors, or failure to meet established timelines, but we also continue to observe ongoing concerns with the quality of the investigations. While we acknowledge that the investigative training has not yet occurred, we have met with District command personnel during the last four site visits to share our concerns with the investigations conducted by their personnel, and reviewed and approved by them. We have specifically addressed areas where continuous compliance issues have existed. Were it not for the corrections and additional investigation directed by PSB when they review these investigations, even fewer of these cases would be in compliance. In only one case this reporting period did a District Commander identify and address deficiencies in an investigation prior to it being submitted to PSB for review.

We have provided MCSO personnel who conduct internal investigations with extensive feedback regarding our concerns and recommendations for improvement, including numerous specific case examples during the last four reporting periods. We have also acknowledged those investigations that have been properly – and in some cases, exceptionally well – investigated and reported.

PSB personnel continue to be receptive to our input, and we have had many productive meetings and discussions regarding the investigations being conducted. We have continued to note that PSB addresses issues we bring forward during our site visit meetings. While overall compliance did not improve this reporting period, we continue to believe that PSB is making efforts to comply with the Orders of the Court.

While we remain hopeful that training will address many of the non-compliance areas we have noted in the completion of internal investigations, particularly in those investigations conducted at the District level, we must again note that training alone will not serve as the panacea that will address all of the problems we have observed with these investigations. We continue to stress that compliance is not the sole responsibility of any one individual or division – but dependent on all those who complete, review, or approve internal investigations.

It remains critical to the success of the agency that MCSO's leadership understands the challenges faced by PSB personnel and others charged with the responsibility to conduct internal investigations. Leadership personnel must provide appropriate oversight, necessary resources, and support for their personnel; and they must begin to hold those who conduct internal investigations accountable for the quality of their investigations, if MCSO is to achieve compliance with the requirements set forth by the Court.

B. Investigations to be Conducted by the Independent Investigator and the Independent Disciplinary Authority

Paragraph 294. *In its Findings of Fact, (Doc. 1677), the Court identified both: (1) internal affairs investigations already completed by the MCSO that were inadequate or insufficient; (see, e.g., Doc. 1677 at ¶ 903), and (2) misconduct or alleged misconduct that had never been investigated by MCSO that should be or should have been investigated. (Id. at ¶ 904.)*

Paragraph 295. *In light of MCSO's failure to appropriately investigate these matters, the Court appoints an Independent Investigator and an Independent Disciplinary Authority from the candidates set forth by the parties, and vests them with the authority to investigate and decide discipline in these matters.*

1. The Independent Investigator

Paragraph 298. *In assessing the existence of previously uncharged acts of misconduct that may be revealed by the Findings of Fact, the Independent Investigator does not have authority to investigate acts of misconduct that are not sufficiently related to the rights of the members of the Plaintiff class. While the Independent Investigator should identify such acts of misconduct and report those acts to the Commander of the Professional Standards Bureau, and to the Monitor for purposes of making the Monitor's assessment identified in ¶¶ 291–93 above, the Independent Investigator may not independently investigate those matters absent the authorization and the request of the Sheriff.*

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

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

Phase 1: Not applicable

Phase 2: Deferred

During our January 2017 site visit, the PSB Commander assured us that all acts of misconduct that we identified and discussed during our October 2016 site visit would be provided to a contracted independent investigator for investigative purposes.

Since that time, the PSB Commander has advised us that MCSO has contracted with a licensed private investigator. The contract investigator possesses the requisite qualifications and experience to conduct the investigations of misconduct outlined in Paragraph 300 (a.-c.), and the additional misconduct in the Findings of Fact that directly associates with Paragraph 300 (d.). PSB has not found it necessary to contract with any additional licensed private investigators.

During our April 2017 site visit, we met with PSB command staff and MCAO to confirm that all of the acts of misconduct that were identified in the Findings of Fact (FOF) are being investigated, either by the Court-appointed Independent Investigator or the private licensed contract investigator. Previous to this meeting, PSB command had provided us with a roster of related acts of misconduct that PSB intended to be assigned to the contract investigator. The roster of intended assignments did not include all of the acts of misconduct that we had discussed. The MCAO and PSB command explained that many of the acts of potential misconduct identified in the FOF were identified by the Court in Paragraph 301 as sufficiently related to the rights of members of the Plaintiffs' class. In Paragraph 301, the Court documented that because of this determination, investigations of the potential misconduct were justified if the Independent Investigator deemed that an investigation was warranted.

During our July 2017 site visit, we discussed the status of investigations being conducted in compliance with this Paragraph requirement. We also reviewed the status reports being provided by the Independent Investigator on those cases he is investigating. At the close of this reporting period, there were not been any internal investigations initiated by the contract investigator retained by MCSO, as he was still reviewing documents and information. It is our understanding from PSB that the contract investigator has initiated two investigations since the end of this reporting period.

The ability for us to confirm that all potential misconduct outlined in the FOF will be investigated by PSB, the PSB contract investigator, or the Independent Investigator remains pending until it can be determined what each of these entities will investigate. Once this information is established, we can determine if there is any additional misconduct identified in the FOF that still requires investigation. Finally, the PSB Commander and the MCAO advised us that the acts of misconduct involving (former) Sheriff Arpaio as identified in the FOF would not be investigated by any entity. They have explained that this is because there does not exist any statute that addresses how a Sheriff would be disciplined in the event of a sustained finding resulting from an administrative misconduct investigation.

***Paragraph 310.** The Monitor and the parties are directed to promptly comply with the Independent Investigator's requests for information. The Monitor and the Independent Investigator may communicate to coordinate their investigations. Nevertheless, each is independently responsible for their respective jurisdiction set forth in this Order, and each should make independent decisions within his own delegated responsibility.*

2. The Independent Disciplinary Authority

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

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

delay, in fact, will have resulted from MCSO's bad faith effort to avoid the appropriate imposition of discipline on MCSO employees to the detriment of the members of the Plaintiff class. As such, the Council's determination to vacate discipline because it was not timely imposed would only serve to compound the harms imposed by the Defendants and to deprive the members of the Plaintiff class of the remedies to which they are entitled due to the constitutional violations they have suffered at the hands of the Defendants. As is more fully explained above, such a determination by the Council would constitute an undue impediment to the remedy that the Plaintiff class would have received for the constitutional violations inflicted by the MCSO if the MCSO had complied with its original obligations to this Court. In this rare instance, therefore, the Council may not explicitly or implicitly exercise its discretion to reduce discipline on the basis that the matter was not timely investigated or asserted by the MCSO. If the Plaintiff class believes the Council has done so, it may seek the reversal of such reduction with this Court pursuant to this Order.

Phase 1: In compliance

- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.

Phase 2: In compliance

On May 8, 2017, an MCSO employee filed a grievance regarding a written reprimand he had received on April 5, 2017. The Compliance Division forwarded the grievance and associated documents to the Monitoring Team. A Deputy Monitor reviewed the materials and granted the grievance on June 8, 2017. That same day, MCSO notified the employee that some of the case findings were changed and the written reprimand had been rescinded.

Section 18: Concluding Remarks

We assess compliance with 89 Paragraphs of the First Order, and 123 Paragraphs of the Second Order, for a total of 212 Paragraphs. MCSO is in Phase 1 compliance with 66 of the First Order Paragraphs, or 88%; and 75 of the Second Order Paragraphs, or 72%. MCSO is in Phase 2, or operational compliance, with 59 of the First Order Paragraphs, or 67%; and 72 of the Second Order Paragraphs, or 63%. Combining the requirements of both Orders, MCSO is in Phase 1 compliance with 141 Paragraphs, or 79%; and in Phase 2 compliance with 131 Paragraphs, or 65%.

In past reports, we have periodically provided updates regarding our oversight responsibilities as they pertain to MCSO's Property Unit. In July 2015, the Court required us to review the Property Unit operations and pre-approve the destruction of any property. Since that time, we reviewed and approved all property destruction requests. Additionally, we recommended enhancements to the unit's operations and the policies that govern them. Based on the progress that MCSO has made, during this reporting period, the Court granted MCSO's request to proceed with the destruction of property pursuant to their policies without first seeking approval from the Monitor or the Court.

As noted in our last two reports, Sheriff Penzone and his management team have stated that strong community relations are a priority of his administration, and several of those added to his staff have solid backgrounds in this area. During our July site visit, MCSO hosted its first Order-required community meeting since the Sheriff took office. The Sheriff's Chief of Staff and the Executive Chief of the Compliance Bureau conducted the meeting in the Sheriff's absence.² The meeting was well attended, and the Parties, representatives from the Community Advisory Board, and I were afforded the opportunity to participate. Subsequent to the meeting, the Court issued an Order formally returning responsibilities for these meetings back to MCSO. The Order also modified the structure of the Community Advisory Board. We will comment further on these changes in our next report.

The Sheriff and his senior staff are to be commended for their personal involvement in a myriad of issues that are central to this entire undertaking. The Parties, as well, have been important contributors to the overall efforts of the agency. There has also emerged a greater mindfulness on the part of the community as to the successes, failings, and setbacks experienced by the Office. With these things in mind, it is our hope that the Sheriff and his team will continue to forge a relationship with all community stakeholders so together, the agency, and all it serves, can work to make the Maricopa County Sheriff's Office all it can be.

² We are aware that the Sheriff has participated in many community meetings and similar engagements since he took office, to his credit. These remarks pertain to the community meetings required by the First Order, as subsequently amended in Court Document 670.

As noted earlier in this report, while the quality of administrative investigations of alleged misconduct has steadily increased since the issuance of the Second Order, there remains much opportunity for improvement, particularly at the District level. In our site visit meetings and during our District visits, we often hear that lack of formal training is a contributing factor. That will soon be rectified with the delivery of the training required by Paragraph 178, but that will not be a panacea for this issue. In many cases, these investigations are not complex, and the rudimentary investigative skills that all experienced law enforcement supervisors should possess would suffice for completing them. Additionally, District captains have been receiving feedback on both the general and specific problems plaguing these investigations during our last several site visits, and they have had ample opportunity to take corrective actions, even in advance of formal training. Until everyone in the chain of command is held accountable for the quality of these investigations, we do not foresee notable gains in reaching compliance with the requirements of the Second Order.

As previously reported, MCSO produced a plan to address the organizational bias identified in the first and second annual traffic stop analyses. The first iteration of the plan was heavily focused on community outreach, and we recognize the value of these efforts as *one component* of the plan. However, we noted a lack of *inward* focus on the members of the Office and its internal systems, as did the Court during recent status conferences. The Court directed the Parties to collaborate on a revised version of the plan addressing all of the concerns raised; and in September, the Parties filed with the Court a stipulation containing an agreed-to version of the plan. We provided some observations regarding this version at a recent status conference, and offered to work with the Parties on further refinements to the plan should that be desired.

Appendix: Acronyms

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

ACLU	American Civil Liberties Union
ASU	Arizona State University
ATU	Anti-Trafficking Unit
BIO	Bureau of Internal Oversight
CAB	Community Advisory Board
CAD	Computer Aided Dispatch
CID	Court Implementation Division
CEU	Criminal Employment Unit
CRM	Class Remedial Matter
DOJ	Department of Justice
EIS	Early Identification System
EIU	Early Intervention Unit
EPA	Employee Performance Appraisal
FTO	Field Training Officer
IIU	Internal Investigations Unit
IR	Incident Report
LOS	Length of stop
LLS	Legal Liaison Section
MCAO	Maricopa County Attorney's Office
MCSO	Maricopa County Sheriff's Office
NOI	Notice of Investigation
PAL	Patrol Activity Log
PDH	Pre-Determination Hearing
PPMU	Posse Personnel Management Unit
PSB	Professional Standards Bureau
SID	Special Investigations Division
SMS	Skills Manager System

SPSS	Statistical Package for the Social Science
SRT	Special Response Team
TraCS	Traffic Stop Data Collection System
VSCF	Vehicle Stop Contact Form