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

Reporting Period – Fourth Quarter 2017

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Independent Monitor

May 7, 2018

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Section 1: Introduction

This is the fifteenth 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 fourth quarter of 2017.

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 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 October 1-December 31, 2017 – the end of the first year of Sheriff Penzone's administration. We continue to enjoy a close working relationship with the Sheriff and his upper command staff. After working with the Sheriff for one year now, we are satisfied that he has shown a commitment to implementing reforms in the Office and achieving compliance with the Orders' requirements. We are appreciative of his personal involvement in the process. We interact with the Court Implementation Division (CID) almost daily; and CID personnel continue to be responsive to our requests and facilitate the production of all compliance-related documents, although there have been some delays in production, further described in this report.

During this reporting period, MCSO achieved two noteworthy training milestones. Although the Early Identification System (EIS) has been operational to one degree or another for several years during its construction, MCSO had not yet delivered formal training on the entire system. That training commenced in the latter part of the last reporting period, and concluded during this reporting period.

The Second Order requires that all supervisors who conduct administrative investigations of potential misconduct receive 40 hours of training regarding how to conduct such investigations. The Monitoring Team, pursuant to a technical assistance request, aided MCSO in the development of this training, which also received substantial input from the Parties during the commenting phase of its development. That training also commenced toward the end of the last reporting period, and was completed prior to the close of this reporting period. Both training offerings were well received by their intended audiences.

As noted in our previous quarterly status reports, MCSO's Second Traffic Stop Annual Report (TSAR) was plagued by data quality issues, which required a pause to fix the underlying issues and develop quality control protocols to ensure that they would not be repeated. The rerun of the analysis was completed in July, and the findings of systemic bias on an organizational level did not change from the First TSAR and the initial iteration of the Second TSAR. The analysis also identified deputies who were considered outliers as it relates to traffic stop outcomes when compared to other deputies conducting traffic enforcement in the same geographical areas. Via technical assistance, we and the Parties worked with MCSO to develop processes to review the activities of these deputies and address the patterns of activity for which they were flagged. These processes were to culminate in focused discussions between these deputies and their supervisors, followed by the development of actions plans to mitigate any problematic issues identified.

MCSO submitted to the Court a proposed timeline to complete the various steps in the TSAR process, which was converted to an Order after we and the Parties provided input on MCSO's proposal. During our January site visit, MCSO personnel advised that they were significantly behind in some of the key steps identified in the timeline; and that MCSO would be seeking an extension to complete the process. During a status conference during our site visit, the Court imposed stringent oversight requirements for the duration of the Second TSAR process, including filing of weekly updates with the Court, and weekly status conferences attended by the Sheriff and key command staff involved in the process. The process will be completed during the next reporting period, and we will comment in greater detail on the results in our next quarterly status report.

As documented in our last report, MCSO and the Parties collaborated on a plan intended to address the issues of systemic bias identified in the First and Second TSARs (Plan to Promote Constitutional Policing); and in September 2017, they filed a stipulation agreeing to the contents of the Plan. The Court subsequently entered an Order approving the Plan. During our January site visit, we inquired as to the status of many of the commitments MCSO included in the Plan, and noted a general lack of follow-through and a dearth of documentation on those items for which MCSO had allegedly achieved some progress. We remind MCSO that the Plan was submitted to and approved by the Court, and we are obligated to monitor the Office's compliance with it; therefore, we will require sufficient documentation to make our determinations.

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] This is our fifth 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** remained the same, at 85%, though there were some shifts in compliance among the requirements. MCSO's overall Phase 1 compliance rate with the **Second Order** increased by two percentage points, from 75% to 77%.

[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 190 for Phase 1. The number of Paragraphs included in the denominator totals 213 for Phase 2. These denominators increased during this reporting period due to the restoration of the community engagement responsibilities to MCSO.

During this reporting period, MCSO's overall Phase 2 compliance rate with the **First Order** increased by three percentage points, from 62% to 65%. MCSO's overall Phase 2 compliance rate with the **Second Order** increased by six percentage points, from 66% to 72%.

Fifteenth Quarterly Status Report **First Order Summary**		
Compliance Status	**Phase 1**	**Phase 2**
Not Applicable	14	1
Deferred	0	12
Not in Compliance	13	23
In Compliance	73	64
Percent in Compliance	**85%**	**65%**

Fifteenth Quarterly Status Report **Second Order Summary**		
Compliance Status	**Phase 1**	**Phase 2**
Not Applicable	19	9
Deferred	1	6
Not in Compliance	23	26
In Compliance	80	82
Percent in Compliance	**77%**	**72%**

MCSO's Compliance with the Requirements of the **First Order** *(October 2, 2013)*										
	Report 1	**Report 2**	**Report 3**	**Report 4**	**Report 5**	**Report 6**	**Report 7**	**Report 8**	**Report 9**	**Report 10**
Phase 1	4%	10%	44%	40%	51%	57%	61%	60%	67%	60%
Phase 2	0%	0%	26%	25%	28%	37%	38%	39%	44%	49%

	Report 11	**Report 12**	**Report 13**	**Report 14**	**Report 15**
Phase 1	63%	79%	88%	85%	85%
Phase 2	50%	57%	67%	62%	65%

MCSO's Compliance with the Requirements of the **Second Order** *(July 20, 2016)*										
	Report 1	**Report 2**	**Report 3**	**Report 4**	**Report 5**	**Report 6**	**Report 7**	**Report 8**	**Report 9**	**Report 10**
Phase 1	N/A									1%
Phase 2	N/A									43%

	Report 11	**Report 12**	**Report 13**	**Report 14**	**Report 15**
Phase 1	10%	12%	72%	75%	77%
Phase 2	46%	60%	63%	66%	72%

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: one captain; one lieutenant; six sergeants; two deputies; one management assistant; and one administrative assistant. 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. During our January 2018 site visit, we discussed with CID some recent problems encountered with receiving the documents on time. CID personnel acknowledged the issues and committed to resolve them. 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. CID also addresses with immediacy any issues we encounter in the samples we request – be they technical issues, missing documents, or other problems. For example, we were facing problems downloading of voluminous documents, and raised this with CID. CID now sends us these documents on flash drives for review.

In addition, MCSO has established a robust Bureau of Internal Oversight (BIO), which routinely audits the work products of the Office, particularly in the areas that directly affect compliance with the requirements of the Orders. In many instances, BIO will review the same material we request in our samples, and BIO frequently notes – and addresses – the same deficiencies we identify in our reviews.

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 March 12, 2018, MCSO published its most recent quarterly report as required by this Paragraph. The report covered the fourth quarter of 2017 – that is, October 1-December 21, 2017. The report was divided into the Order sections for each of the First and Second Orders, which in turn were divided among the numbered Paragraphs. For each section, MCSO provided an overview of the agency's activities working toward compliance. For each Paragraph, MCSO offered comments on the compliance status; and, in some instances, provided responses to concerns raised in our previous quarterly status report, published on February 13, 2018.

MCSO's report, as is customary, included a table showing the compliance of the numbered Paragraphs, developed with the information provided in our previous quarterly status report. No assertion was made as to full and effective compliance with any of the Paragraphs.

The agency noted that this quarter marks the first full quarter since Sheriff Penzone has taken over the responsibilities for the community engagement-related Paragraphs that had been previously delegated to the Monitor. During the quarter, MCSO hosted four Community Academy classes, one of them in Spanish. MCSO also attended both a meeting with the Community Advisory Board (CAB) and a community meeting hosted by CAB. MCSO noted that CAB reached out for administrative support, requesting contact cards, which MCSO provided for CAB to distribute to the community. Moreover, MCSO hosted the five-member CAB at MCSO. As a result of their communications, MCSO is working on translating its organizational website into Spanish.

For this reporting period, MCSO emphasized the near 100% completion of the Misconduct Investigations Training, EIS Training and Supervisor Responsibilities: Effective Law Enforcement (SRELE) training. In addition, MCSO noted that on September 21, 2017, MCSO filed its Plan to Promote Constitutional Policing. The plan was agreed to by MCSO and the parties and adopted by the Court. We will evaluate the Office's adherence to its plan.

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, 2017, MCSO filed with the Court its 2017 Annual Compliance Report covering the period of July 1, 2016-June 30, 2017.

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 January 9, 2018.

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). According to MCSO, GJ-3 will be published following the Monitoring Team's approval of MCSO's Consent to Search Form. That form, in English and Spanish, has undergone several iterations.

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 October 24, 2017.
- 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), most recently amended on January 11, 2018.
- 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

MCSO has developed and published the policies required by Paragraph 21. MCSO distributed these policies and has trained agency personnel during the required Fourth and Fourteenth Amendment training, on an annual basis since 2014.

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 October 24, 2017.
- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), most recently amended on January 11, 2018.

Phase 2: In compliance

To verify compliance with this Paragraph, we randomly select the personnel to be inspected during the first month of the reporting period. We also inspect the Supervisory Notes on these same employees for the remaining two months of the reporting period. This allows us to review all notes on individual employees for a full three-month period. This methodology facilitates the review and evaluation of supervisors' interactions with employees, as it relates to the reinforcement of policies prohibiting racial and bias-based profiling. 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 41 employees. We reviewed Supervisory Notes for the selected employees to determine if they had received reinforcement of the policy reiterating that discriminatory policing is prohibited. We found that all 41 employees' notes included the appropriate documentation. For this reporting period, the compliance rate for sworn was 100%.

For the audit of Detention Supervisory Notes for this reporting period, we randomly selected 35 employees. We reviewed the Supervisory Notes submitted for each month of the quarter, and found that all 35 employees had an appropriate supervisory entry reiterating that discriminatory policing is unacceptable. For this reporting period, the compliance rate for Detention was 100%.

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 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 submitted two CAD and Alpha Paging inspection reports, pursuant to our request for verification of compliance with this Paragraph. BIO inspected 22,630 CAD/Alpha Paging messages for October 2017, and reported a 100% compliance rate (BI2017-0132). BIO inspected 23,643 CAD/Alpha Paging messages for November 2017, and reported a 100% compliance rate (BI2017-0131). BIO inspected 21,309 CAD/Alpha Paging messages for December 2017, and reported a compliance rate of 100% (BI2017-0140).

During this reporting period, MCSO submitted two email inspection reports, pursuant to our request for verification of compliance with this Paragraph. For October 2017, BIO Inspection Report BI2017-0126 states that there were a total of 11,277 emails, of which BIO reviewed 9,508. Generally, the number of emails reviewed is fewer 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 inspection found that 99.96% of the inspected emails were in compliance. BIO identified two emails that were in violation of GM-1 (Electronic Communications and Voice Mail), and requested two BIO Action Forms from the affected divisions. BIO inspected 8,942 of 9,930 emails for November 2017 (Inspection Report BI2017-0139), and reported a 100% compliance rate. For December 2017, BIO Inspection Report BI2017-0154 states that there were 6,265 emails, of which BIO reviewed 5,702. BIO reported a 99.98% compliance rate for December. One employee generated six emails that included content that was out of compliance with MCSO policy. One BIO Action Form was requested from the affected division.

During this reporting period, BIO conducted facility inspections of the Property and Evidence Facility, the Compliance Division, and the Training Division Facility. On October 17, 2017, BIO conducted an inspection of the Property and Evidence Facility. The inspection found five potential deficiencies, which BIO discussed in a follow-up meeting with the Administrative Manager. The report notes that the Property and Evidence Facility implemented several of the recommendations to address the deficiencies. The compliance rate recorded on the October BIO inspection report, of the Property and Evidence Facility, was 88%.

On November 21, 2017, BIO conducted an inspection of the Compliance Division. The Compliance Division coordinates the discipline process and provides policies for employees. The Division also responds to public records requests, subpoenas, document production requests, and preservation notices. The inspection resulted in a 100% compliance rating.

On December 20, 2017, BIO conducted an inspection of the Training Division Facility. The Training Division provides all sworn and Detention personnel with recruit training and mandatory re-training. The MCSO Shooting Range is located off-site and was not included in this inspection. Of the 27 items on the Facility Inspection Matrix, four were not applicable. The inspection resulted in an 85% compliance rating, due to vehicle inspections and safety meetings that were not recorded properly. The Property and Evidence portion of the inspection resulted in a 100% compliance rating. The overall rating for the Training Division Facility was reported at 94%.

The inspections of the listed facilities 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 violate this Paragraph. During our January site visit, we visited Districts 4 and 6, and found no signage, pictures, or other indication of County property used in violation of this Paragraph.

In our last quarterly status report, we noted that the BIO inspection reports for email and CAD/Alpha paging messages, for the last month of the quarter, were not completed in time for our assessment of compliance with this Paragraph. During this reporting period, there were timeliness issues related to inspection reports for the last month of the quarter, as well as for quarterly inspection reports. We have expressed our concerns to MCSO.

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: In compliance

- GI-7 (Processing of Bias-Free Tips), published August 23, 2017.

Phase 2: In compliance

MCSO created the Sheriff's Intelligence Leads and Operations (SILO) Unit in the first quarter of 2016. The SILO Unit became operational on September 11, 2017. GI-7 requires that any tips received by MCSO components be forwarded to the SILO Unit for recording and processing. The information is classified by the type of alleged criminal activity, or service requested, and forwarded to the appropriate unit for action and response. In some cases, residents email or call with requests for traffic enforcement, or for MCSO to address quality-of-life issues; these are considered calls for service rather than tips on criminal activity. If the information provided pertains to criminal activity in another jurisdiction, MCSO forwards the information to the appropriate law enforcement agency and documents it in the SILO database. Generally, if there is any bias noted in the information received, MCSO closes the tip and takes no action. We review all tips that MCSO closes due to bias.

We reviewed the documentation provided by MCSO in response to this Paragraph. Since the SILO Unit began operation on September 11, 2017, the SILO Unit has processed all information and tips received by MCSO. During this reporting period, the SILO Unit received approximately 681 tips, which were classified and recorded according to the type of alleged violation or service requested. Two tips received in October were closed due to bias in the information provided by the tipsters. We reviewed these two cases and concluded that MCSO handled the tips appropriately.

During our January site visit, we met the staff of the SILO Unit. MCSO informed us that SILO intended to extend the response time for tips assigned to other units. Previously, on any tips assigned for investigation, units had 14 days to investigate and provide a response to the SILO Unit. This period was extended to 30 days to allow responding units more time to address concerns. SILO will also conduct monthly audits to ensure that information is processed and acted upon in a timely manner. The audits will be submitted as part of the monthly document production for this Paragraph. During our January site visit, MCSO advised us that the SILO Operations Manual would be completed in approximately 60 days. GI-7 (Processing of Bias-Free Tips) covers the Phase 1 policy requirements of this Paragraph. The SILO Operations Manual will expound on the duties and responsibilities of the personnel assigned to SILO.

We conducted a random inspection of tips received to ensure compliance with GI-7 (Processing of Bias-Free Tips). During our inspection, we noted that the SILO Unit is properly tracking all tips received, as well as their disposition. Our reviews of the documentation provided, pursuant to the requirements of this Paragraph, have not discovered any evidence of bias in the processing of tips. In addition, we concluded from our reviews that MCSO is independently corroborating any information before it is acted upon, to ensure that there is an appropriate criminal predicate.

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), most recently amended on January 11, 2018.
- 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 October 24, 2017.
- EA-11 (Arrest Procedures), most recently amended on June 15, 2016.

Phase 2: In compliance

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 (VSCF), 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 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. This improvement has been buttressed by the introduction of data quality control procedures now being implemented and memorialized in the EIU Operations Manual. (This is further discussed in Paragraph 56, below.) 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 January 2018 site visit, we met with the commanding officers from Districts 1, 3, and 4, 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 second comprehensive analysis was initially completed by Arizona State University (ASU), and became final in March 2017. However, as is discussed in Paragraph 66 below, this report was subsequently revised because of serious data problems, which we have documented in our previous quarterly status reports. The report was reissued in July 2017 and posted by MCSO on its public website in October 2017. MCSO was scheduled to release its third annual report on February 1, 2018, but MCSO apprised us during our January 2018 site visit that this deadline would not be met. MCSO remains in compliance with this Subparagraph.

Paragraph 25.b. requires MCSO to provide deputies with guidance on effective traffic enforcement, including the prioritization of traffic enforcement resources to promote public safety. 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 this reporting period, the most common traffic stop violations are as follows: 55 stops for speed above the posted limit (52%); 18 stops for failing to obey official traffic control devices (17%); 12 stops for equipment violations (11%); 14 stops for other moving violations (13%); and six stops for failure to possess valid registrations or tags (6%).

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, we note the locations of the stops contained on the VSCF, the CAD printout, and the I/Viewer system to ensure that they are accurate. We have noted that there are several instances where the location of the stop contained on the VSCF and the location of the stop contained on the CAD printout are inconsistent. Reviewing supervisors are not identifying and addressing this issue. We recommend that reviewing supervisors closely review the VSCFs and CAD printouts and address such deficiencies. MCSO remains 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 January 2018 visits to Districts 1, 3, and 4 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 sample of 105 traffic stops, we noted two instances where the deputy contacted the passengers. There were 30 cases identified in the stops reviewed for Paragraph 25.g. in which the passengers were contacted. In addition, there were seven cases identified in the stops reviewed for Paragraph 54.k in which the passengers were contacted. In 14 cases, the contact with the 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 driver's license or for driving under the influence (DUI). In these cases, the passengers were contacted: to explain the arrest procedures; to explain the vehicle impound process; for the purpose of identifying a person with a valid driver's license; or for the purpose of providing a courtesy ride to the passenger. In three cases, the passengers contacted the deputy to inform them that they were the registered owners of the vehicles. In the remaining instances where MCSO made contact with passengers, the following occurred:

- In one case, the deputy stopped a Latino driver for speeding. The vehicle was occupied by a Latina passenger. The deputy engaged in general conversation with the passenger.
- In one case, the deputy stopped a Latino driver for speeding. The vehicle was occupied by three Latinos. The deputy investigated the driver for DUI, the results of which were inconclusive. The deputy contacted the Latino passenger who was seated in the rear of the vehicle to inquire about the vehicle's insurance. The deputy did not notate the reason why the rear seat passenger was contacted for the insurance information. We will follow up with MCSO regarding this issue.
- In one case, the deputy stopped a white male driver for an expired registration. The vehicle was occupied by two white male passengers. One of the passengers asked the deputy questions regarding the carrying of concealed weapons in the state of Arizona.
- In one case, the deputy stopped a white male driver for speeding. The passenger, a white female, asked the deputy questions regarding law enforcement issues.
- In one case, the deputy stopped a white male driver for operating a vehicle with one headlight. The vehicle was occupied by a white female passenger and a white male passenger. The deputy contacted the white female passenger, who was a juvenile, for the purpose of conducting an investigation of a minor in possession of alcohol. The Fire Department responded to the scene to evaluate the white female passenger after the deputy observed her vomiting and being unresponsive to his inquiries. The female passenger refused medical treatment and, due to her being a juvenile, the deputy cited her for being a minor in possession of alcohol.
- In one case, the deputy stopped a white female driver for no license plate light. The passenger, a white male, asked the deputy general questions about the traffic stop.

- In one case, the deputy stopped a Latino driver for speeding. After it was determined that his driver's license was suspended, the deputy contacted the Latino passenger to determine if he had a valid driver's license. The deputy considered releasing the vehicle to the passenger, but then decided to impound the vehicle.
- In one case, the deputy stopped a Latina driver for disregarding a traffic control device. The passenger, a Latino, initiated a general conversation with the deputy.
- In one case, the deputy stopped to assist a white female driver and a white female passenger, as the vehicle they were in was stopped in a left turn lane and the vehicle was not operational. The deputy obtained the name of the driver and determined that her driver's license was suspended. The deputy then contacted the passenger to inquire as to where they were traveling to and from. The deputy also questioned the passenger as to who was operating the vehicle prior to it becoming inoperable.
- In one case, the deputy stopped a Latino driver for speeding. The passenger, a Latino, engaged in general conversation with the deputy.
- In one case, the deputy stopped a white male driver for fail to maintain lane. The driver was arrested after attempting to flee on foot after he had performed field sobriety tests. The passengers, two white males, were contacted for the purpose of being interviewed as potential witnesses to a crime.
- In one case, the deputy stopped a juvenile white male driver for operating a vehicle with no lights. The passengers were contacted as part of a drug investigation after the deputy detected the odor of burnt marijuana. The deputy questioned the passengers – an adult white male, a juvenile white male, and a juvenile Asian Pacific Islander male – as he conducted the investigation. The adult white male was released, while the driver and juvenile passengers were detained for possession of drugs and possession of narcotic paraphernalia and questioned at a MCSO facility. The driver, who is a juvenile, was charged with being a minor in possession of tobacco, and DUI. The juveniles were later released to a parent or guardian.
- In one case, the deputy stopped a white female driver for operating a vehicle with a fictitious license plate. Further investigation revealed that the driver provided the deputy with a false name and that she was in possession of narcotic paraphernalia. The deputy questioned the passengers, two white males, in relation to the narcotic paraphernalia located in the vehicle, as well as to the identity of the driver. The passengers were not listed on the VSCF. They were listed on the Incident Report.

- In one case, the deputy stopped a Latino driver for operating with a loose load after he observed bales of hay falling onto roadway from the vehicle. Two Latino passengers occupied the vehicle. The deputy suspected that the bales of hay may have been stolen from a nearby farm due to the time of day (01:58 hours) and the way the bales were haphazardly stacked on the vehicle. The deputy questioned the passengers in relation to the possible theft investigation. The owner of the bales of hay was located. The owner recovered the property, but refused to prosecute the occupants of the vehicle for the theft of the property. The deputy notified the vehicle occupants that they would violate criminal trespass laws should they enter the owner's property in the future.
- In one case, the deputy stopped a Black male for driving with no headlights on. The passenger, a white female, contacted the deputy to inform him that her son is the registered owner of the vehicle.
- In one case, the deputy stopped a Latino driver for speeding. During the stop, the deputy located narcotic paraphernalia in the vehicle. After providing the driver with his *Miranda* rights and beginning to question him about the narcotic paraphernalia, the white female passenger contacted the deputy and stated that the narcotic paraphernalia was hers. The passenger was arrested for possession of narcotic paraphernalia.
- In one case, the deputy stopped a Latina driver for speeding. During the stop, the Latino passenger initiated contact with the deputy. The deputy conducted a further investigation after he detected the smell of marijuana emanating from the vehicle. A drug-detection canine was requested to the scene. During the deployment of the drug-detection canine, which alerted near the front passenger compartment, the passenger was detained. A warrant check revealed that the passenger was wanted on a warrant, and he was arrested on the warrant. A small amount of marijuana was located in the rear passenger compartment, which was seized and placed into evidence.
- In one case, the deputy stopped a Latino driver for fail to maintain lane. The driver was reportedly involved in a traffic crash on private property. The driver reportedly did not stop after causing damage to another vehicle. One of the passengers, a Latina, assisted the driver, whose primary language was Spanish, in communicating with the deputy. The deputy also contacted a Latino passenger to ask him whether he could drive the vehicle, which was towing a boat. The deputy also contacted three Latina passengers as he inquired about open alcoholic containers in the vehicle. The deputy had the driver conduct field sobriety tests, after which he was arrested for DUI. The driver was transported to a MCSO facility where he was processed for DUI.

- In one case, the deputy stopped a Black male driver for an improper turn. The deputy detected the odor of marijuana emanating from the vehicle. The VSCF indicates that the driver and the white male passenger were requested, and agreed to, a consent search of their persons. However, a review of the BWC video-recording reveals that the deputy actually conducted a pat-and-frisk of the driver and male passenger. Yet the deputy did not seek or obtain consent from the driver and passenger. The pat-and-search did not reveal any contraband. The deputy did not document the reasonable suspicion that the driver and passenger might be armed and dangerous, which is required for the conducting of a pat-and-frisk search. The deputy asked two additional passengers, a Latina and a Black female, questions about the smell of marijuana emanating from the vehicle. The deputy also directed the female passengers to exit the vehicle. The driver was arrested for DUI. During our January 2018 site visit, we discussed this case and reviewed the BWC video with MCSO.
- In three cases, the deputies provided stickers to children who were passengers in the vehicles that were stopped. In one case, the deputy stopped a white female driver for speeding. The vehicle was occupied by two white male passengers and a white female passenger.
- In one case, the deputy stopped a white male driver for speeding. The vehicle was occupied by two white female passengers.
- In one case, a deputy stopped an Asian/Pacific Islander female driver for using private property to avoid a traffic control device. The vehicle was occupied by an American Indian/Alaskan Native male.

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 lower than in past reporting periods in comparison to the ethnicity of the population in the County. (See Paragraph 54.e.) Seventeen (44%) of the 39 stops where passenger contacts occurred involved Latino drivers. A review of citizen complaints for this reporting period did not reveal any allegations 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 45 of the 105 stops occurred during nighttime hours. During our visits to Districts 1, 3, and 4, and Lake Patrol in January 2018, 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 generally, traffic stops 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. 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. MCSO utilizes a series of five questions on the VSCF to document circumstances that frequently require a stop to be prolonged. In our review of 105 traffic stops, we determined that MCSO documented four stops that were prolonged. In each of the stops, the responses provided in relation to the five questions provided an adequate explanation for the duration of the stop. The particulars of these stops are as follows:

- A white female driver was stopped for speeding. Her driver's license was suspended. The deputy had the vehicle towed and impounded. The driver's parent responded to pick up the driver. The driver was issued a citation.

- A white male driver, with a white male passenger, was stopped for speeding. The driver's license was suspended. The deputy had the vehicle towed and impounded. The driver was issued a citation.
- A Latino driver was stopped for driving with no headlights. The driver was arrested for outstanding warrants. The driver was issued a warning for the initial violation.
- An Asian Pacific Islander male driver was stopped for speeding. The deputy documented on the VSCF that there was a language barrier during the traffic stop – as well as technological issues with the scanner, which prolonged the stop. The driver was issued a warning.

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 automatically creates 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 all 105 traffic stops. MCSO is in compliance with this Subparagraph, with 100% compliance.

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. EA-11 (Arrest Procedures), most recently amended on June 15, 2016, provides a list of acceptable forms of identification if a valid driver's license cannot be produced. Only driver's licenses, with seven 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. Two of these exceptions involved Latino drivers. The seven cases are described in detail below:

- A white male driver was stopped for speeding. The driver produced an Arizona identification card. The vehicle was occupied by a white female. The driver was issued a citation and released.
- A Latino driver was stopped for speeding. The driver did not have any identification on his person. The driver was issued a citation and released.
- A white female driver was stopped for speeding. The driver did not have any identification on her person. The driver was issued a citation and released.
- A Black male driver was stopped for speeding. He produced an Arizona identification card. The vehicle was occupied by a Black male passenger. The deputy determined that the driver's license was suspended. The driver was issued a citation and released. The vehicle was a rental. The deputy allowed the licensed passenger to drive the vehicle.
- A white male driver was stopped for speeding. He produced an Arizona identification card. The driver was issued a warning and released.

- A white female driver was stopped for driving with no lights on. She did not have any identification on her person. The vehicle was occupied by a white male passenger. The driver was issued a warning and released.
- A Latino driver was stopped for speeding. He produced a Mexican Consular identification card. The vehicle was occupied by a Latino passenger. The driver was issued a citation 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.

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

- EA-11 (Arrest Procedures), most recently amended on June 15, 2016.
- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), most recently amended on January 11, 2018.

Phase 2: In compliance

MCSO did not report any immigration-related arrests or investigations during this reporting period. There were no arrests made for lack of identity documents, and no arrests or investigations for misconduct with weapons. MCSO reported three arrests in December that would fall under the reporting requirements of this Paragraph. The first case involved two subjects who committed a burglary and used the documents and credit cards belonging to the victim to commit theft. One of the two individuals was charged with identity theft. The other case also involved an identity theft, as well as fraud and possession of narcotics.

For October, November, and December, we received lists containing all incidents involving MCSO arrests and criminal citations. For each month, we requested a random sample of arrests and criminal citations. In total, we reviewed 64 incidents involving arrests and 87 incidents involving criminal citations. We also reviewed a random sample of 270 Incident Reports for this reporting period. We found no evidence indicating a violation of this Paragraph.

We carefully review field interviews and contacts with members of the community to assess compliance with Paragraph 26. These types of contacts, that do not involve traffic stops, are being documented in Non-Traffic Contact Forms. For this reporting period, we reviewed 74 NTCFs. Our reviews of the NTCFs for this reporting period did not reveal any issues of concern.

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. We have verified, through our document reviews and site compliance visits, that MCSO does not have a LEAR policy.

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 October 24, 2017.
- EA-11 (Arrest Procedures), most recently amended on June 15, 2016.
- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), most recently amended on January 11, 2018.

Phase 2: In compliance

During the fourth quarter of 2017, there were no 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. The reviews of documentation submitted for this reporting period indicate that MCSO has complied with the reporting requirements related to Paragraph 28. In our reviews of incidents involving contact with the public, including traffic stops, arrests, and investigative stops, we monitor deputies' actions to verify compliance with this Order. In addition to documentation provided in response to this Paragraph, our reviews of documentation provided for Paragraphs 24, 83, 90, 91, 93, and 94 have found no evidence to suggest a violation of this Paragraph.

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 January 9, 2018.

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 advised MCSO that we will generally not grant Phase 1 compliance for an Order requirement until 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 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) seven Order-related policies, including: CP-5 (Truthfulness); CP-8 (Preventing Racial and Other Bias-Based Profiling); CP-11 (Anti-Retaliation); GC-13 (Awards); GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices); GE-4 (Use, Assignment, and Operation of Vehicles); and GI-5 (Voiance Language Services).

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 and revised the language of General Orders.

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 – which Maricopa County refers to as "the HUB," for it is the "center" for learning. Training Division personnel have consistently noted that the HUB is more user-friendly and offers more features – including enrollment, online course completion, and testing – than E-Policy.

After several delays related to licensing and other technical issues, MCSO began its first phase of using the HUB in July 2017. We received updates on the system during our July and October site visits. Initially, MCSO intended to continue using E-Policy to distribute policies mandated by the Orders, and to distribute non-Court-mandated training via the HUB. However, during our January 2018 site visit, we learned that, MCSO would soon begin using the HUB for distributing Court-mandated policies, as well. Beginning in the next reporting period, we will begin reviewing MCSO's records in the HUB 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 October 24, 2017.
- CP-11 (Anti-Retaliation), most recently amended on October 24, 2017.
- 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 600 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 and District and Division Command personnel to provide them with information regarding the cases that we find to be deficient in structure, format, investigation, or reporting requirements. We also highlight those cases we find to be properly investigated and in full compliance with Order requirements. In 2016, PSB developed and implemented the use of an investigative checklist and specific format for the completion of internal investigations. MCSO has trained all supervisors who conduct investigations in the use of these documents. Since June 1, 2016, the use of these investigative protocol documents has been required for all administrative investigations.

The revised policies related to internal investigations and the discipline process were finalized and implemented on May 18, 2017. PSB personnel are now revising the investigative checklist and format to more clearly reflect the requirements for those investigations conducted outside of PSB and provide a more streamlined format. We have discussed these proposed changes with PSB. While we do not expect that these revisions will include any substantive changes, we will review them once they are completed to ensure that they continue to reflect the requirements for the completion of administrative misconduct investigations.

While we continue to observe improvement in those investigations reviewed for this Paragraph, 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 facts of the investigation.

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. Both their investigations – and the reviews they conduct of those cases investigated by District personnel – have continued to demonstrate overall improvement.

We have noted some improvement in those investigations conducted at the District level, but we continue to observe 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 continues to allow some District cases to be at, or near, full compliance when they are finalized. However, it also delays the timely completion of many of these investigations. PSB has assigned liaison personnel to each District to provide assistance while the investigations are underway. We have noted the positive effects of PSB's efforts to assist investigators in the Districts. However, as noted in our previous quarterly status reports, PSB is dedicating significant personnel hours to ensure that others in the organization are properly completing their job responsibilities, and many of the deficiencies that PSB personnel identify cannot be corrected after the fact.

During our District visits in October 2017, members of our Team spoke with sworn supervisors in Districts 2 and 3, and Lake Patrol about internal investigations. MCSO personnel informed us that the completion of administrative misconduct investigations was time-consuming, prevented supervisors from actively supervising their personnel in the field, and that some supervisors lacked training in how to conduct these investigations. We discussed the requirements for proper completion of administrative investigations and the ongoing issues we have noted in our reviews. While not all the supervisors contacted during these District visits had yet attended the 40-hour Misconduct Investigative Training, those that had advised us that it was both informative and useful in understanding the requirements for conducting misconduct investigations.

During our District visits in January 2018, members of our Team spoke with sworn supervisors in Districts 1, 2, 3, and 6, and Lake Patrol about internal investigations. In all cases, the supervisors we spoke with had attended the required 40-hour Misconduct Investigative Training. We received generally positive feedback regarding the quality of the training and the instructors. As has been the case during previous District visits, supervisors also spoke highly of their interactions with PSB and the assistance PSB has provided to District personnel. We again heard that the completion of internal investigations is time-consuming and prevents supervisors from spending time in the field overseeing their personnel. District supervisors continue to be most challenged by the requirements to complete investigations within the 60-day timeframe, arrange in-person interviews, and audio- and video-record interviews. In two of the Districts we visited, supervisors suggested that auto-populating fields in the investigative format would help ensure consistency and eliminate some of the administrative errors. While auto-populating some fields in the format might eliminate some administrative errors, it would not address the substantive issues we have found in our reviews or the completion of investigations within the required timeframes.

During our January site visit District discussions and in our meeting with District Command personnel, we heard comments that personnel needed improved notifications regarding the due dates for administrative investigations. We have verified with PSB personnel that they send reports to each District and Division on the 15th of each month identifying the due dates for internal investigations, and that this information is also available on the Blue Team Dashboard for each supervisor. PSB is providing the necessary information, and it should be the responsibility of the Districts and Divisions to properly track the completion of the internal investigations assigned to their personnel.

During the last reporting period, we conducted a review to determine how many investigations were completed by personnel in each District or Division outside of PSB, to assist us in assessing the workload that the supervisors we have contacted during our District visits have referenced. We found that of the total 16 investigations completed by District or Division personnel in the last reporting period, there was only one instance where an individual supervisor completed more than one administrative misconduct investigation. We also found that no District or Division investigated and completed more than four administrative investigations during this reporting period. In two Districts, no administrative investigations were completed; and two other Districts, each only completed one administrative investigation.

During this reporting period, we again reviewed the completion of administrative investigations in each District. Paragraph 32 submissions for this reporting period included 43 cases completed by District personnel, a significant increase from the 16 completed during the last reporting period. We noted that many of these investigations were initiated in 2016, and that their completion was delayed for numerous reasons – most notably, the continued returns and corrections that were required. With the exception of one, no District had more than six completed investigations for this reporting period, and there were no instances where any supervisor completed more than three investigations. While these numbers do not include any investigations that might be in process, the numbers of completed investigations for this reporting period, again, do not support the assertion that District personnel are spending extensive time conducting internal investigations.

During the last reporting period, we reviewed all 27 administrative internal affairs cases submitted for compliance with this Paragraph. Of the 11 investigated by PSB, 82% were in compliance with all requirements for the completion of administrative misconduct investigations. Of the 16 completed by District personnel, 37% were in compliance with all requirements.

During this reporting period, we reviewed all 58 administrative internal affairs cases submitted for compliance with this Paragraph. Sworn supervisors with the rank of sergeant or higher completed all the investigations conducted at the District level. There were 143 potential policy violations included in the 58 cases. Thirty-nine of the investigations resulted from external complainants, and 19 were internally generated. All but three of the investigations were both initiated and completed after July 20, 2016.

Of the 58 administrative cases we reviewed for this Paragraph, 29 resulted in sustained findings against one or more employee or volunteer. We concurred with all the sustained findings, and concurred with the final discipline imposed in 27 of the 29 cases. The discipline included: five suspensions; 12 written reprimands; and 11 coaching sessions. Five employees or volunteers 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 presumptive range of discipline. In all but two of the 58 cases, we concurred with these findings. In one case, we believe a finding of sustained was supported and should have been made. In the second case, while it is likely that the finding of unfounded would have ultimately been appropriate, the investigation was insufficient to support findings of any kind.

There were two cases we reviewed during this reporting period where we do not concur with the final disciplinary decision. In one of the cases, the PSB Commander appropriately identified the findings and the presumptive range of discipline. The Appointing Authority initially assessed a suspension for one of the involved principals, which we believe was appropriate and fell within the presumptive range of discipline. The Appointing Authority later reduced the discipline from a suspension to a written reprimand when the employee appealed. While the final discipline still fell within the presumptive range, we do not believe it was appropriate, given the number and type of policy violations that were sustained. In the second case, we disagreed with both the final findings and the discipline finding. We believe that the PSB Commander properly sustained the misconduct in this case. The Appointing Authority changed the findings to not sustained and cited policy and training issues. While we agree that there were training and policy issues, the misconduct still occurred, was inappropriate, and should have been sustained. We will discuss these cases with PSB and the Appointing Authority during our next site visit.

All 58 cases we reviewed for this Paragraph were completed on or after July 20, 2016. Forty-three of these investigations were conducted at the District level, 14 were conducted by PSB, and one was conducted by an outside law enforcement agency. Of the 14 investigations conducted by PSB, 12 were not completed within the 85-day timeframe. Three (25%) of these 12 investigations did not contain a request for, or an authorization of, an extension. Twenty-three of the investigations conducted at the District level were not completed within the required 60-day timeframe. Thirteen (57%) of these 23 investigations did not contain a request for, or an authorization 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.

All 14 administrative investigations submitted for compliance with this Paragraph and conducted by PSB were completed after July 20, 2016. We continue to find that PSB investigations are thorough and well-documented. Of the 14 cases PSB investigated for compliance with this Paragraph, we found that all (100%) complied with the investigative requirements for administrative misconduct investigations. Eleven (79%) complied with all investigative and documentation requirements. The only requirement that prevented MCSO from compliance was the failure to ensure that an investigation contained proper documentation of the need for an extension or was completed in a timely manner.

District personnel outside of PSB conducted 43 of the investigations MCSO submitted for review for this Paragraph. All were completed after July 20, 2016. We found 14 (33%) in compliance with all investigative and documentation requirements. We have some concerns with the remaining 29 of these investigations. In addition to the procedural and documentation issues, we identified issues with: leading questions; failure to conduct a rigorous investigation; failure to determine appropriate credibility; failure to audio- and video-record interviews without explanation; and failure to make reasonable attempts to conduct in-person interviews. We also identified numerous cases where the District Commanders failed to identify and correct investigative and procedural deficiencies prior to forwarding the cases to PSB. This failure to correct deficiencies at the District level prior to submittal to PSB continues to result in lengthy delays in the completion of investigations. Of the 43 investigations conducted at the District level, PSB returned 29 to the Districts for additional investigation or corrections. Some were returned multiple times. In the majority of these cases, we believe the deficiencies could, and should, have been identified prior to their submittal to PSB.

Our review of cases submitted for compliance with this Paragraph indicate a continuing effort by PSB staff to complete proper investigations, and assist District personnel in completing their internal investigations. PSB investigators are completing proper investigations in accordance with this Paragraph, and we are confident that they will continue to do so. However, we do not have the same level of confidence in those cases completed at the District level. The District cases continue to have numerous instances where investigations are not properly completed or require significant corrections after being submitted to PSB for review. As we have noted during several reporting periods, PSB can only provide so much assistance and guidance. Investigative and procedural deficiencies often cannot be corrected after the fact.

For numerous reporting periods, District supervisors have informed us that they lacked the training and understanding of the requirements for conducting proper administrative misconduct investigations. During this reporting period, MCSO delivered the 40-hour Misconduct Investigative Training to all supervisory personnel who conduct these investigations.

During our District visits in January 2018, supervisory personnel informed us that the training was effective in addressing the requirements for conducting proper investigations. As the training has been completed, we expect that we will note improvement in the completion and review of misconduct investigations by District personnel during the next reporting period, or find documentation that any failures to improve are being properly addressed by supervisory and command personnel.

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 October 24, 2017.
- 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.

MCSO had been in compliance with the requirements of this Paragraph for several reporting periods. During the last reporting period, we removed MCSO from Phase 2 compliance based on two consecutive quarters of non-compliance.

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

One case involved an allegation that a deputy made an inappropriate reference to a subject's ethnicity when inquiring about the ownership of a vehicle. The body-worn camera recording refuted this allegation. We concur with MCSO's finding that there was no indication of any bias, and that the alleged comment did not occur.

In the second case, a complainant alleged that deputies had made law enforcement decisions based on the age, and possibly the ethnicity, of the complainant during a call for service. The body-worn camera video-recording of this incident refuted the allegations of inappropriate actions or conduct. We agree with MCSO's assessment that this call was handled properly and that no bias occurred.

Both investigations completed for this reporting period are in full compliance with the requirements of the Orders related to internal investigations. We are returning MCSO to Phase 2 compliance.

We reviewed two 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 upon 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 January 9, 2018.

Phase 2: In compliance

MCSO conducts annual policy reviews in conformance with GA-1 (Development of Written Orders). This policy was most recently amended on January 9, 2018. Yearly reviews ensure consistency with constitutional policing, current law, professional standards, and any Court Order or Judgment. Each annual analysis is documented in writing by MCSO and approved by our Team. These policies continue to receive extensive review and coordination with other MCSO policies to ensure the inclusion of Order requirements and consistency with other policy updates and current best practices.

During this reporting period, MCSO completed annual reviews for 15 (28%) of the 52 required policies: CP-3 (Workplace Professionalism: Discrimination and Harassment); EA-2 (Patrol Vehicles); EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance); EB-2 (Traffic Stop Data Collection); EB-7 (Traffic Control and Services); ED-2 (Covert Operations); GA-1 (Development of Written Orders); GB-2 (Command Responsibility); GC-11 (Employee Probationary Periods); GC-13 (Awards); GC-16 (Employee Grievance Procedures); GC-17 (Employee Disciplinary Procedures); GI-1 (Radio and Enforcement Communications Procedures); GI-5 (Voiance Language Services); and GJ-33 (Significant Operations).

During this reporting period, MCSO requested the removal of DD-2 (Inmate Property Control) from annual reporting requirements. We approved this request.

During our January site visit, we discussed adding four policies to the current list. These include: EA-9 (Management of Special Events); ED-3 (Review of Cases Declined for Prosecution); GJ-2 (Critical Incident Investigations); and GJ-5 (Crime Scene Management). The recommended annual review will ensure consistency with the Orders, current law, and professional standards.

During this reporting period, MCSO merged EA-5 (Enforcement Communications) with GI-1 (Radio Enforcement Communications Procedures); and GJ-4 (Evidence Control) with GE-3 (Property Management and Evidence Collection). With these changes, the annual policy review list includes 48 policies.

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 verified 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.

MCSO reported that it disbanded the Anti-Trafficking Unit and formed a new unit, the Fugitive Apprehension Investigative Team (FAIT), in April 2017. The primary mission of FAIT is to arrest subjects with outstanding felony warrants. We 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 support that the ATU no longer exists, and that there are no specialized units in MCSO that enforce Immigration-Related Laws.

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 the 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 indicated 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 and the Plaintiffs noted 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 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

In late 2014, we reviewed all of the documentation submitted by MCSO regarding the significant operation conducted from October 24-27, 2014. This operation 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 MCSO 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 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

The Amendments to the Supplemental Permanent Injunction/Judgment Order (Document 2100) issued on August 3, 2017 returned the responsibility for compliance with this Paragraph to MCSO.

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 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.

Paragraph 39. *The MCSO shall hold a community outreach meeting no more than 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 community outreach meeting shall be advertised and conducted in English and Spanish.*

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

The Amendments to the Supplemental Permanent Injunction/Judgment Order (Document 2100) issued on August 3, 2017 returned the responsibility for compliance with this Paragraph to MCSO.

During this reporting period, MCSO again reported that MCSO did not conduct any significant operations that invoked the requirements of 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 (Significant Operations) 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, most recently amended on September 21, 2017.

Phase 2: In compliance

During this reporting period, MCSO did not identify any new instructors or Field Training Officers (FTOs) to teach Order-related training or submitted for PSB review.

In January, we conducted an Academy site visit. During this visit, we reviewed 100% of the instructor files related to the Annual Combined Training (ACT), Early Identification System (EIS), and Supervisory Responsibilities: Effective Law Enforcement (SRELE) Training programs. Each was uniformly established and indicated conformance with GG-1 requirements. Each also contained a PSB check for applicable instructors before their acceptance as an instructor for each identified class.

During the last reporting period, we had identified instructors for the ACT, EIS, SRELE, and Misconduct Investigative Training who had not attended the train-the-trainer session but had been used to deliver instruction. We followed up on this issue during our January site visit. Training Division personnel provided documentation indicating that these trainers had been required to view a class in its entirety before being allowed to assist or teach a lesson on their own. We agree with this methodology. Plaintiff-Intervenors have recommended that MCSO video-record train-the-trainer sessions for later viewing by instructors who are unable to attend. We believe this suggestion has merit; however, MCSO must determine its feasibility.

The Maricopa County Attorney's Office (MCAO) advised us that they have established internal criteria for the selection of attorneys who deliver the ACT curriculum. MCAO has implemented a requirement that each must have five years trial experience and teaching experience. A review of ACT instructor critiques indicates that deputies have an improved opinion of these instructors.

Overall, MCSO's selection process for instructors requires improvement. We agree with Community Advisory Board (CAB) members who have noted that there is a marked contrast among instructors. The manner in which MCSO assigns instructors does not offer the opportunity to assign the best or the most competent instructors. Instructors are selected based on their availability; and availability does not address the presence or lack of expertise, experience, or classroom presence. MCSO should require that the best instructors are selected and retained for all Order-related training classes. These selections should be based on several criteria, to include: the recommended train-the-trainer teach-back process; Training Division observations and documentation of instructors; and the instructors' content expertise, delivery confidence, and classroom management skills.

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, most recently amended on September 21, 2017.

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 Order-related class delivered during this reporting period.

The Annual Combined Training (ACT) was delivered 36 times during this reporting period. There were a total of 1,231 personnel (678 sworn, 20 reserves, 23 retired reserves, 510 Posse members) who received the training. Five Posse members failed the test and required remediation. Of these, four individuals were successful on their second attempt. One individual is required to retake the course. Based upon the December mandatory attendance list – less 64 Posse and six sworn personnel who had received the Fourth and Fourteenth Amendment Training previously but appear in the attendance roster – approximately 97% of the staff required to receive this training have done so.

During our January 2018 site visit, we discussed the process for handling Posse members' failures for this mandatory training. Enforcement Support receives a failure notice from the Training Division. The Posse member documents the failure in a memo to Enforcement Support. The commander of Enforcement Support places the member in an inactive status. Successful course completion is required to return to an active state.

During this reporting period, MCSO did not deliver Administrative Investigations (AI) Checklist Training.

During this reporting period, MCSO did not deliver Blue Team (BT) Training.

During this reporting period, MCSO did not deliver Body-Worn Camera Training (BWC).

During this reporting period, MCSO delivered the Detention, Arrests, and Immigration-Related Laws; Bias-Free Policing Training once in November to a total of 11 personnel (one sworn, nine Posse members, one civilian). One Posse member required test remediation.

During this reporting period, MCSO delivered the 2017 Early Identification System (EIS) Training 15 times. A total of 427 (65 sworn, 227 Detention, 135 civilians) personnel received this training during this reporting period. Five students required remedial testing. Three individuals will be required to retake the course.

During this reporting period, MCSO delivered Employee Performance Appraisal (EPA) Training three times to a total of 60 students (14 sworn, 32 Detention, 14 civilians). One individual failed remediation and will be required to retake the course.

During this reporting period, MCSO delivered the 2017 Supervisor Responsibilities: Effective Law Enforcement (SRELE) Training three times to a total of 66 sworn personnel. Only one student required remediation.

During this reporting period, MCSO delivered Surname Briefing, a supplement to the SRELE Training. The E-Policy platform was used to document attendance. Supervisors in the Districts provided the shift briefing to a total of 536 sworn personnel.

During this reporting period, MCSO did not deliver TraCS Training.

During a recent District visit, the captain informed us of an email message sent by the Chief of the Patrol Bureau to all District Captains. The email provided links to YouTube videos related to unconscious bias and an unconscious bias test. Both topics are contained within ACT and SRELE Training, which undergo extensive Monitoring Team and Parties' reviews. Yet the email message directed the commanders to show these videos to all of their personnel during roll-call briefings, and then to conduct discussions with their staff; and no instructional direction was provided. The message advised that this requirement reinforced MCSO's Plan to Promote Constitutional Policing, which the Training and Development Division is ultimately responsible for; however, the Training Division command was not consulted on the selection and use of these videos as Order-related training updates. By GG-1, the Training Division is responsible for this determination. While we commend the initiative, we remind MCSO command staff that Order-related training must be vetted in accord with the procedures outlined in Section IV of the First Order.

During our site visit, we further discussed ways to improve test development. Training Division personnel advised us that the newly employed analysts were now conducting test analysis per GG-1. They also were conducting analysis relating to test results and instructor deliveries. We encourage the continuance of these processes. This information will assist the Training Division in selecting the most qualified instructors to deliver classes. Per GG-1, the Court Order-related Training (CORT) Supervisor directs Training Division personnel to participate in quarterly ride-alongs with deputies of different tenure. The Training Division should standardize these procedures. During our next site visit, we will review of this documentation. We also recommend that MCSO enhance the manner in which it delivers train-the-trainer sessions – including adhering to the timeframes identified in the Training Division Operations Manual for providing advance material to potential instructors, and allowing instructors the opportunity to teach segments of the particular program in the train-the-trainer setting.

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, most recently amended on September 21, 2017.

Phase 2: In compliance

During this reporting period, we continued to observe inaccuracies in the posted Training Calendar. We discussed this recurring problem with MCSO during our January site visit. The Training Division Operations Manual assigns oversight responsibility to two individuals: The Administrative Staff Supervisor is responsible for the maintenance of the Master Training Calendar; and the CORT/E-Learning/E-Policy Technical Support Coordinator is assigned the weekly updating of the Master Training Calendar. Training Division command personnel are ultimately responsible for ensuring the accuracy of this management tool. – and the calendar's accuracy affects the overall management of the training function.

Each reporting period, we review and monitor Master Personnel Rosters to determine the number of personnel requiring Order-related training. As of the end of this reporting period, we concluded that 693 sworn members, 21 reserve members, 25 retired reserve members, and 615 Posse members required Order-related training. These categories vary by reporting period, as a result of the attrition in 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

All lesson plans under development or revision continue to receive an extensive review. The Training Division has improved lesson plan development and routinely incorporates the requirements of this Paragraph.

We continue to recommend improvements to MCSO's train-the-trainer programs. During our January site visit, we further discussed various ways to improve and standardize the delivery of train-the-trainers. The Training Division has expressed its intent to enhance these programs; but to date, we have not seen any details for the methodology. Modifications should be included in the next annual revision to GG-1 and the Training Division Operations Manual. Changes should include the requirement for instructors to participate in instructional sessions during the train-the-trainers, Training Division observations, and documentation of instructor presentations. Additional documented random observations should occur during class deliveries. These observations would assist Training Division analysts who conduct test analysis, in conjunction with specific instructor deliveries in an attempt to identify any relationships between particular instructors and missed test questions. These activities provide further support of adult-learning methods.

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 provides all new and revised lesson plans and supporting materials for review by our Team and the Parties. The established review protocol ensures continued compliance with this Paragraph.

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

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, most recently amended on September 21, 2017.

Phase 2: In compliance

As noted in other Paragraphs, the Monitoring Team and the Parties are provided the opportunity to comment on lesson plans and training support material for all training required by both Orders. This includes the initial offering of training and any annual retraining sessions. Where applicable, we, MCSO and the Parties ensure that the most recent developments in state and federal law are included in the training material.

During this reporting period, the Training Division continued to revise the TraCS and BWC lesson plans.

MCSO can reasonably expect that members of the Monitoring Team and the Parties will observe training sessions and provide appropriate feedback.

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

The Annual Combined Training (ACT) was delivered 36 times during this reporting period to a total of 1,231 personnel (678 sworn, 20 reserves, 23 retired reserves, 510 Posse members). These numbers represent 97% of the staff required to attend this training. The majority of test failures continue to be Posse members. Five Posse members failed the test and required remediation. Of these, four individuals were successful on their second attempt. One individual is required to retake the course. During our most recent site visit, we discussed the process for documenting Posse members' failures of mandatory training. Enforcement Support receives failure notices from the Training Division and provides this oversight. The Posse member is then required to submit a memo to Enforcement Support, and the member is considered inactive. Successful completion of the course must be achieved before a return to active status.

Bias-Free Policing was delivered once during November. A total of 11 personnel (one sworn, nine Posse members, one civilian) attended this training. Only one individual required remedial testing.

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 our October site visit, the Parties and we jointly conducted final reviews of two Learning Activities for the ACT. As a result of these discussions, clearer guidance for instructors was included. The 2017 ACT curriculum was approved during this 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 Annual Combined Training (ACT) was delivered 36 times during this reporting period to a total of 1,231 personnel (678 sworn, 20 reserves, 23 retired reserves, 510 Posse members). These numbers represent 97% of the staff required to attend this training. As reported in previous Paragraphs, the majority of test failures are from Posse members. Five Posse members failed the test and required remediation. Of these four individuals were successful on their second attempt. One individual is required to retake the course.

MCSO delivered training on Detentions, Arrests, and the Enforcement of Immigration-Related Laws once in November. A total of 11 (one sworn, nine Posse members, and one civilian) attended this training. Only one individual required remedial testing.

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

During our October 2017 site visit, we and the Parties jointly conducted final reviews of two Learning Activities of the ACT. As a result of these discussions, the Learning Activities now include clearer guidance for instructors.

The 2017 ACT curriculum was approved during this reporting period.

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 2017 SRELE Training was delivered three times in October. A total of 66 (sworn) personnel attended this class, with only one individual requiring remedial testing.

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

This was MCSO's first curriculum developed to assist supervisors to identify and address deficient behaviors, and respond to potentially biased policing, by employing corrective actions. The training emphasized the relationships among Blue Team Supervisory Notes, Employee Performance Appraisals (EPAs), Body-Worn Camera (BWC) recordings, and the accuracy of TraCS data. The Training Division should assess the behavioral impacts of the training by reviewing how supervisors apply these new skills in practice. During the next developmental phase for the SRELE curriculum, we anticipate that the Training Division will review Supervisory Notes, EPAs, and BWC recordings, per GG-1.

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

- CP-8 (Preventing Racial and other Bias-Based Policing), most recently amended on October 24, 2017.
- 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), most recently amended on January 11, 2018.
- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- 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 October 1-December 31, 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 17 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. In each of the 17 cases where there were multiple units or deputies on a stop, the deputy documented the name, badge, and serial number of the deputies and Posse members on the VSCF. In the 30 cases we reviewed for passenger contacts under Subparagraph 54.g., there was one case in which the serial number of an assisting deputy was not listed accurately. In the 30 cases we reviewed for searches of persons under Subparagraph 54.k., there was one case in which the name, serial number and unit number of an assisting deputy was not listed on the VSCF. In that case, the omission was discovered after reviewing the assisting deputy's Assisting Deputy and Body-Worn Camera log and body-worn camera video from the deputy's BWC in relation to the traffic stop.

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. This Paragraph requires that all deputies on the scene be identified with their names, and serial and unit numbers, on the appropriate forms. MCSO remains in compliance with this requirement.

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 56% of the cases. In a separate spreadsheet, MCSO provided GPS coordinates for all 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, the Bureau of Internal Oversight (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) – including a series of five questions (and responses) to document circumstances which frequently require a stop to be prolonged; 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 105 of 105 cases.

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 41 of the 105 traffic stops, the driver had one or more passengers in the vehicle (54 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. EB-2 (Traffic Stop Data Collection) requires deputies to collect data on all traffic stops using the 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 41 of the 105 stops from the traffic stop data sample, there was more than one occupant in the vehicle (54 total passengers). In one case, the deputy did not list the passenger on the VSCF. The passenger was a Black male. BIO identified the omission during its monthly inspection of traffic stop data and issued an Action Form, requiring that the VSCF be corrected. In our review of the 30 stops from the sample in relation to passenger contacts, Paragraph 54.k., there was one stop in which two passengers were omitted from the VSCF. We were able to identify the passengers as they were listed in the Incident Report. We will follow up with MCSO on this issue.

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 our sample of 30 that contained body-worn camera recordings, our review, as well as BIO's inspection of traffic stops, did not identify any instances of the vehicle occupants' race or ethnicity or gender being misclassified. Of the 75 traffic stops reviewed where body-worn camera recordings were not requested, there was one case in which three passengers were listed as "unknown-vision obstructed." We requested the BWC video for that case. The case involved a deputy and an assisting deputy. The driver, a white female, was stopped for disregarding a traffic control device. The deputy documented on the VSCF that due to vehicle's dark tinted windows, it did not allow a good view of the passengers. However, a review of the assisting deputy's BWC video revealed that when the assisting deputy approached, he illuminated the passenger compartments of the front seat and rear seat areas. Due to the angle of the BWC, we were unable to ascertain the race/ethnicity and gender of the occupants; however, the assisting deputy likely could have. During our January 2018 site visit, we discussed this case with MCSO.

Sixty-six, or 63%, of the 105 traffic stops involved white drivers. Twenty-five, or 24%, of the 105 stops involved Latino drivers. Ten, or 10%, of the 105 traffic stops involved Black drivers. Four, or 4%, of the 105 traffic stops involved Indian, Asian, or Asian Pacific Islander drivers. Fifty-three traffic stops, or 50%, resulted in citations. The breakdown of those motorists issued citations is as follows: 34 white drivers (64% of drivers who were issued citations); 12 Latino drivers (23% of drivers who were issued citations); six Black drivers (11% of drivers who were issued citations); and one Asian or Pacific Islander driver (less than 1% of drivers who were issued citations). Fifty-two, or 50%, of the 105 traffic stops we reviewed resulted in a written warning. The breakdown of those motorists issued warnings is as follows: 32 white drivers (62% of the total who were issued warnings); 13 Latino drivers (25% of the drivers who were issued warnings); four Black drivers (8% of the drivers who were issued warnings); and three Asian or Pacific Islander drivers (less than 1% of the drivers who were issued warnings). In the previous reporting period, 60% of the drivers who received warnings were white, 20% of the drivers who received warnings were Latino, 9% of the drivers who received warnings were Black, 4% of the drivers who received warnings were American Indian/Alaska Native drivers and 1% of the drivers who received warnings were Asian Pacific Islander drivers.

This Paragraph requires deputies to document the perceived race, ethnicity, and gender of any passengers whether contact is made with them or not. By way of our reviews as well as BIO's inspections, MCSO has learned of deputies' failure to properly document the race or ethnicity of passengers. 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.

For this reporting period, there were 159 total occupants (105 drivers and 54 passengers). During both the last and this reporting period, supervisors attended a Supervisor Responsibilities: Effective Law Enforcement (SRELE) Training that includes a video component, accompanied with a discussion, specific to traffic stops and properly classifying the ethnicity of drivers and persons with Latino surnames on the VSCFs. Upon completion of the SRELE Training, the supervisors were providing roll-call training on this topic for sworn personnel.

We have noted that MCSO has improved the accuracy of documenting the perceived race or ethnicity of drivers and passengers. During this reporting period, there were no cases in which deputies misidentified the race or ethnicity of drivers or passengers with Latino surnames. In our sample of 105 traffic stops, there was one case in which the race or ethnicity and the gender of the three passengers were listed as "unknown-vision obstructed." A review of the BWC video revealed that the assisting deputy approached the passenger side of the vehicle and illuminated the interior of the passenger compartments in rear seat and front seat, which provided a view of at least two of the passengers. However, the assisting deputy did not communicate the perceived race or ethnicity and gender of the passengers to the deputy preparing the VSCF. We discussed this case with MCSO during our January 2018 site visit.

During our January 2018 site visit, MCSO reported that BIO continues to develop a methodology and matrix for conducting inspections to identify drivers that may have been misidentified, which will be provided to the Monitoring Team during the next reporting period.

In the last reporting period, we deferred our compliance assessment pending the completion of the SRELE Training of supervisors and the Surname Briefing for deputies, as well as a noted improvement in the deputies' efforts to accurately document the race or ethnicity of the drivers and passengers. During this reporting period, except for the above-noted cases in which the deputies failed properly to document the passengers on the VSCF, MCSO's compliance rate with this requirement improved. For this reporting period, MCSO is in compliance with this requirement.

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 all of the 104 of the 105 traffic stops we reviewed included a check on the license plate. BIO, which conducts monthly inspections of the traffic stop data, also identified the one case where the check on the license plate was not conducted. BIO issued an Action Form in relation to the one case. There were 99 stops where the driver or passengers had a warrant check run. In six cases, there was no explanation provided as to why the deputies failed to perform a check on the drivers. During its monthly inspections of the traffic stop data, BIO identified four out of the six cases in which a warrant check was not run on the drivers. BIO issued Action Forms in those four cases; however, in the remaining two cases, BIO did not identify the omissions, and no Action Forms were issued. We will follow up with MCSO regarding the two additional cases.

MCSO's compliance rate is 100%, 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 10 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 that 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 – either by 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 four stops that were prolonged due to one of the five reasons listed on the VSCF. Two of the stops involved white drivers, one stop involved a Latino driver and one stop involved an Asian Pacific Islander driver. We reviewed the circumstances of each stop and found that reasonable justification existed for the additional time expended for all four of the stops.

Supervisors conducted timely reviews and discussions of 105 of the 105 VSCFs reviewed. Deputies accurately entered beginning and ending times of traffic stops in all of the cases that we reviewed. MCSO accurately entered the time citations and warnings were issued in all 105 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 inquires 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. During our January 2018 site visit, we discussed with MCSO whether any other method may be feasible to identify a larger population of searches of individuals. The end result of the discussion was that the current method appears to be the most appropriate method. The method currently utilized is to identify the population of all traffic stops in which searches of individuals were documented on the VSCF. Once that population is identified, a random sample of 10 traffic stops from each month (30 total for the reporting period) is identified and reviewed. In addition, we also review any cases in which the deputies performed searches of individuals in the sample of 105 traffic stops reviewed in relation to Paragraphs 25 and 54 and the sample of 30 traffic stops reviewed in relation to Subparagraphs 25.d. and 54.g. In total, we review 165 traffic stops each reporting period to identify stops where a deputy may have performed a search of an individual specific to the requirements of this Subparagraph. There were no cases that met this criteria in our sample of 105 traffic stops reviewed in relation to Paragraphs 25 and 54 and the sample of 30 traffic stops reviewed in relation to Subparagraphs 25.d. and 54.g.

In the sample of 30 traffic stops identified in relation to this Subparagraph, there were six cases that met the criteria specific to searches of individuals. In one case, a white male driver was stopped for speeding. The deputy indicated on the VSCF that he requested and was granted consent to conduct a pat-and-frisk search of the driver. However, the deputy's BWC was not operational, and the event was not captured on video. Yet the deputy did not complete a Consent to Search Form; therefore, we were unable to determine whether the deputy requested and obtained consent to conduct a pat-and-frisk search of the driver. In one case, a Latino driver was offered a courtesy ride due to his vehicle being towed and impounded. The deputy asked for and obtained consent from the driver to conduct a pat-and-frisk search. In one case, a white female was stopped for disregarding a traffic control device. The deputy documented on the VSCF that a consent to search the driver was requested and granted. A review of the video revealed that the driver was not searched. BIO identified this issue and referred the matter to PSB. (Other various issues were also identified.) In one case, a Latino driver was stopped for driving with an expired registration. The deputy requested consent to search the driver. The driver refused to consent to a search. The driver was searched incident to arrest. In one case, the deputy indicates on the VSCF that he obtained consent from the Black male driver and white male passenger to search their persons. However, a review of the BWC video reveals that the deputy actually conducted a pat-and-frisk of the driver and passenger. However, the deputy did not seek, nor obtain, consent from the driver and passenger. The pat-and-frisk did not reveal any contraband. The deputy did not document the reasonable suspicion that the driver and passenger may be armed and dangerous, which is required for the conducting of a pat-and-frisk search. During our January 2018 site visit, we discussed this case and reviewed the BWC video with MCSO. In one case, a white male was stopped for speeding. The deputy documented on the VSCF that a "Terry frisk" was conducted on the driver. In our review of the above-listed cases, we were able to determine that MCSO properly documented the requirements of this Subparagraph in four of the six cases. The remaining 24 cases were not specific to the requirements of this Subparagraph, as they involved searches of individuals incident to arrest.

MCSO has indicated that it does not require its deputies to use Consent to Search Forms as the primary means for documenting consent searches. MCSO requires that deputies document requests to conduct consent searches by way of video-recording the event via the BWCs. In the event the BWC is not operational, MCSO policy requires deputies to document requests to conduct consent searches on the Consent to Search Form. MCSO reports that deputies have electronic access to the Consent to Search Forms. We continue to 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.

During our January 2018 site visit, we discussed with MCSO the issue of deputies not accurately documenting all consents to search persons and pat-and-frisk searches of persons. MCSO informed us that improved supervisory reviews to ensure that the proper entries are made on the VSCF as well as training will address the issue. We also discussed with MCSO whether another method may exist for identifying an adequate sample of searches of persons specific to this Subparagraph. MCSO's response was that the current method is appropriate and a larger sample may result once deputies properly document the searches of persons. We recommend that MCSO implement training to ensure that deputies properly document consent searches of persons, probable-cause searches of persons, and pat-and-frisk searches of persons. Reviewing supervisors should be attentive to the deficiencies identified in our reviews. MCSO's compliance rate with this Subparagraph is 67%.

Paragraph 54.l. requires MCSO to document whether any contraband or evidence was seized from any individual, and the nature of the contraband or evidence. Out of a total sample of 165 stops reviewed for the reporting period, which includes 105 stops for Paragraph 25; 30 stops for Subparagraph 54.k.; and 30 stops for Subparagraphs 25.d and 54.g., there were eight cases in which MCSO deputies documented the seizure of contraband or evidence on the VCSFs.

During our review of the collected traffic stop data (our sample of 105) during this reporting period, we noted one case where the deputy seized a license plate and place it into evidence. The case involved a white male driver who was stopped for speeding. The deputy seized the vehicle's license plate and placed it into evidence. In one case, the deputy made a traffic stop for an improper light on the license plate; and during the stop, arrested the driver for possession of narcotics. The deputy placed the narcotics into evidence. The case involved a white female driver.

In the 30 cases we reviewed for searches of individuals under Subparagraph 54.k., there were seven cases involving drivers arrested for possession of narcotics and/or narcotics paraphernalia in which evidence was seized from the drivers. In one of those cases, the deputy also seized a stolen firearm and placed the item into evidence. There were two cases in which the driver's licenses were seized by deputies and placed into evidence. In one of those cases, the deputy did not document the seizure on the VSCF. There were seven cases in which the license plates were seized by deputies and placed into evidence. In the 30 cases we reviewed for passenger contacts under Subparagraph 54.g., there were five cases in which the driver's licenses were seized by deputies and placed into evidence. In one of those cases, marijuana and narcotic paraphernalia was seized and placed into evidence. 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

- EA-5 (Enforcement Communications), most recently amended on December 8, 2016.
- 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 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 1, 3, and 4 and Lake Patrol during our January 2018 site visit; and found 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 October-December 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; they are identified in other areas of 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. During our January 2018 site visit, MCSO informed us that it continues to incorporate revisions to the operations manual. MCSO noted that some sections of the operations manual could not be finalized, as they require finalizing methodologies related to monthly analyses of traffic stop data in accordance with the requirements of Paragraph 67 below. We recommended that MCSO submit completed sections of the operations manual for review and approval to enable Phase 1 compliance with those Paragraphs covered by those sections of the operations manual.

The operations manual will include a description of the quality assurance process related to traffic stop data, as prescribed in Paragraphs 54 and 64-67 below. We worked with MCSO over the last calendar year to develop protocols for quality assurance that MCSO has now implemented. During our January 2018 site visit, MCSO confirmed that it is incorporating details about that process into the operations manual for our final review and approval.

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 January 2018 site visit, we inspected the written (hardcopy) files and verified that all records were locked and secure, and that logs were properly maintained. Only authorized personnel had access to these 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 October 1-December 31, 2017, and found them to be satisfactory. MCSO conducts audits of the 105 traffic stop samples that 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.

During our January 2018 site visit, we verified that MCSO is incorporating protocols for quality assurance to include in the next draft of the EIU Operations Manual. Until the EIU Operations Manual is completed and approved, MCSO will not achieve Phase 1 compliance with this Paragraph. To achieve Phase 2 compliance with this Paragraph, MCSO must demonstrate ongoing use of procedures for ensuring traffic stop data quality assurance.

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), most recently amended on January 11, 2018.
- 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 should 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 all 105 cases we reviewed. There were four cases in which the signature of the driver was not obtained on the citation or warning and there was no explanation for the omission. In two of those cases, BIO identified the issues during its inspections of traffic stop data and issued Action Forms. In one case, a white male driver was stopped for disregarding a traffic control device. The driver was issued a citation and released. The signature field was blank. In one case, a white male driver was stopped for speeding. The driver was issued a warning and released. The signature field was blank. In one case, a vehicle operated by white male driver with a white female passenger was stopped for speeding. The driver was issued a citation and released. The signature field was blank. In one case, a vehicle operated by white male driver with a white female passenger was stopped for disregarding a traffic control device. The driver was issued a warning and released. The signature field was blank.

In our review of passenger contacts, Subparagraph 54.g., and searches of individuals, Subparagraph 54.k., and passenger contacts, all of the citations and warnings had a signature, with the exception of 10 cases in which the drivers were arrested and held in custody. We identified three cases in which the stops did not result in the issuance of a citation or warning. In one case, the driver was determined to have experienced a medical issue. In one case, the driver was not stopped for a traffic violation. The driver was stopped after deputies observed him driving and they were aware that he was wanted on a warrant. In one case, the driver was stopped for operating a vehicle with a fictitious license plate. Further investigation revealed that the driver provided the deputy with a false name, and that she was in possession of narcotic paraphernalia. The deputy did not issue a citation or warning in this case. Excluding the 10 cases in which there was an arrest of the driver and a signature was not obtained, and the three cases in which a citation or warning was not issued (of the 165 cases reviewed), the compliance rate is 97%. 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 requested from MCSO 30 body-worn camera recordings for our review. In one case, the deputy documented on his VSCF that the BWC did not activate although he thought he had activated the equipment. The deputy's supervisor documented on the VSCF that the deputy notified him of the issue. In one case, the BWC was not activated until after the stop was initiated and the deputy had contacted the driver. The deputy documented on the VSCF that the BWC did not activate properly. 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 98%.

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 January 9, 2018.
- 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.

MCSO's Chief Information Officer advised during our January 2018 site visit that MCSO had no breaches 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 January 2018 site visit, MCSO's Chief Information Officer advised us that a standard operating procedure continues to be developed to standardize a method for PSB to submit requests to the Technology Management Bureau specific to any investigations that involve unauthorized access to any databases.

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), most recently amended on January 11, 2018.

- 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 inspections 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. 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 January 2018 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 1, 3, and 4 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. We have documented MCSO's transition from in-car to body-worn cameras in our previous quarterly status 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 MCSO has issued body-worn cameras to all Patrol deputies. 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 January 2018 site visit, we met with Districts 1, 3, and 4 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 MCSO continues to experience minor issues with cords breaking and batteries not lasting for deputies' entire shifts. There were also reports of incidents wherein deputies believed that the BWCs were properly activated, but they did not and the traffic stops were not recorded.

MCSO pilot-tested a newer BWC version from the same vendor during the summer of 2017 at Lake Patrol and District 1. MCSO reported that the feedback on the newer system was generally positive. The deputies wore the BWCs on their upper chest area, as opposed to the current wearing of the device on the head area with the use of eyewear or headgear. MCSO also reported that there were some deputies who reported experiencing discomfort and headaches from wearing the BWC in the current manner. In some instances, deputies had obtained notes from their personal physicians requesting that the deputies be exempted from wearing the BWC on their head areas.

MCSO is currently procuring a new body-worn camera system for all of its deputies. The new BWC will resolve the current issues of cords breaking and becoming disconnected, as there is no cord. MCSO also anticipates that the issues related to battery life will be remedied with the new BWC. During this reporting period, we identified several instances in which the audio-recordings from the BWCs experienced intermittent periods of distortion. This issue may be resolved with the implementation of the new BWC. During our October 2017 site visit, we reviewed videos from the pilot-test, and found that the BWC captures a wider view, and that the image is sharper than what is being recorded by the current system. During our January 2018 site visit, MCSO communicated to the Monitoring Team that funding has been approved for the new BWC system and equipment; however, MCSO has not yet established a timeline for procuring and implementing the new system. MCSO reported that a lesson plan and revised policy have been prepared in relation to the new BWC system and equipment.

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, now known as Axon). 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-seven 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, the deputy documented on his VSCF that the BWC did not activate, although he thought he had activated the equipment. The deputy's supervisor documented on the VSCF that the deputy notified him of the issue. In one case, the BWC was not activated until after the stop was initiated and the deputy had contacted the driver. The deputy documented on the VSCF that the BWC did not activate properly. In one case, two deputies conducted a traffic stop. The BWC of the assisting deputy did not remain activated for the duration of the stop. The other deputy failed to properly position the BWC, which did not allow a proper view of the driver. It was also noted that the same deputy again failed to properly position his BWC on a different date, which did not allow a proper view of the driver. This issue was identified in our review of body-worn camera recordings for Subparagraph 54.k.

During our January 2018 site visit, we reviewed the body-worn camera recordings for these two cases with MCSO. We also noted that in our sample of 30 body-worn camera recordings for Subparagraph 54.k., 28 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, the deputy noted on the VSCF that the BWC did not activate – possibly due to a battery issue. In that case, the BWC equipment of the deputies who assisted during the stop captured portions of the contact. In one case, the body-worn camera recordings provided did not include the initiation of the traffic stop and a portion of the stop, which included an inventory search of a vehicle. In our review of the sample of 30 body-worn camera recordings for Subparagraph 54.b., 27 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 two cases there was no video-recording from the deputies that conducted the traffic stops. In both of those cases, the deputies did not indicate that there were any technological issues with their BWC equipment. In one case, the deputy did not activate the BWC upon the decision to stop. In that case, the body-worn camera recording provided reveals that the vehicle was already stopped at the time of the activation of the BWC. The compliance rate for the sample of 90 cases is 91%.

Our reviews of the body-worn camera recordings reveal many instances of deputies exhibiting positive, model behavior; as well of instances of deputies making errors, or exhibiting less than model behavior – all of which would be useful for training purposes. MCSO policy directs its employees to forward any such body-worn camera recordings that may be useful for training purposes to the Training Division. During our January 2018 District visits, we asked the captains whether any body-worn camera recordings had been identified and forwarded to the Training Division for training purposes. The response was that none had, although those types of videos have been identified. We encourage MCSO to identify body-worn camera recordings that would be useful for training purposes and incorporate those into MCSO's training programs. 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.

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 January 2018 site visit, we inspected the traffic stop written data files of Districts 1, 3, and 4 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), most recently amended on January 11, 2018.

- 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 at the heart of the Order, as they are intended to look for evidence of racial profiling or other bias-based policing.

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

MCSO designated the Early Intervention Unit (EIU) 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 previous quarterly status reports, MCSO discovered serious problems with its traffic stop data, which ultimately required a reanalysis of the second annual evaluation. ASU, MCSO's consultant responsible for the annual and other periodic evaluations, completed the reanalysis of the second annual evaluation, which was reissued in July 2017 and posted by MCSO on its public website in October 2017.

The data problem affecting the annual evaluations of traffic stops also had an impact upon the quarterly report. MCSO produced its first quarterly report in March 2017, as required by this Paragraph, but subsequently withdrew it for reanalysis. During our October 2017 site visit, we discussed potential topics that might be studied by MCSO using the quarterly analysis process. Also during that site visit, we noted that successful candidate topics would inform the methodologies used for the monthly or annual analyses – or contributed to improvements in traffic stop data. At the conclusion of our October 2018 site visit, we requested that MCSO provide us with a list of topics that MCSO would propose, so that we could collaboratively finalize the list of initial quarterly studies. MCSO provided a list of four topics in November 2017.

On December 18, 2017, we held a conference call with MCSO and its contractor (ASU) to review the proposed topics. Based on the discussion and MCSO's tentative agreement with the list of potential topics, we sought to finalize the topic list during our January 2018 site visit. However, during our January 2018 site visit, MCSO informed us that it wanted to revisit the list, and committed to developing a new list within two weeks of the conclusion of our January 2018 site visit. However, MCSO did not meet that commitment.

We note that Paragraph 65 contemplates quarterly analyses of traffic stop data, but it does not specify exactly what such analyses might entail. During our January 2018 site visit, we informed MCSO that, once a list eventually becomes finalized, we would be amenable to changes to the list – but with the understanding that MCSO would not make any changes to it without first seeking our approval.

MCSO resumed monthly analyses of traffic stop data in May 2017. Monthly analyses had been suspended since May 2016 because of our determination that the process used up to then was seriously flawed. MCSO implemented a new process that was statistically based and not subject to the arbitrary, unscientific method previously employed by MCSO. We note that MCSO's resumption in May 2017 of monthly analyses was a significant milestone. During our July 2017 site visit, we expressed concerns about the number of potential alerts the monthly analysis generated – a concern that MCSO also shared. We suspended the process during our July site visit to allow us and EIU time to consider possible refinements to the existing methodology that would result in fewer but more significant alerts for supervisory review. The resumption of the process was further delayed because of the need for technical assistance related to selecting alerts identified in the second annual comprehensive evaluation of traffic stop data. During our October 2017 site visit, we discussed options to refine the monthly analysis. MCSO committed to testing its options and providing its analysis to us prior to our January 2018 site visit. MCSO failed to complete its analysis, stating that staff were overcommitted; though MCSO provided a demonstration of a partial but promising analysis involving one of the options during our site visit. At the conclusion of our January site visit, we requested new target dates from MCSO for the completion of its analysis.

During our January 2018 site visit, BIO apprised us of staff changes within the BIO, the unit responsible for implementing the requirements of this Paragraph. We expect that MCSO has adequate documentation about processes required for traffic stop analyses to ensure a smooth transition. We remind MCSO that our compliance determinations may be changed if MCSO's work to date is interrupted or reversed.

MCSO will achieve compliance with this Paragraph when the periodic analyses involve the consistent use of a statistical methodology designed to identify patterns of deputy behavior at odds with their peers, and data that accurately represents deputy traffic stop behavior over time.

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. However, as discussed in Paragraph 65, the second annual comprehensive evaluation and the first quarterly report had to be withdrawn due to data problems. The revised second annual evaluation is dated July 28, 2017 and was posted on MCSO's website in October 2017. Our review of the revised second annual evaluation found that there were no significant differences in findings. The revised second annual evaluation confirmed the earlier report's main finding that racially biased policing within MCSO appears to be both a deputy and organizational level problem. MCSO committed to provide its third annual comprehensive evaluation on February 1, 2018, but informed us during our January 2018 site visit that it will seek relief from that deadline.

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), most recently amended on January 11, 2018.
- 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: Deferred

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. 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. However, we suspended this process again during our July 2017 site visit due to address problems with the methodology that are described below.

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. 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). MCSO reported in its May 16, 2017 memorandum that Benchmark 4 became operational on March 1, 2017. 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 became operational at the organization and beat levels as of March 10, 2017. The second benchmark (Benchmark 6) pertains to seizures of contraband: MCSO is required to identify low rates of seizures of contraband following a search or investigation. The third benchmark in Paragraph 67.c. (Benchmark 7) is similar to Benchmark 6, but it pertains to arrests following a search or investigation. According to the draft EIS Project Plan 4.0, Benchmark 6 became 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 non-compliance with the data collection requirements under the First Order (Benchmark 8). This benchmark requires that any cases involving non-compliance with data collection requirements results in an alert in EIS. EIU published an Administrative Broadcast on November 28, 2016 to instruct 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 reported that MCSO began the data validation process for this benchmark 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. Benchmark 10 is defined as a racial or ethnic disparity in passenger contact rates. Benchmark 11 is defined for non-minor traffic stops. 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 its use. The issue is that, collectively, the 11 benchmarks used in the monthly analysis of traffic stop data for May 2017 generate too many alerts (well over 100 per month), most of which lack sufficient detail to establish a pattern of problematic behavior for the individual deputies flagged by the methodology. Because of this problem, we suspended the monthly analysis process during our July 2017 site visit to allow us and EIU time to consider possible methodological refinements that would result in fewer but more significant alerts for supervisory review.

As stated earlier in Paragraph 65, the resumption of the process was further delayed because of the TSAR technical assistance process. However, during our October 2017 site visit, we made several decisions about reinstating the monthly traffic stop analysis process. We determined that four benchmarks (Benchmark 3, Benchmark 6, Benchmark 7, and Benchmark 8) should be resumed immediately. We also approved the suspension of Benchmark 9 (search rate for traffic stops that is an outlier) added by MCSO under Paragraph 67.e.

Additionally, we determined during our October 2017 site visit that MCSO should explore a refinement of the methodology using Benchmarks 1, 2, 4, 5, 10, and 11. The refinement would involve analyzing traffic stops over a rolling three-month time period with the first test time period to be July-September 2017. MCSO was to present the results of its analysis to us prior to our January 2018 site visit, but MCSO missed its deadline. As was discussed in Paragraph 65, while MCSO missed its deadline, it presented the results from a partial analysis during our January 2017 site visit. Based on that discussion, we agreed that MCSO should continue its develop this refinement to the methodology, but also requested that MCSO explore an additional refinement involving the use of a rolling five-month time period and setting an alert if a deputy has a flag set in three out of the five months. Our mutual plan is to explore both options before deciding on which is the most useful for purposes of resuming the monthly analyses.

Until the methodology is refined in a manner that redresses the problem of too many alerts, we are deferring our Phase 2 compliance assessment of Paragraph 67.

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. After learning about a joint operation with Customs and Border Patrol (Operation Gila Monster in October 2016), our review of the documents indicated that this operation did not meet the provisions of this Paragraph.

Our ongoing assessment of Phase 2 compliance rests upon document requests and interviews with District staff and deputies during site visits. CID provides monthly memoranda prepared by District command staff attesting to whether any Significant Operations or immigration-related traffic enforcement fitting the qualifications of the Order occurred within their jurisdiction for the prior month. For the months of October, November, and December, each District, as well as Enforcement Support and Investigations, reported no activity that met the specifications of this Paragraph. Also, during our October and January visits to each District, we interviewed staff ranging from captains to sergeants who advised us that no such operations or enforcement occurred between October and December.

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

MCSO has placed into production database interfaces with EIS, inclusive of Incident Reports (IRs), Non-Traffic Contact Forms (NTCFs), and Arizona Office of Courts (AOC) records. In addition, MCSO's Technology Management Bureau is planning for the Cornerstone software program (which MCSO and Maricopa County refer to as "the HUB") to go into production in February 2018. This will automate the MCSO personnel training and policy records that currently require manual entry once per month. The inclusion of each of these databases into EIS will provide supervisors with invaluable tools to assist them in the oversight duties of the deputies under their command. MCSO has also been working to improve the accessibility of this information for supervisors by modifying or expanding monthly reports that will include, but are not be limited to, the tracking of alert investigation closures and Action Forms produced by BIO. An example of successful modification to these monthly processes is the creation/modification of Attachment B in GH-5 (Early Identification System). The development of this attachment for alert investigations not only ensures that all relevant information necessary to conduct the inquiry is provided to the supervisor – but it also includes a series of questions, checkboxes, and response requirements that demonstrate how supervisors are employing the information provided to them by EIU. However, as noted in previous Paragraphs, we are still awaiting analysis by MCSO with regard to several significant benchmarks from Paragraph 67, as well as the initiation of quarterly traffic stop reports that focus on specific issues of concern that may improve analytic methodologies. Each of these reports could greatly improve the quality and quantity of information that supervisors have at their disposal to oversee their subordinates. Additionally, BIO has continued to lag in the production/publication of inspections that evaluate how well supervisors are utilizing the EIS resources available to them. Once MCSO addresses each of these deficiencies, we will be able to evaluate whether MCSO is in Phase 2 compliance with this Paragraph.

The Traffic Stop Monthly Reports (TSMR) have been undergoing revisions since April 2016. MCSO temporarily began using the benchmarks from Paragraph 67 to send out alerts in March 2017 following the first set of revisions. However, both we and EIU personnel found that many of the alerts sent out lacked sufficient justification for supervisors to determine if a pattern of bias or deficiency existed. As a result, we advised MCSO to develop options – such as rolling three-month periods or other aggregation methods – that would make the benchmark analysis more useful. MCSO has missed several target dates for this analysis due to the ongoing demands of processes related to the Office's response to the findings of the second annual analysis. These alerts represent important mechanisms for supervisors to utilize in evaluating whether the deputies under their command may be engaging in biased or inappropriate activity when interacting with civilians. We will report on the dissemination and investigation of these alerts in subsequent quarterly status reports.

We have also been working with MCSO to begin publication of a quarterly traffic stop report that is more than just a duplication of either the annual or monthly analyses. During the fall of 2017, we had agreed on a series of special analytic issues that MCSO could pursue in these quarterly reports that would clarify or inform methods used in the annual and monthly analyses. However, MCSO personnel notified us during our January 2018 site visit that they were reevaluating whether the agreed-upon studies were doable, given the responsibilities of EIU regarding the ongoing evaluation and oversight resulting from the last annual analyses. MCSO has not yet produced a memorandum detailing what studies it proposes for the quarterly requirements of the Order. We will evaluate these as they are produced.

Each month, EIU provides a list of all completed alert investigations. From the list, we select 15 cases to evaluate the effectiveness of the supervisory oversight. As noted above, the implementation of Attachment B for GH-5 (Early Identification System) indicates that supervisors are being sent more complete information to conduct the alert investigations – and this has resulted in more thorough reviews and summaries by the supervisors. MCSO noted that the Early Identification System (EIS) and Supervisor Responsibilities: Effective Law Enforcement (SRELE) Training delivered in August-September 2017 also clarified what the organizational expectations of supervisors were regarding these alert investigations. We have also found, from September-December 2017, that command staff are increasingly asking supervisors to revisit or clarify the conclusions they have drawn in these alert investigations.

During our January 2018 site visit, we requested a review and update of eight alert investigations that were provided to us for initial review from September-December 2017. Four of these alert investigations involved internal or external complaints, and we sought clarification about how these complaints had been concluded. MCSO provided information indicating that all of these cases were still open PSB investigations; and therefore, there was no additional information that could be shared. Three of the remaining investigations involved TSMR alerts. The supervisors in these cases closed them with the notation of either a "meeting with a supervisor" or "coaching." However, we questioned whether there was sufficient material for supervisors to have reached a reasonable conclusion about the existence of any problematic pattern. MCSO noted that these alert investigations were originally sent out from May-June 2017 before the TSMR process was placed on hold. Therefore, MCSO personnel stated that they were aware that the background material that was sent out with these alerts was insufficient. MCSO decided that rather than recall these alerts, which might cause additional confusion, the process be allowed to work itself out. These cases also provided the opportunity to discuss the ongoing analysis that MCSO is conducting on the Paragraph 67 benchmarks.

Finally, in one case, the notation of the supervisor did not clarify what was meant by noticing an "abnormality" in the actions of a deputy while the supervisor reviewed body-worn camera (BWC) footage. In response, MCSO noted that the original supervisor in this case was no longer with the agency; however, the review by EIU personnel found that the notation appeared to indicate that the actions of the deputy diverged from their normal routine during traffic stops but did not indicate biased or inappropriate behavior. The remaining 52 alert closure cases we reviewed during the fourth quarter of 2017 were complete and thorough.

BIO conducts monthly audits of supervisors' use of EIS tools to oversee the deputies under their command. When BIO finds deficiencies, BIO sends Action Forms to District command for review and action. In May 2017, MCSO automated the transmission and response of Action Forms within the Blue Team software. MCSO continues to develop a tracking system that organizes the Action Form process and can be summarized in a separate inspection report. Additionally, EIU is working to activate an alert for supervisors who have repeated deficiencies during inspection/audit processes. We will evaluate these proposals as they are produced.

BIO conducts a traffic stop data inspection, which is a simultaneous review of randomly selected cases we select as part of our own monthly review. Within the 35 cases reviewed each month, MCSO found three deficiencies in October, three deficiencies in November, and eight deficiencies in December. These deficiencies resulted in a total of 10 Action Forms being sent to District command staff for review and correction. Five of these Action Forms resulted from deputies not running warrant checks of the persons being stopped, three resulted from missing vehicle or passenger information, and two resulted from BWC issues that occurred during the stop that were not explained by the deputy or discovered during the review of the immediate supervisor. We will follow up on how the Districts addressed these issues.

BIO also conducts an inspection of County and Justice Court cases that are turned down for prosecution. The major issue being addressed in the review of these cases is whether probable cause existed for the original actions of the deputy; lesser issues observed during these reviews also result in memorandums being sent to District command staff. BIO found a 97% compliance rate with policies in the October review. However, BIO also issued a memo of concern to the chain of command and PSB for a stop in which a deputy took the driver into physical custody for driving without a license, which is a civil violation. We will follow up on the actions taken following the subsequent PSB investigation. BIO found no probable cause issues with the cases turned down for prosecution in November and December. However, BIO did send five notifications to District command staff regarding minor issues that were discovered during the review that may require additional training of a deputy, or, minimally, a discussion with the deputy's immediate supervisor.

Using briefing and Supervisory Notes, the Audit and Inspections Unit (AIU) conducts an inspection to ensure that supervisors are discussing out bias-based policing and policies with their subordinates and noting it in their briefing or Supervisory Notes. During the last reporting period, we noted that AIU's review resulted in an 83% compliance rate, as the review indicated that supervisors in District 2 and Lake Patrol failed to record any discussions about bias-free policing. This reporting period's review indicated a 100% compliance rate. AIU also inspects Supervisory Notes to ensure that supervisors are making two notes about a deputy's performance each month, that they are conducting reviews of two randomly selected BWC videos, and that supervisors are reviewing their subordinates' EIS status to ensure that they are aware of all issues that may involve the deputies under their command. In the October inspection, MCSO reported an overall compliance rate of 87%; and sent Action Forms to Districts 1, 4, and 7 for the respective deficiencies. MCSO produced the November and December inspections in February 2018. We discussed the BIO production lapses during our January site visit. The November and December Supervisory Note inspections show compliance rates of 95% and 94%, respectively. Each report indicated that BIO sent Action Forms to Districts 1, 2, 6, and 7 and Lake Patrol for repeated deficiencies of supervisors regarding the review of a deputy's EIS status or the bi-monthly notations of a deputy's performance. MCSO noted during our January site visit meetings that the demands of the annual traffic study and changes in personnel have put them behind the accustomed production of inspections.

BIO also conducts inspections of the 72-hour requirement for supervisors to review the traffic stops of the deputies under their command, and the discussion of these stops between supervisor and deputy within 30 days. In the October, November, and December inspections, MCSO reported 99%, 97%, and 95% compliance rates, respectively. Even with such high compliance rates, BIO sent out six Action Forms. The inspection report for discussions of September traffic stops published in October found a 97% compliance rate, which remained steady in November and dropped slightly to 95% in December. BIO sent Action Forms to Districts 1, 3, 6, and 7. We will follow up on the remedies taken as a result of these Action Forms during our future site visits. During our January 2018 site visit, MCSO informed us that the deficiencies in review and discussion requirements by supervisors for July-September were addressed during the EIS and SRELE Training in September, but was also addressed via one-on-one training at the affected Districts.

In the Patrol Activity Log inspections, AIU ensures that supervisors review the daily logs of their deputies no later than seven days after the completion of a shift. In October, the compliance rate was found to be 98%; this yielded three Action Forms to the Lake Patrol for different sergeants who were found to be deficient. The Inspections for November and December were received in February 2018, and indicated an overall compliance rate of 99% for each month. However, BIO sent out five Actions form in November to Districts 2 and 6 and Lake Patrol; and only one Action Form in December to District 1 for the repeated deficiencies of one supervisor. During our District visits in January, we discussed these deficiencies with command staff, who informed us that all sergeants were counseled on their responsibilities of reviewing all activity of their subordinates. The production delay of the latter inspections was also discussed with the incoming BIO Captain during our January site visit meetings.

We have found that in the completed inspections that the compliance rates indicate that EIS tools are being used more uniformly than in the past. However, we are concerned regarding the backlog of inspections that has occurred through two different quarterly reporting periods. We will continue to work with MCSO as the agency develops the operations manual that will specifically address the timeframes within which the inspections should be conducted and published.

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), most recently amended on January 11, 2018.
- 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

During the last reporting period, MCSO, working with the Parties, drafted a strategy to address some of the systemic issues identified in the first two Traffic Stop Annual Reports (TSARs). MCSO identified nine goals, which are detailed in the Maricopa County Sheriff's Office Plan to Promote Constitutional Policing. The Plaintiffs and Plaintiff-Intervenors stipulated as to the contents of the Plan; and the Court issued an Order in October 2017, approving the Plan. The Plan listed several action items with deadlines in the fourth quarter of 2017 and beyond.

The most recent 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 s/he observes that has not yet triggered an official alert. During our January site visit, MCSO advised us that all supervisory personnel in the field had completed the EIS and SRELE Training. The feedback MCSO received during and after the training indicated that many supervisors were not completely aware of the breadth and search capabilities contained within EIS.

During our District visits in January 2018, supervisors and command staff advised us that the training had made the complexity of EIS data more transparent to them. The only negative comments we received were related to the fact that it had taken so long to receive this training, and that the training should have included more realistic scenarios based upon field issues that supervisors regularly address. This information was passed on to Training Division representatives, who stated that they had also heard this feedback and were planning future training curricula with that in mind. Both the Training Bureau and EIU felt that some of the basic descriptive instruction for EIS was necessary to bring everyone to an adequate level of understanding.

EIU personnel are also continuing to develop the EIU Operations Manual based upon past comments of the Monitoring Team and the Parties, as well as ongoing experiences with the EIS database. According to MCSO, the release of the latest draft has been hampered by the demands on the time of EIU personnel as a result of the annual traffic stop analysis and the related supervisory discussion process. Following the completion of the first labor-intensive steps of the supervisory discussion process, EIU personnel will be tasked with the revision of the operations manual, and will disseminate a target date. In the meantime, MCSO continues to memorialize the meetings and processes of the "data quality" workgroup to ensure that the data being drawn for the monthly, quarterly, and annual analyses meet the expectations of the Order.

The need to memorialize all aspects of activity related to the operation of EIU cannot be overstated, as personnel with significant personal experience continue to move/transfer to different responsibilities throughout the organization. The need to standardize data-handling processes and methodologies has arisen in each of the annual traffic stop reports to date, as well as the monthly and quarterly reports that are ongoing. As noted previously, MCSO has missed the February 1, 2018 date for the Third Annual Traffic Stop Report, and has also failed to meet the target dates set for the reevaluation of the benchmarks from Paragraph 67 used in the monthly traffic stop reports. MCSO also failed to finalize the memorialization of special analyses to be included in the quarterly reports that would begin in 2018. We will evaluate these as they become available.

The most important findings from the Second Annual Traffic Stop Report center around the finding of potential individual bias by specific deputies, and the continued systemic biases across all of MCSO's traffic enforcement activities. MCSO has pilot-tested two supervisory intervention processes for specific deputies that were found to be outliers in the second annual report. The outcomes of these pilot projects were shared with us, the Plaintiffs, and the Plaintiff-Intervenors. These outcomes were collectively deemed insufficient as supervisors often did not understand how to employ the material provided – or spent an inordinate amount of time trying to refute the findings of the analysis. Since October 2017, we, the Plaintiffs, the Plaintiff-Intervenors, and MCSO have been developing an approach to the supervisory discussion process that incorporates cross-checking reviews of deputy activity by supervisors and EIU personnel, a comparison of these reviews, and intensive preparation for the actual supervisory discussions. We will evaluate the outcome of this more complex process in upcoming quarterly status reports.

For alert investigations, MCSO has created a process and template, Attachment B (GH -5 Early Identification System), that has improved the investigations and reviews of alert materials and suspected deficiencies by supervisory staff. Since the introduction of the attachment, we have also noted the increased review provided by command staff. Each month, in our review of 15 randomly selected closed alert investigations, we have observed instances where command staff have sent investigations back to supervisors for additional explanation or work, or have questioned the closing of cases in the manner described by supervisors. Consequently, in the period from September-December 2017, our requests for additional information from closed alert investigations have largely involved status updates for ongoing PSB investigations which were incorporated into the alert investigations. In addition, alert investigation responsibilities of supervisors were a significant part of the SRELE and EIS Training completed in the fall of 2017. We will continue to evaluate the sufficiency of investigations conducted by supervisors. We and the Parties have repeatedly noted that absent alert investigations prompted by EIU, supervisors have not independently discovered and reported any problematic or biased behavior of their subordinates. In our last quarterly status report, we noted one such instance that resulted in a 32-hour suspension. In Paragraph 69, we also found another instance where a BIO review of a County Attorney turndown resulted in a memo of concern to command staff and PSB. However, this also indicates that this issue was missed in the original review by the immediate supervisor. We will continue to work on these issues with MCSO and evaluate materials as they are produced.

We requested documentation pertaining to several goals listed in MCSO's Plan to Promote Constitutional Policing. The Plan lists different target dates for completion of its goals and sub-goals, so our methodology for requesting verification of compliance takes these due dates into account.

We requested documentation with regard to Goal 1 of the Plan, implementing an effective Early Identification System with supervisor discussions. From the information provided and from meetings with MCSO, we learned that EIS personnel were identified as trainers, and in conjunction with the Training Division, the EIS Training curriculum was developed and delivered in the third and fourth quarters of 2017. The Annual Combined Training included a section on implicit bias. The Early Intervention System is discussed in Paragraph 72.

As described in Goal 2 of the Plan, supervisors are to be held accountable for deputy outcomes, through the EPA process, and commanders are to address deficiencies noted in Blue Team notes and Employee Performance Appraisals. During captains' monthly meetings, commanders are to provide guidance to ensure that supervisors include necessary information in Blue Team notes and EPAs, to properly document deficiencies and initiate interventions when needed. The process of documentation also includes EIS alerts that have been investigated, and the results of any actions taken. In response to our request for verification of compliance, MCSO provided two captains' meeting agendas, for October and November; there was no captains' meeting in December. The documentation provided did not note any specific information of discussions related to any of the topics described.

During our January site visit, we met with MCSO staff and requested additional information, as it pertains to the progress of Goal 2 of the Plan. MCSO advised us that MCSO was aware of the deficiencies with EPAs and Blue Team notes; these are the same deficiencies that we have previously noted in our reports and have discussed during site visits. MCSO advised us that these topics would be further discussed and addressed in future captains' meetings. One of the concerns we noted in the captains' meetings was the lack of details in the meeting minutes. In the documentation provided, MCSO asserted that beginning in January 2018, detailed notes would be taken during captains' meetings.

We requested documentation pertaining to the progress of Goal 3 of the Plan, as it relates to training and roll-call briefings on enhanced cultural competency and implicit bias. The Plan requires Enforcement Commanders to carve out time during monthly captains' meetings to share successful and unsuccessful strategies regarding these topics. MCSO provided the same meeting agendas as for Goal 2. The agendas for the October and November meetings note that there were presentations on the "Fair and Impartial Plan" made by captains in each of these meetings. There were no details as to the presentations made or discussions that ensued. The meetings were recorded as being 30 minutes long. There were several items on the agenda, so we do not believe that there were extensive discussions on implicit bias strategies during these 30-minute meetings. Goal 3 of the Plan called for patrol supervisors to deliver roll-call briefings on implicit bias topics starting on October 11, 2017. From the documentation provided, it appears that the briefings consisted of two videos that were 90 seconds or less each. We requested a list of deputies who attended these roll-call briefings. In response, we received a memorandum stating, "There is no current stand-alone curriculum for implicit bias training." With regard to documenting the participation of deputies who viewed the videos during roll-call briefings, supervisors were directed via email to make Blue Team entries for each individual that participated. We are uncertain if this occurred, because MCSO did not provide any documentation. The Training Division was not aware of the directive from the command staff that instructed deputies to view the videos. It is our understanding that the Training Division was not consulted in the development of this directive. According to GG-1 (Peace Officer Training Administration), shift briefings to provide training updates are determined by the Training Division, so it seems there was some miscommunication and/or lack of coordination in completing this process.

Goal 3 of the Plan states that the Training Division would develop a curriculum outline for training on the history and impact of discriminatory policing in Maricopa County, as well as other forms of systematic discriminatory policing in Maricopa County. This outline was due December 13, 2017. We requested a copy of the outline, but MCSO informed us that the project has been assigned to a training developer and is in the draft stages. With regard to community members' participation in developing training on implicit bias and addressing deputies in roll-calls, we note that one member of the Community Advisory Board (CAB) participated in a train-the-trainer session in September, and offered considerable feedback and comments. We received a copy of the feedback provided. During our January site visit, the CAB member stated that he was "underwhelmed" by MCSO's response to his comments and suggestions.

For Goal 4 of the Plan, which calls for enhanced fair and impartial decision-making training, and the importance of the guardian mindset, we requested documentation of discussions, which occurred during the captains' monthly meetings, pertaining to successful and unsuccessful strategies to promote fair and impartial policing. We received the same meeting agendas as for Goals 2 and 3, for the captains' meetings in October and November. These agendas note presentations by two captains, but no details of the presentation or discussions that followed, if any. We again note that the meeting agendas included several items, but the meeting duration was approximately 30 minutes each. For Goal 4, deputies were directed to view two videos on implicit bias, and the SRELE Training completed in 2017 included surname training.

Goal 5 of the Plan states that MCSO will provide deputies and supervisors with enhanced cultural competency training and roll-call briefings based on community input. We requested documentation of discussions, which occurred during the captains' monthly meetings, pertaining to successful and unsuccessful strategies to promote cultural competency. We received the same meeting agendas for captains' meetings in October and November, which note presentations by two captains, but no details of the presentation or discussions. We requested a list of community members, community organizations, and subject matter experts who MCSO selected to address deputies on implicit bias and/or Latino perspectives on policing. We also requested a list of suggestions and contributions from community members and community groups that were incorporated into the training curriculum or roll-call briefings. MCSO provided us with a LGBTQ Advisory Board roster booklet, an African American Advisory Board (AAA) roster booklet, and a Hispanic Advisory Board (HAB) roster booklet. We were also provided with a memorandum from a CAB member, who attended the Fourth and Fourteenth Amendment a train-the-trainer session in September.

Again we note that during our January site visit, the CAB member was not particularly impressed with MCSO's response to his suggestions. MCSO noted that two community members, one of whom is a HAB member, were interviewed regarding their experiences with law enforcement. The product of these interviews was incorporated into the 2017 Annual Combined Training (ACT). The 2017 ACT also included one video in which a community member was the presenter. As of January 2017, from the documentation provided, it appears that the cultural competency training and roll-call briefings on the subject have been limited, and community input incorporated into the training has been less than ideal. Judging from the comments made by the CAB member who participated in this process, MCSO should solicit greater input from community groups and give serious consideration to the feedback provided.

For Goal 6 of the Plan, improving traffic stop data collection and analysis, we requested documentation of recommendations made by EIU and the Technology Management Bureau to improve data collection in traffic stops. We received an undated document titled "Improving Data Collection in Traffic Stops" that listed four areas of suggested improvement, and several recommendations. The document stated that the recommendations were provided by ASU, with the intent of increasing the quality of data from calendar years 2015-2016. The first item listed was the need was to address missing and invalid data. MCSO stated that this was addressed by increasing the required fields in TraCS, and that the Training Division is revising the TraCS lesson plan to make it more robust. The second item listed was that deputies and sergeants were not able to alter data, correct issues, or delete incorrect information in TraCS. MCSO responded that the issue was addressed in December 2016 by a change in TraCS, and that a "change request" needs to be submitted to allow command staff the ability to unapprove all forms in TraCS. The status of the change request was not reported. The third item noted relates to deficiencies in the supervisory data review process. MCSO reported that it is developing a supervisory data review process within its Early Intervention System that provides an additional step of data quality control, prior to the traffic stop being fully released and validated in TraCS.

For the fourth item on the list, the first recommendation (a) was to address the issue of racially biased policing at both deputy and organizational level. The solution listed was to capture discretionary information in the outcome, to further explain why someone was stopped, and to capture the stop conclusion. MCSO noted that a change request needs to be submitted to effect this revision. There was no status reported on the change request.

The second recommendation (b) was to provide feedback to individual officers so their administrative unit knows their performance is out of compliance. The document stated that this was met by the TSAR process.

The third recommendation (c) was to review, revamp, and deliver deputy-level training aimed at reducing unacceptable ratios. This recommendation was listed as having been completed, and ongoing, in the Annual Combined Training.

The fourth recommendation (d) was to train supervisors in mentoring strategies to remediate unacceptable behaviors and practices. This recommendation was listed as having been completed in the EIS and SRELE Training.

The fifth recommendation (e) was to provide supervisors the appropriate tool kit and training to discuss behavioral problems with subordinates. The solution included TSAR, the supervisor discussion process, and EIS Training.

The sixth recommendation (f) was to integrate deputy quarterly stop feedback report findings into the EIS system. The response was that MCSO is working with the Monitoring team to approve the Traffic Stop Quarterly Report.

The seventh recommendation (g) was to formulate policies that will reduce the occurrence of racially based policing. The response was that this was already addressed by MCSO policies.

The eighth (h) recommendation was for an organizational shift to a learning organization which values information from data collection and analysis, coupled with policy, training, supervision, and review. The response was that this is captured in EIS and SRELE Training. The response does not address the issue of organizational shift; it only speaks to data collection.

The ninth and last recommendation listed was to continue to pursue the use of external benchmarking where possible. The response listed that EIU was tasked with the modification of the methodology used for the annual report.

Goal 7 of the Plan states that the Community Outreach Division (COrD) and Enforcement Commanders would establish guidelines for supervisors to track employees who have made exemplary contributions to constitutional and community-oriented policing. We requested a copy of the guidelines. MCSO responded in a memorandum that stated that COrD was developing a high-level commendation for service to the community, as well as a process to include input from community members. We also requested a copy of the guidelines for deputy involvement in non-enforcement community interactions, as noted in Goal 7. MCSO provided a memorandum that stated, "In January 2018, Community Outreach Division (COrD) met with Human Resources and Enforcement Support Division to discuss processes to identify and track all MCSO employees who have made exemplary contributions to the MCSO mission. Policy and protocol is in the development stages, and upon completion it will be disseminated to all personnel." It appears that these processes are still under development. We will follow up on the progress of this goal during our April site visit.

For Goal 8 of the Plan, regarding the Peer Intervention Program, MCSO advised us during our January site visit that MCSO reviewed the EPIC Program, from the New Orleans Police Department, and decided that the program was not feasible for MCSO. MCSO advised us that MCSO is considering formulating its own peer intervention program. We will follow up on this project during our next site visit.

Goal 9 of the Plan is building a workforce that provides constitutional and community-oriented policing and reflects the community that MCSO serves. We requested and received a copy of the Recruitment Plan, which lists several general strategies to address the lack of diversity in applicant pools and ensure bias-free selection of candidates, among other goals. The Recruitment Plan is a five-page document that serves more as a general outline of goals and objectives than a detailed plan of action. There are different due dates for the goals of the Recruitment Plan during each quarter of 2018. We will evaluate the success of these in future reports. We inquired about the incentives for employees to learn Spanish noted in Goal 9. During our January site visit, MCSO advised us that MCSO conducted a survey of local law enforcement agencies to find out what they offered in terms of foreign language incentives. MCSO came to the conclusion that the incentives that MCSO has had in place since 2010 are adequate. No additional incentives will be offered. MCSO also submitted documentation that stated that there are currently 408 MCSO employees receiving the multilingual pay incentive, or an additional 50 cents per hour for all hours worked. In addition, employees are eligible to receive 100% reimbursement of tuition related to language courses taken through the Maricopa County Community College system.

From the review of documentation provided, and from our discussions with MCSO during our January site visit, we believe that there was very limited progress made in accomplishing the listed goals or sub-goals of the Plan to Promote Constitutional Policing. There needs to be meaningful discussion and proposed solutions in captains' meetings, as it relates to the topics that have been assigned for them to address, and MCSO must improve how it documents the presentations and discussions that occur during these meetings. With regard to traffic data collection, there were several "change requests" that were listed as "need to be submitted." MCSO should be more proactive in pursuing these remedies, and must improve how it reports the status of these pending requests. We noted that roll-call briefings on implicit bias appear to not have been well coordinated; the Training Division appears to have excluded from the process. In addition, we received no documentation listing which deputies participated in the briefings. The EPIC Peer Intervention Program was evaluated, but MCSO decided it was not the right program for the Office. We understand that this was an agency-specific program; we are encouraged that MCSO is considering its own Peer Intervention Program. We will follow up during our upcoming site visits to assess the progress of the program. The recruitment plan has some valid ideas, but needs further development. The recruitment plan must track its goals and objectives, and do a comparative analysis of hiring statistics before and after the elements of the Plan were put in place, so that they may gauge their effectiveness and make revisions as necessary.

With regard to community participation in the Plan and the meeting of its goals, we agree with the CAB member who stated that MCSO's response has been underwhelming. MCSO must improve how it solicits community input, evaluates feedback on proposed training, and responds to contributors on the value of their suggestions. If community members take time to participate, it is essential that MCSO acknowledge their contributions. We understand that some recommendations may not be feasible, but contributors should at least have an opportunity to learn why their suggestions might not be suitable.

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 existing data from monthly and annual reports.

We have been working with MCSO on the production of monthly and quarterly traffic stop reports. MCSO continues to develop the analysis involving the benchmarks from Paragraph 67 for the monthly traffic reports to be comprehensive. Although alerts are not currently being set for these benchmarks, MCSO is compiling this information when the analyses are complete and approval is granted. In addition, MCSO has reevaluated the analytic studies for the quarterly traffic reports that were collectively developed in the fall of 2017, and will be proposing alternate options that they believe will assist in dealing with ongoing questions arising from the annual analysis. We will evaluate the sufficiency of the items as they are produced.

MCSO has also worked collectively with the Parties and us to modify and improve data-handling and supervisory processes related to the monthly, quarterly, and annual analyses of traffic data. Each time an issue has been discovered that impacts the data being used for these reports, MCSO has effectively relayed that information. In addition, MCSO has created a "data-quality" workgroup comprised of personnel from all units that have a hand in pulling or modifying data for statistical analyses. The workgroup meets at least once a month, and we have been kept apprised of any changes or modifications to the data or processes since September 2017. The data-handling procedures will be memorialized in the EIU Operations Manual.

MCSO has taken strides to improve the quality and quantity of data available to review the actions of their employees. However, MCSO has missed several target dates for production of the monthly and quarterly traffic reports or analytic methodologies, and has fallen behind in the production of several supervisory inspection reports. We have notified MCSO that should they continue, such deficiencies would adversely impact Phase 2 compliance status with several Paragraphs. MCSO has been forthright in acknowledging these deficiencies and is working to improve the report production process.

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

MCSO continues to make progress in the implementation and use of the Early Identification System. During our January 2018 site visit meeting, MCSO advised us that all command and patrol supervisors who oversee line deputies interacting with the public in patrol capacities have completed the SRELE and EIS Training. We, the Parties, and MCSO have been working to refine data-handling processes, develop adequate supervisory responses to both monthly and annual traffic stop analysis, and ensure the access and use of EIS tools by all field supervisors. As of July 2017, MCSO had implemented three additional database interfaces for Incident Reports (IRs), Non-Traffic Contact Forms (NTCFs), and Administrative Office of Courts (AOC) records. The linking of these remote databases with EIS affords supervisors the opportunity to view all measures of deputy activity required by Paragraph 75 without having to search multiple data platforms or request assistance from other organizational units. MCSO advised us that several supervisors who had received the SRELE and EIS Training in August and September commented that they had not appreciated the new breadth and search functions of the EIS database.

MCSO also produces a monthly alert report for issues ranging from use of force to incidental contacts. This report is also intended to include alerts when deputies exceed thresholds of traffic benchmarks for Paragraph 67. These alerts were originally suspended in May 2016; and after they were reestablished, they were suspended again in July 2017. The first suspension resulted from the unscientific way in which the thresholds were developed, and the second suspension resulted from the lack of adequate data for supervisors to determine if a pattern of inappropriate behavior might exist. Following several discussions during, and between, site visit meetings, MCSO was supposed to conduct an analysis of the benchmarks using a three-month rolling average. This analysis was to be complete by our January 2018 meetings for further discussion. Just prior to the meetings, MCSO informed us that due to the demands of the development of processes for the Annual Traffic Stop Report, outlined above, they had only completed one month of analysis on the monthly data. MCSO has now requested an extension for this analysis. We will evaluate the sufficiency of this analysis when it is produced.

EIU and BIO have automated, in Blue Team, alerts and Action Forms that may indicate behavior of concern regarding individual deputies and their supervisors. EIU has already developed a monthly reporting system of alerts, noted above, that it is currently modifying to include the length of time it takes supervisors to investigate and close the alert investigations produced. BIO is working to develop a similar tracking system for Action Forms related to supervisory oversight. When successfully implemented, the alert report will also include an alert allegation for supervisors who have taken too much time to investigate and complete alert investigations for their deputies. BIO is also investigating how to set alerts for supervisory personnel who repeatedly have Action Forms sent to their command staff for repetitive supervisory deficiencies. When implemented, these will provide transparency to the supervisory process that does not currently exist.

For the months of October through December, the EIS system automatically generated 146 alerts. However, following review by EIU personnel, only 51 alerts were sent out for investigation by supervisors. The review by EIU personnel alleviates the need to send out alerts for those cases that are duplicates, and for other reasons. These processes will be memorialized in the revision of the EIU Operations Manual that is currently under revision. More importantly, it allows EIU to modify the automatic alert process and ensure that it does not overly tax the resources of field supervisors by conducting needless investigations. As noted in each of these monthly reports, the vast majority of alert investigations remain open for the current and preceding month. MCSO is developing a table and protocol to track how long it takes supervisors to close alert investigations. This information will assist command staff in evaluating the proficiency of their supervisory staff. We will continue to work with MCSO on the development of these tools.

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 conducting investigations, one analyst, and one administrative staff member under the auspices of BIO. Due to promotions, the leadership of both EIU and BIO is in the process of changing hands during the first quarter of 2018. In addition, several key positions within CID have also changed hands over the past six months. MCSO is in the process of revising the EIU Operations Manual, which should lay the foundation for anyone with qualifications to easily transition into positions of leadership and oversight within EIU. MCSO has allowed the outgoing lieutenant of EIU, who is being promoted to captain, to mentor his replacement for several months.

EIU staff continues to conduct data analysis using data compiled from sources across the organization – including CAD, RMS, Blue Team, TraCS, EIPro, and others. EIU has overseen the development of interfaces for IR, NTCF, and AOC data into EIS. All interfaces were placed in production, following testing, in July 2017. Additionally, EIU is planning for a new interface in February 2018 to connect the Cornerstone software (the HUB) to EIS. With time, this should alleviate the labor-intensive process of EIU personnel having to manually enter training information (Paragraph 75.m.) into EIS each month. We will evaluate this new interface in our next quarterly status report.

EIU played a central role in the coordination of a data quality workgroup – including members of all units that pull, modify, or analyze data – following the discovery of data anomalies that led to the delay in publication of the Second Traffic Stop Annual Report. The protocol developed by this workgroup will be memorialized in the EIU Operations Manual that is under revision. EIU has also been instrumental in the two pilot tests of supervisory intervention processes stemming from the finding in the Second TSAR that some deputies were outliers in the manner they stopped, warned, cited, or searched civilians they came into contact with during traffic enforcement.

EIU continues to refine monthly reports as the need arises in order to maintain a transparent data system and effective supervisory processes.

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.
- EIU Operations Manual, currently under revision.

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. As a result, MCSO began to incrementally develop changes to policy, training, and database interfaces that were spelled out in the EIS Project Plan that was first created in October 2016. After meeting most of the target dates in the four versions of the Project Plan, EIU drafted the first EIU Operations Manual in April 2017. Based upon comments by Plaintiffs, Plaintiff-Intervenors, and us, EIU created the next draft in September 2017. MCSO made significant progress, but there were also significant gaps that remained in the second draft. In particular, the current draft fails to address how EIU intends to track intervention effectiveness as required in Paragraph 81. During our January 2018 site visit, MCSO advised us that it had not made substantial progress on the operations manual due to the demands emanating from the development of review processes and documents related to the supervisor discussion material for the Second Annual Traffic Report. MCSO will also be adding sections to the operations manual describing the monthly and quarterly traffic reports when they become finalized.

The operations manual will lay out the responsibilities of EIU; the thresholds and benchmarks to be used in the analyses of TraCS data; the methods to be employed for monthly and annual traffic stop report; the data-quality control and communication protocols related to the pulling, modifying, and analysis of traffic data; among many others. EIU has also developed a set of templates for both annual and monthly alert investigations that improves the accountability of individual supervisors and command staff in determining whether interventions are necessary.

We will evaluate each process or document as they become available.

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.
- EIU Operations Manual, currently under revision.
- PSB Operations Manual, currently under revision.

Phase 2: Not in compliance

MCSO continues to make progress toward the automation of data in the EIS database. As noted in past quarterly status reports, MCSO placed into production data interfaces for Incident Reports (IRs), Non-Traffic Contact Forms (NTCFs) and Arizona Office of Courts (AOC) records in July 2017. However, the training history of deputies had remained in the Skills Manager System (SMS), which required EIU personnel to manually enter recent activities into EIS on a monthly basis. During our January 2018 site visit, MCSO informed us that the Technology Management Bureau had been testing the interface between Cornerstone software (the HUB) and EIS. The HUB will eventually replace the E-Learning and E-Policy programs. During our January 2018 site visit, MCSO personnel informed us that they anticipated that the interface would go into full production in February 2018. We will evaluate this transition, and ensure that this remains up-to-date and is accessible to supervisors. In addition, MCSO notified us that all patrol supervisors and command staff have completed the EIS and SRELE Training. The comments of supervisors completing this training were generally positive, but indicated that many supervisors had not appreciated the breadth and search capabilities within EIS. This training should result in more consistent and effective supervision.

The EIU has produced two drafts of a comprehensive EIU Operations Manual. The manual is expected to cover all aspects of EIU responsibilities and outcomes ranging from the production and dissemination of alert investigations to the analytic methodologies for all traffic stop analysis. Once complete, the manual should reduce the concerns that the transfer of key individuals out of EIU could lead to deficiencies in data reports and alert processes that are heavily dependent on the consistent operation of EIU.

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.

EIU and PSB worked closely with their vendor, CI Technologies, during 2016-2017 to provide access to both open and closed complaint cases. Open cases were more problematic than closed cases, since there was a concern that placing a summary of the case in EIS could compromise the underlying investigation. By February 2017, both open and closed case summaries were viewable by supervisors. PSB may constrain the ability to view the summaries further if any reviewing supervisor is implicated in the case. PSB controls who can view each summary, as well as the wording of the summary. The two PSB personnel responsible for preparing access levels and summaries to be included in IAPro are also preparing a protocol of these responsibilities to be included in the PSB Operations Manual. As a result of a regular document request, we receive three randomly selected open external investigations for each month. Our review of these summaries found them to be easy to understand and consistent in detail. During our District visits, we had two sergeants and one lieutenant pull up a deputies' EIS profiles and they were able to easily access the investigative case summaries and found them to be clear and concise.

MCSO is in compliance with this Subparagraph.

Paragraph 75.b. requires that the database include "all internal investigations of alleged or suspected misconduct."

Corresponding to the discussion above involving complaints, internal investigation summaries also appear in the IAPro system. All complaint summaries, open and closed, have been viewable since February 2017. PSB uses a standard protocol to develop the case summaries and access limits. This protocol will be included in the PSB Operations Manual that is now being drafted. As stated above, we view samples of these summaries regularly, as well as request that field supervisors demonstrate their proficiency in accessing them during District visits.

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."

MCSO has created several electronic forms to capture information from traffic stops, incidental contacts and warning or repair orders. As noted in Paragraphs 70 and 74, MCSO has suspended alerts emanating from the benchmarks included in Paragraph 67. This data continues to be compiled within EIS and will be employed accordingly for the production of future monthly traffic reports when the methods of analyses are completed and approved.

Since July 2017, MCSO has produced interfaces that provide supervisors the ability to view IRs and NTCFs within the EIS database. During our site visits, supervisors have been able to access this information without any difficulty. BIO already routinely inspects Incident Reports based on several matrices we have approved. BIO is planning to create a similar quarterly inspection for NTCFs. The quarterly inspection is preferred, as there are insufficient non-traffic contacts to make a monthly report necessary. We will evaluate this report as it is produced. During District visits (1, 3, 4, and 6) supervisors were able to access IR and NTCF, when relevant, as well as other patrol related documentation like patrol logs and body-worn camera footage of civilian interactions not related to traffic to ensure that their subordinates are abiding by the policies of the organization.

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."

MCSO's Legal Liaison Section receives and forwards this information to EIU for entry into the EIS system. Deputies are required to self-report any negative contacts they may experience with other agencies and can be disciplined for failure to do so. According to the thresholds included in the last draft of the EIU Operations Manual, any two instances of said proceedings, contact, or claims within a rolling six-month period would result in a flag requiring a supervisor to investigate. Supervisors have demonstrated the ability to access this information during our October 2017 and January 2018 site visits.

MCSO is in compliance with this Subparagraph.

Paragraph 75.e. requires that the database include "all arrests."

Arrests may not always occur as a result of a traffic stop. However, since the Jail Management System (JMS) does not communicate directly with EIS, an interface was created and placed in production on July 1, 2017. Since July 2017, we have requested that supervisors, during site visits to the Districts, show us that they have the ability to access these arrests. Supervisors have reported that the search functions for IR reports are easy to conduct.

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 captures this information through Incident Report Memorialization. Moreover, supervisors may catch these instances where probable cause is lacking in one of two ways. First, supervisors must check and sign off on the review of IRs for each deputy at the end of the shift in which they occur. Second, if a court or prosecutor turns down a case for prosecution, both the deputy and their immediate supervisor are notified. BIO also conducts a quarterly inspection of Incident Reports. During the third quarter, BIO found the compliance rate for probable cause, within the incident reports selected, was 98.39%; and in the fourth quarter, it was 100%. BIO indicated that two IRs did not have sufficient narrative reports and sent them to the command staff of District 1 for review.

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."

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. The interfaces for IR and NTCF data became operational prior to July 1, 2017.

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, the database interfaces for Incident Reports and Non-Traffic Contact Forms became operational prior to July 1, 2017. In addition, BIO conducts quarterly audits of Incident Reports, and found during the third quarter of 2017 that 98.39% of IRs reviewed had "reasonable suspicion or probable cause for all investigative detentions, traffic and field contacts, searches and asset seizure, and forfeiture efforts." For two IRs from District 1 BIO noted that the narrative was insufficient to come to a decision. For the fourth quarter, BIO noted that all IRs contained sufficient information to access probable cause but sent Action Form reviews to three organizational units due to insufficient narrative material included by deputies.

MCSO reissued EA-3 (Non-Traffic Contact) on June 1, 2017. This policy specifies the responsibility of MCSO personnel regarding different types of search occurrences. If the search is related to a traffic stop, it should be captured on the VSCF. MCSO is exploring additional ways to differentiate the types of searches that may occur during traffic stops. When approved, this will go into production and be reported upon in future quarterly status reports. Searches occurring within activities resulting in an Incident Report will be captured under Subparagraph 75.e., and NTCF searches fall under this Subparagraph. These interfaces were automated prior to July 1, 2017. MCSO is currently creating a proposal to either include NTCF activities in the Incident Report audit noted above, or create a new audit covering only NTCF activities. We will evaluate this proposal as it becomes available. Supervisors have shown the ability to search this field during site visits in January 2018, although they have noted that there are very few non-traffic contacts made with civilians except in the Lake Patrol.

MCSO is 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." The EIS database had already included cases returned from the Maricopa County Superior Court under "County Attorney Actions." As of July 2017, the interface for the Maricopa County Justice Court and Arizona Office of the Courts was also placed in production. If a case is returned from any court without prosecution, the arresting deputy and his immediate supervisor are notified. Supervisors are required to review these cases and make a notation about their review in Blue Team. Command staff at the Districts are also able to view these cases. Each case is returned with a notation. However, these usually are "no likelihood of conviction" or "dismissed on motion of prosecution/defense."

In addition, we have found that line supervisors (Districts 3 and 4 in January 2018) routinely examine County Attorney Actions for their subordinates when discussing items of significance in the employees' EIS profiles.

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.) The current version of EIPro also allows supervisors to search for the disciplinary history of their employees in EIS. Moreover, EIU produces a monthly alert report for Paragraphs 70, 71, 75, and 81. Tables 7 and 8 of this report indicate what types of dispositions occur for the current month's alerts, as well as those that remained open/pending from the prior month. The vast majority of investigations remain open even in the second month of review. For this reason, we have asked EIU to investigate creating an "aging" table that will show how long cases remain open. MCSO is creating a proposal to address this issue. Of those investigations that do result in a closure, they usually consist of "no further action" or "meeting with a supervisor."

MCSO developed Attachment B to GH-5 (Early Identification System) due to the inadequate information received initially from supervisors who were closing alert investigations. The attachment requires a thorough explanation as to why the alerts are closed in the manner they are. The implementation of this attachment has provided more informative materials from the supervisors. More importantly, we have also seen command staff take a more active role in the review of alert investigations. There are multiple instances each month where commanders return investigations for clarification of closures or re-examination of materials provided by EIU. While we have not observed an increase in self-initiated actions of supervisor referrals, we have observed an active process involving command staff review.

MCSO is in compliance with this Subparagraph.

Paragraph 75.k. requires that the database include "all non-disciplinary corrective action required of employees."

Supervisory Notes and bi-monthly reviews of a deputy's performance are used by MCSO to fulfill this Paragraph. Furthermore, the monthly alert report described in the prior Subparagraph delineates what actions supervisors may have taken following an alert investigation. Supervisory Notes are searchable in the current version of EIPro through the use of key words or phrases. These notes reflect the supervisors' evaluation of a deputy's activity or a communication between a supervisor and their subordinate. Supervisory Notes also elaborate on briefings or training that supervisors may engage in with their squad.

For the alert reports from October-December, Table 9 provides a breakdown of dispositions. Of the 58 alert investigations sent out for review during this reporting period, only five had been closed within the month following initiation of the investigation. The closures consisted of four "no further action" and one "meeting with a supervisor." During our January 2018 site visit meetings, we requested EIU to transform Table 9 from a static one-month review to a more dynamic "aging" table that would show how long each investigation took and what the closer category was. MCSO is exploring this option and will prepare a memo/proposal in response.

In our own examination of alert investigations for Paragraphs 69 and 70, we find that most supervisors are justified in closing alerts through meetings with their subordinates. Those cases that require closer examination already have a continuing PSB investigation associated with the event at hand; and therefore, the alert investigation is closed with "no further action" so that the PSB investigation is not undermined in some fashion.

BIO also conducts a monthly inspection of Supervisory Notes, making sure that supervisors are documenting performance notes for their subordinates, review the required number of BWC recordings and review the subordinates' EIS profile on a monthly basis. In October, BIO found an overall compliance rate of 87%, which was down from 97% in September. For November and December, BIO reported a compliance rate of 95% and 94%, respectively. BIO sent out Action Forms to the command staff of the affected Districts. We will evaluate the command response to these Action Forms in upcoming reports. Over time, we have seen the compliance rates fluctuate. BIO repeatedly sends out Action Forms for the deficiencies noted, but the result is typically command staff talking to supervisors. EIU personnel noted during our January site visit meetings that they had not yet activated the allegation in EIS that would target repeated Action Form deficiencies by supervisors. EIU and BIO are investigating how to link the Action Forms so that this can become a more automated process. We will evaluate this as it is proposed. Our concern remains that without some repercussions, some supervisors may not consider all of their oversight responsibilities a priority.

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 November 30, 2017. 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 January 2018 visits to Districts 3 and 4, supervisors demonstrated how they can search and locate these in their subordinates' 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 is transitioning from the Skills Manager System (SMS) to the HUB software system. The HUB will also replace the E-Policy and E-Learning programs. Up to this point, EIU personnel have had to manually enter training history into EIS on a monthly basis because SMS does not communicate with EIS. However, after several weeks of testing, MCSO informed us during our January 2018 site visit that the HUB interface with EIS would go into production in February 2018. We will evaluate this during our upcoming site visits. During our visits to the Districts, we have found that supervisors are routinely making sure that their staff are up-to-date on their training.

MCSO is in compliance with this Subparagraph.

Paragraph 75.n. requires that the database include "bi-monthly Supervisory observations of each employee."

Currently, supervisors memorialize their meetings with employees in Supervisory Notes in Blue Team. The current version of EIPro allows supervisors to conduct searches of this field. BIO conducts an inspection of Supervisory Notes each month. One of the indicators they look for is whether supervisors create bi-monthly notes for their subordinates. In the October report, BIO found only 80% of supervisors had two notes or made both notes on the same day. For that reason they sent Action Forms to Districts 1, 4, and 6. BIO provided the November and December Supervisory Note inspections in February 2018. BIO reported that 94% of supervisors included bi-monthly notes for subordinates in November, and 84% did so in December. As noted above, EIU and BIO are exploring the possibility of setting alerts for supervisors who have repeated deficiencies over several months. We will evaluate the proposal when it is produced.

MCSO is not in compliance with this Subparagraph.

MCSO is making progress toward the development of a functioning relational database that is used consistently by MCSO personnel. 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 worked diligently to use some of the data above to investigate compliance rates with the Court Orders

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. First, MCSO has incrementally created mandatory fields that deputies must complete 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. Second, EIU has instituted a quality check process of VSCFs; that is, supervisors are required to review all traffic stops within three days before the form goes into the EIS database. Third, BIO conducts traffic stop data inspections and evaluates whether the deputy and civilian information matches the BWC and license and warrant checks.

MCSO has incorporated patrol data into the EIS through the creation of interface options for IR and NTCF documents. Each of these documents lists the required name of the deputy and civilian in accordance with the Paragraph. During our October 2017 and January 2018 site visits, field supervisors and command staff in the Districts were able to demonstrate their ability to view the information resulting from the activity of deputies under their supervision. Additionally, BIO conducts quarterly inspections of Incident Reports to check for probable cause in the narrative report, and that all relevant information for civilians and deputies coincides across documents if necessary due to the enforcement actions taken by the deputy. BIO and EIU are currently developing a quarterly inspection for NTCFs. Due to the low use of this form, they are considering including it as a subsection in the IR inspection. Once produced, we will evaluate the proposal to ensure it meets the requirements of this Paragraph. However, as noted above, the IR and NTCF data exists in EIS for supervisors to review.

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.

MCSO's Technology Management Bureau has regularly maintained an adequate supply of back-up equipment for distribution to the Districts. Since the end of 2015, we have found that all marked patrol vehicles were properly equipped with TraCS equipment. MCSO has also ensured that if unmarked vehicles may be used for traffic enforcement that they must also be equipped properly. MCSO has developed EB-2 (Traffic Stop Data Collection), which states that in the event that a TraCS vehicle is not operational, or available, each District possesses the necessary equipment at the substation for deputies to input his/her traffic stop information before the end of the shift. Due to the mountainous regions throughout Maricopa County, there have always been connectivity issues. However, these areas are well-known to patrol deputies; and they have demonstrated how they adapt to connectivity problems. The VSCF also allows deputies to note issues with technology on a traffic stop.

During our January visits to Districts 3, 4, and 7, we spot-checked patrol 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 meet 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: In compliance

GH-5 (Early Identification System) clearly states that employees only have access to EIS in furtherance of the performance of their duties, and that any other unauthorized access will be addressed under MCSO's discipline policy. The policy also notes that access to individual deputy information will be limited to appropriate supervisory/administrative personnel of that deputy. 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; however, 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, which occurred in 2011 and 2015, involved employees improperly using NCIC for personal purposes. When District or investigative personnel discovered these breaches, they wrote and approved Incident Reports, but no one notified Technology Management Bureau personnel of these events. One employee was eventually prosecuted, and the other was dismissed from the agency. On November 6, 2017, MCSO published the operating procedure for System Log Audit Requests that became effective on November 30, 2017. The procedure outlines how PSB personnel will notify the Technology Management Bureau of any misuse of MCSO information systems allegations and request an audit of the suspected breach. We discussed this operating procedure, BAS SOP 17-4, during our January 2018 site visit meetings; the document meets the concerns we have voiced since the February 2017 discovery noted above.

It is also clear that MCSO takes several steps to ensure that deputy information is restricted to those needing purview of personal information for supervisory or investigative reasons. Our discussion of Subparagraphs 75.a. and b. (regarding open external and internal complaints) made it clear that PSB would not allow summaries of these complaints to be viewed until they had created a protocol to ensure the privacy of the deputies and the integrity of the ongoing investigation. Once PSB ascertains who may be involved in all ongoing investigations, PSB sets the access levels appropriately and includes the summaries in EIS so that immediate supervisors and command staff may view them as part of their supervisory functions. PSB also reserves the ability to modify this purview if circumstances change during the investigation and a supervisor becomes implicated in an ongoing investigation. Assurance of the integrity and security of the data system is of primary concern for MCSO.

Finally, following the discovery of data problems that were discussed thoroughly in prior Paragraphs (64-67 and 70-71), MCSO created a working group to ensure that the data quality used to conduct statistical analyses was consistent and standardized. The workgroup meets on a monthly basis to discuss any issues or changes with the pulling/analyzing of data used in the monthly, quarterly, and annual analyses. While the committee was not concerned with the security of the data itself, the committee has taken steps to ensure that traffic stop information is attributed to the proper deputy. The protocol this workgroup has created will be memorialized in the EIU Operations Manual that is currently under revision. The Operating Procedure discussed above provides an additional level of security to what was already outlined in GH-5 (Early Identification System). Therefore, MCSO is in compliance with 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 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 in July 2017. This greatly improved access to traffic and patrol data for review by supervisors. In addition, the Technology Management Bureau has been pilot-testing the interface between the HUB software program that will be replacing the Skills Management System (SMS). MCSO anticipates that this automation will be complete in February 2018. We will evaluate this interface during our next site visit. However, this should reduce the workload on EIU staff, who have been manually entering training data into EIS on a monthly basis since 2016. Nonetheless, MCSO has not met several expected target dates regarding the production of analyses for the Monthly Traffic Stop Report, and has proposed changes to the projects planned for the quarterly traffic stop report. MCSO, therefore, is not in Phase 2 compliance with this Paragraph.

EIU and BIO continue to pull together data to conduct audits and analyses of deputy and supervisor activity. Both units have automated aspects of the alert and Action Form processes using Blue Team for transmission of information to and from the Districts. EIU has also created a supervisor checklist – Attachment B of GH-5 (Early Identification System) – due to the fact that previously returned alert investigations were inconsistent. Automating Attachment B has resulted in more thorough investigations by the supervisors assigned them. EIU also produces a monthly alert report for Paragraphs 70, 71, 75.j., and 81. Two tables in the report (Tables 8 and 9) track how alerts sent out to supervisors have been closed. However, these tables only include alerts sent out during the current month (Table 8) or during the previous month (Table 9). What we have found over the past several months is that most cases are not closed during these timeframes. We recommended to MCSO during our October and January site visits that MCSO should investigate an "aging" table that lists the amount of time it took to close alert investigations. In this way, they can hold deficient supervisors accountable. At present, MCSO is continuing to investigate how to create such a table.

As noted above, BIO also automated the transmission of Action Forms to and from District command staff in Blue Team. However, BIO does not currently track these deficiencies by District or individual supervisor. We have recommended that BIO create a tracking mechanism so that supervisors who are repeatedly deficient for similar issues can be addressed accordingly by command staff. BIO continues to develop a proposal to track Action Forms. BIO is also working to create an inspection of NTCFs now that the interface with EIS has been completed. Once each of these proposals is produced, we will evaluate their sufficiency.

The creation of more automated processes has made the activity of EIU and AIU more transparent. However, each unit has a number of proposals or analyses that need to be produced. Additionally, we have found in the monthly reports produced by both units that supervisors have not fully utilized the EIS tools available to them. Since EIS and SRELE Training were just completed in September 2017, it may take a few months for the inspections and reports to show improvement. We will continue to work with both units to improve the access to information provided to supervisors and hold those supervisors accountable to use the EIS resources available to them.

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: In compliance

MCSO has completed EIS and SRELE Training for all supervisory personnel overseeing patrol or traffic operations. We worked with MCSO to develop the curriculum since the final amendment to GH-5 (Early Identification System) in March 2017. During our January site visit meetings, MCSO discussed several of the issues that arose during the training that may impact future training events for EIS. In particular, MCSO wanted to ensure that everyone, whether experienced with EIS or not, received sufficient historical material to understand how the system had evolved. Several supervisors we met during District visits suggested that future training should include more "hands-on," realistic events that could be pulled from ongoing usage of the EIS system. In addition, several supervisors suggested more one-on-one training to review particular problems or issues that they have had with the EIS system as they conduct their supervisory activities. EIU and the Training Division were receptive to these comments, and suggested they were already devising future training events that would incorporate some of these suggestions.

We will continue to evaluate how the delivery of this training impacts the use of EIS tools by supervisors.

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 and BIO produce monthly/quarterly analyses, audits and inspections pertinent to this Paragraph. EIU has conducted monthly traffic stop analysis for two years. The goal of the analyses is to look for behavior that is outside the norm so that supervisors might investigate whether any underlying bias or behavioral issues account for the variation. Our initial review of the monthly traffic analyses was that it was largely qualitative in nature and could not effectively be used to investigate potential bias. MCSO agreed to suspend alerts based upon analysis of the Paragraph 67 benchmarks in May 2016. In March 2017, these alert processes were reintroduced into the EIU monthly alert report that also involves other organizational deficiencies. We and MCSO became concerned that the new alert system did not provide sufficient information to allow supervisors to derive a problematic pattern if one existed. Therefore, in July 2017, MCSO discontinued alerts derived from the monthly traffic analysis again. We continue to await the proposed analysis that MCSO has planned to correct the problems encountered. Until the traffic alert analysis can be used in the monthly alert report, MCSO will not achieve Phase 2 compliance with this Paragraph.

BIO also produces inspections and reports of supervisor activity. When BIO discovers a deficiency, an Action Form is transmitted to the relevant command staff via Blue Team and is returned to BIO in the same way. This is a dramatic improvement over the old email system. BIO does not currently have a process in place to collectively report on the outcomes of Action Forms, and does not currently track repeated deficiencies by Districts or supervisors to ensure that corrections can be applied as necessary. BIO is developing a monthly report template to address several of these issues. We will evaluate this proposal as the information becomes available. Finally, we have noted in several Paragraphs that BIO has not published several of their routine inspections and audits in a timely fashion. We were not supplied with several inspections for November and December until the end of February 2018.

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 has conducted monthly and annual analyses looking for outliers that may indicate that an individual is behaving in a biased or unprofessional manner, in accordance with Paragraphs 65, 66, and 67. EIU continues to conduct the monthly analyses, but is holding the results in EIS until the new methods for alert thresholds are approved. The alert process for monthly traffic stop analysis has been suspended twice. First, in May 2016, it was suspended because we believed that the results were not grounded in a scientific manner. Second, after reinitiating alerts, it became apparent that the information provided to supervisors was insufficient to determine if a pattern of behavior existed. MCSO is developing an analysis of 3-5 month rolling averages to accumulate more information for supervisors.

The quarterly traffic stop analysis has not yet been produced. We have been working with MCSO to make this report unique from those of the monthly and annual reports. In collaboration with the Parties, we had agreed to five potential studies to be carried out over the next year. During our January site visit meetings, MCSO stated that it wanted to reevaluate the agreed-upon studies to determine if they would be beneficial and not exhaust the resources available to EIU. We will evaluate MCSO's proposal when it is produced.

Finally, the publication of the Second Traffic Stop Annual Report (TSAR) was postponed due to a data issue that impacted the designation of where a stop occurred. MCSO corrected this problem, and published the report in July 2017. We have worked with MCSO to develop a response to the finding that individual deputies may have acted in a biased manner in the way they stopped, cited, warned and arrested civilians. MCSO conducted two pilot tests of supervisory discussion processes related to these outlier findings. Each was found lacking. We, the Parties, and MCSO have created a more comprehensive process that includes cross-validation of reviews and involvement of command personnel in the evaluation of materials before the supervisor holds a discussion with the deputy. We will evaluate the process and outcome of these cases as they become available.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.b. requires that MCSO's EIS protocols include "identification of warning signs or other indicia of possible misconduct."

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. Both the annual and monthly traffic analyses were focused on identifying deputies who deviated significantly from the norm for activities like citation or warning rates, arrests, or searches/seizures based upon the race/ethnicity of the driver or passengers. While the annual analyses encountered problems that resulted in delays in publication; and the monthly traffic alerts have been suspended as new methods, described in 81.a., are being explored; we remain confident that MCSO is working diligently to meet the requirements of the Order.

MCSO is also in the process of finalizing the EIU Operations Manual that includes data-handling processes, alert processes as well as appendices outlining the thresholds for limitations of certain behaviors and the allegations that may follow. We noted significant improvement in the latest draft of the manual, published in September 2017, but offered several additional suggestions that needed to be addressed. The development of the TSAR process will also be included in the manual. We will evaluate the sufficiency of the manual when it is produced.

BIO also conducts monthly inspections of Traffic Stop Data. We have noted a lot of fluctuation in compliance rates in past reports. The current quarter's results are no different. The compliance rates for October, November, and December 2017 fluctuate from 91%, 88%, and 80% respectively. Discovered deficiencies result in Action Forms being directed to the Districts. We will follow up on these Action Forms to determine how commanders are dealing with repetitive issues.

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 included the bi-monthly review of EIS data to the monthly "Supervisory Note Inspection Report" in January 2017. In September 2017, the overall compliance rate for Supervisory Notes was 97%; which decreased to 87% in October and then rose to 95% and 94%, respectively for November and December 2017. One of the four measures tracked in the inspection report pertains to the review of subordinates EIS data. In October and September, the compliance rate for this measure was 90%. In November, this rate dropped to 85%; and then rose to 94% in December. A second measure is whether the supervisor entered a performance note for their subordinate. In September, the rate of compliance was 100%; while in October, the compliance rate had decreased to 90%. BIO sent out Action Forms to Lake Patrol in September and additional Action Forms to Districts 1, 4, and 6 in October. For the months of November and December, BIO found that 100% and 98% of supervisors, respectively, created the required performance notes. During our January site visit meetings, MCSO advised us that the Action Forms that were returned for the October deficiencies included a note that the supervisors in all four impacted Districts were counseled about keeping track of their supervisory responsibilities and completing them in a timely fashion.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.d. requires that MCSO's EIS protocols include "a requirement that MCSO Commanders and Supervisors initiate, implement and assess the effectiveness of interventions for individual Deputies, Supervisors, and units, based on assessment of the information contained in the EIS."

MCSO published GH-5 (Early 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 also 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 required. More importantly, we note that now command staff actively intervene when they find that an investigation or description appears to insufficient, by returning the documents through Blue Team and specify what more needs to be done.

During the period from October-December, we reviewed four cases that had PSB investigations linked to incidents that also triggered alert investigations. Because PSB investigations are more substantial, the existing alert investigations were closed. During our January 2018 site visit, MCSO informed us that all four PSB cases remained active. EIU provided the summary description of the ongoing investigation. When closed, EIU will be able to provide the dispositions; however, as of this writing, no further information was available. The remaining alert cases reviewed during this reporting period appear to have been closed appropriately with sufficient information provided by the supervisor to understand what had occurred. Two alert case summaries included two or more Attachment Bs. This indicates that command staff had asked for additional information, or, in one case, had the closure modified to "meeting with a supervisor" rather than "coaching."

In both our October and January site visit meetings, MCSO informed us that there had been no interventions beyond "meeting with a supervisor" or "coaching." While there have been no interventions to track up to this point, EIU stated that the current revision of the EIU Operations Manual will include a description of the protocol for tracking interventions. Once produced, we will evaluate the proposed process.

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."

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, GH-5 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. By September 2017, we found that the closure of alert investigations by supervisors had improved dramatically. In recent months, we have only checked on the ongoing status of the related PSB inquiries. During both our October and January site visit meetings, MCSO informed us that supervisory personnel had not initiated any interventions as a result of alert investigations.

MCSO also provided us with two reports in December regarding identity document investigations or arrests. One investigation followed a garage burglary in which credit cards were stolen, and the investigating deputy found that the credit cards were used at a local hardware store. The deputy was able to make two arrests for fraudulent use of credit cards and receiving stolen property. The second case involved the arrest of a civilian on an outstanding fraudulent scheme warrant. Supervisors signed off on each of these reports as required by policy. Neither investigation involved biased policing.

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."

In the development of GH-5 (Early Identification System), MCSO has taken into consideration the nature of the employee's assignment. In prior versions of GH-5, MCSO created an appendix for thresholds that indicated, for example, that the "use of force" threshold was different for jail and patrol personnel. Jail personnel are much more likely to need to employ force than their patrol counterparts. In the current version of GH-5, MCSO makes reference to thresholds that will be included in the EIU Operations Manual. Additionally, when EIU is conducting patrol data analyses they make sure to compare "geographic peers." Therefore, deputies are only compared to other deputies who make stops within the same District.

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). In our discussions with supervisors and command staff of Districts 3, 4, and 6 during our January site visit, we were informed that approximately 10 sergeants were transferred in to the Districts within the last six months. The command staff in each District stated that they have always reviewed the EIS profiles of new supervisors within the first week that they arrive for duty. EIU also noted that this was a significant point addressed during the EIS and SRELE Training in September 2017. Supervisors were advised to document when the EIS reviews were conducted and how long the deputy or supervisor had been working in the District when the review occurred. We have found no instances where the 14-day limit outlined in policy has been problematic.

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."

Over the past year, EIU has repeatedly proposed modifications to existing practices to improve effectiveness. As noted in several Paragraphs, EIU created Attachment B to GH-5 (Early Identification System) to prompt supervisors to conduct a more thorough investigation of the alerts being forwarded to them. Our review of these materials, following the first three months when they were new, has shown that supervisors are improving how they review the materials provided to them, and are closing the alert investigations appropriately. In addition, we have noted that command staff are now actively involved in the review of alert cases and have found a few cases each month where the lieutenant or captain has asked for additional narration or documentation before accepting a case closure.

BIO also conducts audits of a wide range of supervisory activities ranging from Supervisory Notes to Incident Reports to the Review and Discussion of traffic stops. When deficiencies are discovered during these inspections and audits, BIO sends out Action Forms through Blue Team. While this automation of the Action Form process has greatly improved the effectiveness of communication, there is no overall report that captures whether deficiencies are recurring in Districts or by specific supervisors. We have recommended several options of tracking to BIO. BIO submitted a brief proposal in November to which we replied, and they are currently developing a more comprehensive plan to track Action Forms. When this proposal is produced, we will evaluate it accordingly. Both AIU and EIU are in the midst of significant projects that should improve the effectiveness of the Organization as a whole. We will evaluate MCSO's progress in subsequent quarterly status reports.

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. During our January visits to Districts 3, 4, and 6, we also confirmed the security of old VSCF forms. Additionally, on November 6, 2017, MCSO published the operating procedure for System Log Audit Requests; this became effective on November 30, 2017. The procedure outlines how PSB personnel will notify the Technology Management Bureau of any misuse of MCSO information systems allegations and request an audit of the suspected breach. We discussed this operating procedure, BAS SOP 17-4, during our January 2018 site visit meetings; it meets all of the concerns voiced since the February 2017 discovery of two cases where data was compromised but no one notified the Technology Management Bureau. We believe this new procedure will ensure that such an oversight does not occur again.

MCSO is in compliance with this Subparagraph.

MCSO is meeting some requirements of Paragraph 81. Our major concerns, however, center on the delay of analyses for the benchmarks from Paragraph 67 in the Monthly Traffic Report, the reevaluation by MCSO of the projects for the Quarterly Traffic Report and the lack of a published protocol for tracking the effectiveness of interventions. In addition, we and the Parties believe that supervisors must be prompted by command staff to evaluate their subordinate's behavior and use the EIS system to note how and when they have intervened. While supervisors have improved how they respond to alerts sent to them by EIU, we have not seen much evidence of supervisors initiating such actions on their own. Command staff should take an active role in ensuring the thoroughness of their line supervisors. We will continue to work with MCSO in this regard and evaluate any documents that are produced.

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 January site visit, we met with MCSO command staff regarding supervision and compliance with this Paragraph. We inquired about the resource allocation study that we previously discussed with MCSO in October. However, we were not able to ascertain if MCSO had made any progress, as no one in the meeting was able to provide an update. After the meeting, we learned that the 2017 calls for service data had just been received, but that MCSO had not had time to analyze the data. Subsequent to our site visit, we received a document that stated that the Criminal Research and Analysis Unit (CRAU) had conducted a preliminary assessment of the 2016 calls for service data and was currently analyzing the 2017 data. The document stated that the CRAU and the Criminal Intelligence Division would complete the analysis by March 10, 2018.

Also during our January site visit, MCSO personnel informed us that Districts 2 and 4 had reverted to the 3/13 shift configuration (three consecutive 13-hour days followed by a period of time off) due to personnel shortages, and that District 3 would also revert to the 3/13 sometime in February. While the Orders do not include specific requirements regarding the deputies' work schedules, there are some issues MCSO should consider. In addition to concerns of deputy fatigue due to long work hours, the four days off may impact the timeliness of supervisory reviews and span of control. We will carefully observe and evaluate any changes in span of control, as well as any shortcomings in supervisor responsibilities that may result from the change in shift configuration.

During our January site visit, we interviewed supervisors and commanders from two Districts to determine if there was compliance with MCSO policies and the requirements of this Paragraph. We met with the District Commander and a sergeant from District 4. The District 4 Commander was reassigned to the Bureau of internal Oversight, but attended the meeting. District 4 is a contract city, and the District deputies have always worked on a 3/13 shift configuration. The District's most prevalent crimes are thefts and burglaries; and burglaries spike during the summer months when many residents relocate to cooler regions. District 4 has two community outreach initiatives. First, the District has an ongoing relationship with a local elementary school, where School Resource Officers attend monthly meetings to conduct training for schoolchildren. Second, the District also has a new partnership for at-risk youth called Horse Help, where children are taught responsibility through the care of horses. The staff of District 4 appeared to be competent and knowledgeable of the issues related to crime and quality of life, as well as the requirements of the Order.

We met with the District 6 Commanding Officer, and a lieutenant. District 6 is a contract city for the town of Queen Creek. The former District 6 commander, who had been assigned to the District for many years, retired in January. The new Commander, who took over District 6 after the conclusion of our site visit, had been assigned to the Bureau of Internal Oversight and is intimately familiar with the requirements of the Order. We learned that Queen Creek hired a crime analyst to assist the District with its law enforcement efforts. The District 6 staff initiated their own version of CompStat, defined as a dynamic approach to crime reduction and quality-of-life improvement. The process uses comparative statistics of crime data to locate trouble spots and addresses crime trends by targeted enforcement. The District 6 process is in its infancy stage, but the enthusiasm of the staff leads us to believe that CompStat will continue to develop. Every month, District 6 holds CompStat meetings that are attended by all supervisors, the District lieutenant, the crime analyst, and a representative from the town. During our visit, District 6 briefly presented the material discussed in the CompStat meeting, and we subsequently obtained a copy of the PowerPoint presentation. We recognize the value of this initiative; and concur that the time, effort, and funds associated with the CompStat process will yield positive returns. With this initiative, we believe that District 6 has taken a significant step forward in addressing crime and quality-of-life issues in Queen Creek. We were also encouraged by the enthusiasm and innovative spirit demonstrated by the staff. We believe this is a positive step and have encouraged MCSO to duplicate this model in other Districts.

District 6 has a community outreach program where deputies patrol the community and alert residents when they inadvertently leave their garage doors open. We were also advised that the town of Queen Creek added an administrative assistant, which allows the town offices and the MCSO office to operate Monday through Friday during business hours. The MCSO District 6 office previously operated Monday through Thursday.

We reviewed a representative sample of 94 Incident Reports for October 2017**,** for the randomly selected date of October 8, 2017. We found no significant issues, as 93 of the 94 Incident Reports were reviewed and memorialized within the required seven days, and all of the 17 Vehicle Crash Reports were reviewed within the required timeframes. All 10 Arrest Reports were reviewed within the required 72 hours. We conducted a quality check on a random sample of 10% of the reports we reviewed; except for one report where we noted spelling errors, we found no significant deficiencies.

We reviewed a representative sample of 87 Incident Reports for October 2017**,** for the randomly selected date of October 13, 2017. All 77 Incident Reports were reviewed and memorialized by a supervisor within the required seven days. All of the 10 Arrest Reports were reviewed and signed by supervisors within the required 72 hours. All 13 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 again found spelling errors in two reports, but no significant deficiencies.

We reviewed a representative sample of 99 Incident Reports for December 2017**,** for the randomly selected date of December 7, 2017. Deputies submitted all 99 Incident Reports on time. Ninety-eight of the 99 Incident Reports were reviewed and signed by supervisors within the required time constraints. All 11 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 of the 22 Vehicle Crash Reports were reviewed and approved within the required timeframe. We conducted a quality review on a 10% random sample of the reports submitted; other than the one report that was not reviewed within 72 hours, we found no significant deficiencies.

For each month of the quarter, we selected a supervisor and a squad of deputies from each District. 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 reviewed each PAL. For October, all of the 34 deputies' Patrol Activity Logs contained documentation of supervisory review. All five supervisors' Patrol Activity Logs contained documentation of command-level review. For November, we reviewed Patrol Activity Logs for 25 deputies and seven supervisors. All 25 deputies' PALs contained documentation of supervisory review. All seven supervisors' PALs contained documentation of command-level review. For December, we reviewed Patrol Activity Logs for 33 deputies and seven supervisors. All of the 33 deputies' PALs contained documentation of supervisory review; all of the seven sergeants' PALs contained documentation of command-level review.

We also reviewed deputies' and supervisors' PALs to determine if supervisors provided on-scene supervision, and if those supervisor-deputy contacts were documented. For the sample dates selected in October, there were a total of 20 supervisor-deputy field contacts reported by deputies and supervisors. For the sample dates selected in November, there were a total of 23 supervisor-deputy field contacts reported by deputies and supervisors. For the sample dates selected in December, there were a total of 12 supervisor-deputy field contacts reported by deputies and supervisors.

For October, November, and December, we reviewed the submissions of non-traffic incidents involving stops and detentions, which were recorded in Non-Traffic Contact Forms (NTCFs). For October, the Monitoring Team selected a random sample of 25 NTCFs to review. All NTCFs were reviewed and approved by supervisors; 24 of the 25 were reviewed within 72 hours as required by the First Order. For November we selected 24 NTCFs to review. All NTCFs were reviewed and approved by supervisors within the required timeframe. For December, we selected 25 NTCFs to review. All NTCFs were reviewed and approved by supervisors, but only 20 of the 25 were reviewed within the required 72 hours. The compliance rate for review and approval of NTFCs by supervisors, within the required 72 hours, was not met for NTCFs (92%). However, to determine the timeliness of supervisory reviews of stops and detentions, NTCFs and VSCFs are grouped together and reviewed under Paragraph 90. The requirement of Paragraph 83, that supervisors review all field interview cards, or in this case NTCFs, has been met for compliance with this Paragraph.

For each month of the quarter, MCSO submitted a breakdown of deputy hours spent on calls related to community engagement and community policing events. For October, MCSO reported 770 hours; for November MCSO reported 746 hours; and for December MCSO reported 718 hours for these community events. MCSO provided sufficient documentation with regard to community engagement to satisfy the requirements of this Paragraph. We have noted that in the minutes of the captains' monthly meetings, the Patrol Chiefs have discussed the issue and have promoted the idea of greater interaction between deputies and community residents.

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 fourth quarter of 2017. During this reporting period, consistent with our methodology, for October we reviewed a sample of shift rosters from Districts 1 and 2; for November we reviewed a sample of shift rosters from Districts 3 and 4; and for December, we reviewed a sample of shift rosters from Districts 6 and 7, and Lake Patrol. Monthly and daily rosters indicated that deputies were assigned to one single consistent supervisor; and that on most days, supervisors were assigned no more than eight deputies. Of the 42 shifts we reviewed, 40 were in compliance.

We select a random sample of different dates of each quarter to examine shift rosters. We include rosters from all Districts to ensure that our compliance inspections cover all the Districts. District 1 had one day in October where a shift had a supervisor-deputy ratio of 1:9. District 2 had one day in October where the supervisor-deputy ratio was 1:9. All other shifts examined were in compliance. This Paragraph has two requirements. The first is that deputies be assigned to a single consistent supervisor. The second requirement of Paragraph 84, as it pertains to span of control, was amended in the Second Order to a ratio of 1:8. For this reporting period, MCSO was in compliance with this Paragraph.

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

Phase 1: In compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), most recently amended on January 11, 2018.

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 October, MCSO submitted the September traffic stops for each deputy, by District. The total number of traffic stops for each District were: District 1, 29; District 2, 10; District 3, 29; District 4, 11; Lake Patrol, two; District 6, 130; and District 7, nine. There were a total of 220 traffic-related events in October for all Districts, and sergeants discussed 202 of those with the deputies who conducted them, for a compliance rate of 92%.

For November, MCSO submitted the October traffic stops for each deputy, by District. The total number of traffic stops for each District were: District 1, 13; District 2, 29; District 3, 13; District 4, 19; Lake Patrol, 18; District 6, 19; and District 7, 22. There were a total of 133 traffic-related events in November for all Districts, and sergeants discussed 130 of those with the deputies that conducted them, for a compliance rate of 98%.

For December, MCSO submitted the November traffic stops for each deputy, by District. The total number of traffic stops for each District were: District 1, eight; District 2, 12; District 3, 21; District 4, 32; Lake Patrol, 10; District 6, 15; and District 7, 17. There were a total of 115 traffic-related events in November, and sergeants discussed 114 of those with the deputies who conducted them, for a compliance rate of 99%.

The compliance rate for discussion of traffic stops was 96% for the reporting period.

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 October, we reviewed Districts 1 and 2; for November, we reviewed Districts 3 and 4; and for December, we reviewed Districts 6 and 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 October, we requested PALs for five sergeants and 34 deputies, which we reviewed. We noted a total of 20 field supervisor-deputy contacts between the combined deputies' and sergeants' PALs for the selected dates. For November, we requested PALs for 25 deputies and seven sergeants. We received and reviewed all requested PALs, and noted a total of 23 field supervisor-deputy contacts between the combined deputies' and sergeants' PALs for the selected dates. For December, we reviewed PALs for 33 deputies and seven sergeants; and noted a total of nine field supervisor-deputy contacts on the deputies' PALs, and three field contacts listed on the supervisors' PALs. Our inspection of the documents provided indicate that supervisors have been available to provide on-scene supervision.

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-4 (Employee Performance Appraisals), most recently amended on September 6, 2017.
- 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 six deputies and 16 supervisors who received performance evaluations in October 2017. One deputy had a sustained PSB complaint but no discipline noted in the first page of the EPA. The allegation involved rudeness by the deputy. Considering that the complaint was from February 2017, and that the allegation had been sustained, the EPA should have noted the discipline. In addition, the EPA stated that the deputy was "not currently available to sign" without further explanation. Five of the six deputy EPAs were of acceptable quality.

With regard to supervisors' EPAs, 10 of the 16 were acceptable. Three of the EPAs did not address the complaint history and their dispositions, and five of the 16 EPAs did not comment on the supervisors' ability to identify and respond to misconduct. We are still receiving EPAs completed in the legacy format, and three of those did not rate the supervisors on the quality of their reviews. In one EPA, the comments on "workplace professionalism" were limited to physical appearance and uniform neatness. One supervisor had a sustained complaint and received a coaching for a violation of CP-2 (Command Responsibility). The supervisor had ordered the removal of vehicles from a crash site before preparing a diagram of the scene. This incident occurred in January 2017. The internal investigation was completed sometime in September, and a coaching was issued in October 2017. The records provided indicate that in May 2017, the same supervisor had a coaching for another violation in which he approved an Incident Report that lacked sufficient information. While we understand that the Discipline Matrix allows for two coachings in this category of violation, these violations appear to be very similar in nature – and we would expect to see a stronger stance on accountability and effectiveness of supervision. We are still seeing appended Blue Team notes that are irrelevant. During our January site visit, we discussed Blue Team entries with MCSO staff. MCSO personnel advised that they are aware and committed to addressing the issue.

We received and reviewed performance evaluations submitted for six deputies and 12 supervisors who received evaluations in November 2017. Five of the six of the deputies' EPAs we reviewed were of acceptable quality. Eight of the 12 supervisors' EPAs contained comments on all of the required rating dimensions. All of the supervisors' EPAs rated the supervisors on the quality and effectiveness of their supervision. Eight of the 12 supervisors' appraisals included comments related to the supervisors' ability to identify and respond to misconduct. Ten of the 12 EPAs rated the supervisors' on the quality of supervisory reviews. Two of the supervisors' EPAs included lengthy reviews due mostly to irrelevant Blue Team notes.

We received and reviewed Employee Performance Evaluations submitted for three deputies and seven supervisors who received appraisals in December 2017. Six of the seven deputies' EPAs we reviewed were properly completed and contained documentation to support the ratings. One EPA needed more supporting examples, but overall the quality of deputy EPAs improved in December. One of the three supervisors' EPAs was excellent. One EPA noted in the face page that the employee did not meet standards, but there was no supporting documentation in the subsequent pages so this may have been an error. One EPA was for a supervisor who works in a specialized unit and failed to rate the employee on his ability to identify and respond to misconduct. All three supervisors' EPAs rated the employees on the quality of their reviews.

Converting to the new EPA format has yielded both positive and negative results. On the positive side, there are more details and better documentation; on the negative side, there is excessive unrelated commentary from Blue Team notes. There are still EPAs – particularly those of supervisors – that do not address the required dimensions. We understand that there is a learning curve. Two of the items discussed in captains' monthly meetings are Blue Team notes and EPAs. We look forward to reading the captains' recommendations on how to address the quality of both of these. We continue to note three areas that are regularly overlooked in supervisors' EPAs: the quality of supervisory reviews; the supervisors' ability to identify and effectively respond to misconduct; and the supervisors' proficiency in conducting administrative investigations, as per the requirements of Paragraph 176. We have also noted that most actions to address deficiencies found in EPAs appear to emerge from the Patrol Bureau. Although the majority of deputies are assigned to Patrol, some of the shortcomings we identified are from EPAs of employees who work in specialized units.

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 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 October, November, and December, we received lists containing all incidents involving MCSO arrests and criminal citations. For each month, we requested a random sample of arrests and criminal citations. In total, we reviewed 64 incidents involving arrests and 87 incidents involving criminal citations. We also reviewed a random sample of 270 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), most recently amended on January 11, 2018.

Phase 2: In compliance

To assess MCSO's compliance with this Paragraph, we requested 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 October 1-December 31, 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.

For this reporting period, MCSO submitted two incidents as responsive to this Paragraph. The two incidents both occurred in December. There were no incidents reported for October or November. One of the cases involved two individuals who committed a burglary and used a stolen credit card to purchase items. The charges included burglary, theft, fraudulent use of a credit card, and identity theft. The second case involved an individual who was charged with theft of transportation, fraud, possession of narcotics, and identity theft. Neither case involved members of the protected class.

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 64 incidents resulting in arrest and 87 incidents involving criminal citations. In addition, we reviewed 270 Incident Reports for the quarter. 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: In compliance

We reviewed 35 incidents involving traffic stops for October 2017. There were 20 stops related to speeding, 18 of which resulted in citations. Three stops were related to equipment violations, and 10 stops were for moving violations other than speeding. Two stops were related to registration or license plate violations. Nineteen of the stops resulted in citations, and 16 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 October, MCSO submitted a spreadsheet documenting each VSCF by District, for a total of 123 VSCFs. We reviewed the data for October, and the compliance rate for timely supervisory reviews of VSCFs was 99%.

We reviewed 35 incidents involving traffic stops for November 2017**.** Seventeen of the 35 traffic stops were related to speeding. Twelve citations were issued for speeding. Three stops were related to equipment violations. Nine stops involved moving traffic infractions other than speeding. Six stops were related to registration or license plate violations. Of the 35 stops, 17 resulted in citations, and 18 resulted in warnings. Supervisors reviewed all 35 VSCFs within 72 hours. For November, MCSO submitted a spreadsheet documenting each VSCF by District, for a total of 217 VSCFs. Of the 217 VSCFs, supervisors reviewed 214 within 72 hours, for a compliance rate of 98%.

We reviewed 35 incidents involving traffic stops for December 2017**.** Seventeen of the 35 traffic stops involved speeding violations. Eleven citations were issued for speeding and six drivers were issued warnings. Five stops were related to equipment violations. Nine stops involved traffic violations other than speeding. Four stops were related to registration or license plate violations. Of the 35 stops, 16 resulted in citations and 19 resulted in warnings. All 35 Vehicle Stop Contact Forms we reviewed noted the serial number of the reviewing supervisor, and date and time of supervisory review. For December MCSO submitted a spreadsheet documenting each VSCF by District, for a total of 121 VSCFs. We reviewed the data and supervisors reviewed 116 of the 121 VSCFs within 72 hours, for a 96% compliance rate.

For October, we selected a random sample of 24 NTCFs to review. All NTCFs were reviewed and approved by supervisors. Twenty-three of the 24 were reviewed within 72 hours. For November, we reviewed a random sample of 25 NTCFs. Of the 25 VSCFs inspected, all were reviewed and approved by supervisors; and all 25 were reviewed within 72 hours. For December, we reviewed a random sample of 25 NTCFs. Of the 25 samples reviewed, 24 were reviewed and approved by supervisors. Twenty of the 25 NTCFs were reviewed and approved within the required timeframes. In total, we reviewed 74 NTCFs for the quarter. Sixty-eight of the 74 NTFCs were reviewed within the required 72 hours, for a compliance rate of 91.8%. We take into account all stops and detentions, both traffic and non-traffic, when we determine the compliance rate for this Paragraph. The compliance rate for timely reviews of all combined stops and detentions for this quarter was 97.2%. With regard to the quality of supervisory reviews of VSCFs and NTCFs, our examination of the documentation provided has not revealed any evidence of boilerplate or conclusory language, inconsistent or inaccurate information, or lack of articulation, as it relates to the legal basis for stops and detentions.

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), most recently amended on January 11, 2018.

Phase 2: Not in compliance

We reviewed traffic stop data reported by MCSO for its October inspection (BI2017-0145). To determine compliance with this Paragraph, for October, the Monitoring Team randomly selected 35 traffic-related events, which BIO then audited for compliance. Of the 35 traffic-related events, MCSO reported that 32, or 91%, had no deficiencies. This was an 8% increase from the September compliance rate. As a result of the inspection, BIO issued three BIO Action Forms. We reviewed the same traffic-related events, independent of BIO's audits, as part of our compliance assessment for Paragraphs 25 and 54. Our examination revealed that the documentation provided for 16 of the 35 stops had deficiencies that supervisors did not identify during their reviews. We reviewed a spreadsheet documenting each VSCF by District, for October, to determine if supervisors were reviewing VSCFs within the required 72 hours. We reviewed data for 123 traffic stops, and determined that supervisors had completed timely reviews in 99% of the cases.

For October, MCSO reported 44 corrective actions. Corrective actions are documented on Blue Team Supervisory Notes. Of the 44 corrective actions, 11 were related to body-worn camera and recording issues, including: 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. Twelve corrective actions were related to inaccurate or missing information on VSCFs, citations, or written warnings. Sixteen corrective actions were related to procedural or policy violations related to traffic stops, and two corrective actions were policy or procedural violations not related to traffic stops. Three corrective actions were related to deputy safety. Two corrective actions were related to technical malfunctions.

We reviewed traffic stop data reported by MCSO for its November inspection (BI2017-0148). We randomly selected 35 traffic-related events, which BIO then audited for compliance. Of the 35 traffic-related events, MCSO reported that 31, or 88%, had no deficiencies. The compliance rate for November decreased by 3% compared to October. Three of the deficiencies were related to failure to run warrants checks; one deficiency was for failure to capture a signature in a written warning. We reviewed the same traffic-related events, independent of BIO's audits, as part of our compliance assessment for Paragraphs 25 and 54. Our examination revealed that the documentation provided for 11 of the 35 stops had deficiencies that supervisors did not identify during their reviews.

We reviewed a spreadsheet documenting each VSCF by District, for November, to determine if supervisors were reviewing VSCFs within the required 72 hours. We reviewed 217 VSCFs and determined that supervisors had completed timely reviews in 99% of the cases.

For November, MCSO reported 52 corrective actions. We reviewed all Supervisory Notes and determined that of the 52 corrective actions, eight 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. Eight were related to inaccurate or missing information on VSCFs, citations, or written warnings. Twenty-two corrective actions were related to procedural or policy violations related to traffic stops. One corrective action was related to a procedural violation, not involving a traffic stop. Two corrective actions were related to deputy safety. Two corrective actions were related to deficiencies noted on Patrol Activity Logs and/or CAD, and eight corrective actions were generated as a result of technical failures or malfunctions. One corrective action pertained to insufficient or erroneous information on an Incident Report.

We reviewed traffic stop data reported by MCSO for its December 2017 inspection (BI2018-0002). We randomly selected 35 traffic-related events, which BIO then audited for compliance. Of the 35 traffic-related events, MCSO reported that 28, or 80%, had no deficiencies – an 8% decrease in compliance from November. As a result of the inspection, BIO issued four BIO Action Forms. We reviewed the same traffic-related events, independent of BIO's audits, as part of our compliance assessment for Paragraphs 25 and 54. Our examination revealed that the documentation provided for 10 of the 35 stops had deficiencies that supervisors did not identify during their reviews.

For December, MCSO reported 44 corrective actions. Of the 44 corrective actions, 11 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. Twelve corrective actions were related to inaccurate or missing information on VSCFs, citations, or written warnings. Sixteen corrective actions were related to procedural or policy violations related to traffic stops. Two corrective actions were related to technical malfunctions or system errors. Three corrective actions were related to deputy safety.

We reviewed a spreadsheet documenting each VSCF by District, for December, to determine if supervisors were reviewing VSCFs within the required 72 hours. We reviewed 121 VSCFs and determined that supervisors had completed timely reviews in 96% of the cases.

Our reviews for this quarter indicate that deputies, in the majority of cases, are acting within legal guidelines in conducting stops and detentions. However, we continue to find deficiencies that supervisors have overlooked in deputies' documentation of traffic 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: In compliance

- GC-4 (Employee Performance Appraisals), most recently amended on September 6, 2017.

Phase 2: Not in compliance

The Employee Performance Appraisals completed for this reporting period, discussed in detail under Paragraph 87, did not meet the requirements of this Paragraph. MCSO is developing a process that will document MCSO's verification of compliance for this Paragraph; as well as supervisors' responsibilities in using EIS to track violations, deficiencies, and corrective actions.

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 94 Incident Reports for October 2017**,** for the randomly selected date of October 8, 2017. Ninety-three of the 94 Incident Reports we reviewed were turned in by the end of the shift, and 93 of the 94 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 17 Vehicle Crash Reports were reviewed within the required timeframes. We conducted a quality review on a 10% random sample of the reports we reviewed. Two Incident Reports had grammar or spelling mistakes; but in general, Incident Reports were well-written and contained the necessary information.

We reviewed a representative sample of 77 Incident Reports for November 2017**,** for the randomly selected date of November 13, 2017. All 77 Incident Reports were submitted by the end of the shift, and all 77 Incident Reports were reviewed by supervisors and approved, or reviewed and returned for corrections within the required seven days. All incidents involving arrest were reviewed and approved within the required timeframes. All 13 Vehicle Crash Reports were reviewed and approved within seven days. We conducted a quality review on a 10% random sample of the reports we reviewed and found minor spelling errors, but most were detailed and well-written.

We reviewed a representative sample of 99 Incident Reports for December 2017**,** for the randomly selected date of December 7. Ninety-eight of the 99 Incident Reports were turned in by the end of the shift, and 98 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. All 11 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 22 Vehicle Crash Reports were reviewed and approved within the required timeframe. We conducted a quality review on a 10% random sample of the reports, and noted no significant deficiencies.

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 three Incident Memorialization Forms (IMFs) – two in October and one in December. One IMF was generated in reference to an arrest where the subject invoked his right to an attorney but the deputies questioned him regardless. The second IMF was issued to the supervisor who signed off on the documents related to the arrest in the same incident. A lieutenant conducting a command-level review of the case discovered the deficiency in this case. There was one IMF generated in December for a domestic violence case in which a deputy failed to follow proper procedures.

We reviewed the inspections report for County Attorney Dispositions for October (BI2017-0136). BIO reviewed 20 of 101 dismissals of criminal cases from the Maricopa County Justice Court and found no deficiencies. Fourteen cases from the Maricopa County Superior Court were reviewed. MCSO noted one case with a potentially irreversible error. In this case, a deputy took a traffic violator into custody for driving without a license, but the infraction was a civil violation. For October, we reviewed 24 Arrest Reports and 22 incidents involving criminal citations. We noted one arrest for possession of narcotics, and one criminal citation involving a driver with a suspended license, that were not reviewed within the required time period. All others had appropriate and timely reviews.

We reviewed the inspections report for County Attorney Dispositions for November (BI2017-0151). BIO reviewed 20 of 209 dismissals, from the Justice Court, and 10 dismissals from the Superior Court; and found no deficiencies in the combined Superior Court and Justice Court cases it reviewed. In addition, we reviewed 20 Arrest Reports and 24 criminal citations for November and found that all reports contained the necessary information. Nineteen of the 20 Arrest Reports were reviewed and approved by supervisors within the required timeframes. There were no deficiencies noted in the 24 criminal citations, and we verified timely supervisory review on all 24 cases.

We reviewed the inspections report for County Attorney Dispositions for December (BI2017-0158). BIO reviewed 20 of 146 dismissals from the Justice Court and eight dismissals from the Superior Court. No deficiencies were found in the combined Superior Court and Justice Court cases reviewed. We reviewed all the documentation provided by MCSO for December, for this Paragraph. In addition, we reviewed 20 Incident Reports involving arrest and 41 incidents involving criminal citations for December. There were no concerns noted with the 20 Arrest Reports we reviewed, and 19 of the 20 Arrest Reports were reviewed and approved by supervisors within the 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: In compliance

- GC-4 (Employee Performance Appraisals), most recently amended on September 6, 2017.

Phase 2: Not in compliance

MCSO personnel advised us that MCSO is in the process of developing a procedure that will document verification of compliance for this Paragraph; as well as supervisors' responsibilities in using EIS to track violations, deficiencies, and corrective actions. Employee Performance Appraisal Training was completed during the third quarter of 2017, and MCSO initiated the new EPA format on September 1, 2017. EIS Training was completed in September 2017. The Employee Performance Appraisals completed for this reporting period, discussed in detail under Paragraph 87, did not meet the requirements of this Paragraph.

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

For this reporting period, we received three Incident Memorialization Forms (IMFs) – two in October and one in December. One IMF was generated in reference to an arrest where the subject invoked his right to an attorney, but the deputies questioned him nevertheless. The second IMF was issued to the supervisor who signed off on the documents related to the arrest in the same incident. A lieutenant conducting a command-level review discovered the deficiency in this case. There was one IMF generated in December for a domestic violence case in which a deputy failed to follow proper procedures.

We reviewed 14 cases submitted for October in which the County Attorney declined prosecution. All cases were declined due to no reasonable likelihood of conviction. We reviewed the MCAO Turndown Notice Report for each case and found documentation that commanders had reviewed the reports in six of the 14 cases. We reviewed 10 cases submitted for November in which the County Attorney declined prosecution. We reviewed the MCAO Turndown Notice Report for each case and found documentation that commanders had reviewed the reports in five of the 10 cases. We reviewed eight cases submitted for December in which the County Attorney declined prosecution. We reviewed the MCAO Turndown Notice Report for each case, and found documentation that commanders had reviewed the reports in six of the eight reports.

This Paragraph requires command-level review of 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. We reviewed the documentation provided, and concluded that commanders are reviewing all Incident Moralization Forms within the required timeframes. We found that only 17 of 32 Turndown Notice Reports were reviewed and approved by commanders. We understand that the decision to prosecute cases is made by the County Attorney, but we believe commanders should be aware of the reasons that the County Attorney declined prosecution in those cases, and ensure that any deficiencies are corrected. MCSO has been in compliance with this Paragraph; however, for this reporting period, MCSO was not in compliance. For MCSO to retain compliance with this Paragraph, commanders will need to improve the documentation of their reviews of supervisory reviews that fall within the purview of this Paragraph.

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

Phase 1: In compliance

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

Phase 2: Not in compliance

As per MCSO 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.

Consistent with our methodology, for every month of the quarter, we selected a supervisor and a squad of deputies from each District. We then reviewed the documentation provided as verification of compliance with this Paragraph. We also requested that EIS reviews of the commanders responsible for the selected personnel be included. For October, we reviewed the documentation provided for 47 employees; which included the ranks of deputy, sergeant, lieutenant, and captain. Of the 47 employees, 36 included the two required EIS reviews in the month, for a 77% compliance rate. For November, we reviewed Supervisory Notes requested as verification of compliance for 55 employees. Of the 55 selected employees, 43 included appropriate documentation, for a compliance rate of 78%. For December, we received Supervisory Notes as verification of compliance of EIS reviews for the selected 55 employees. Of the 55 employees, 44 included appropriate documentation of compliance with this Paragraph, for a compliance rate of 77%. We noted that eight deputies had a second EIS review conducted within three days of the first EIS review. This occurred toward the end of the month. It appears that the supervisor was attempting to comply with the letter of the policy, which requires that supervisors conduct two EIS reviews on a monthly basis. We do not consider two EIS reviews conducted within such a short timespan to be productive uses of the supervisors' time. During this reporting period, MCSO did not yet have a methodology for capturing information, as it pertains to verification of compliance with the assessment of interventions. MCSO is still developing this process.

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: In compliance

- GC-4 (Employee Performance Appraisals), most recently amended on September 6, 2017.

Phase 2: Not in compliance

Employee Performance Appraisal Training was completed during the third quarter of 2017, and the new EPA format was initiated on September 1, 2017. The Employee Performance Appraisals completed for this quarter are discussed in detail under Paragraph 87. The quality is improving, but too few of the EPAs completed met the compliance standards for this Paragraph. In addition, the quality of investigations, and reviews of investigations, has not been consistently assessed in EPAs, as required by Paragraph 176.

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: In compliance

- GC-4 (Employee Performance Appraisals), most recently amended on September 6, 2017.

Phase 2: Not in compliance

Although supervisors are improving how they document citizen complaints, past complaint investigations, corrective actions, lawsuits, claims, and commendations, only 42 of the 50 EPAs that we reviewed contained documentation that supervisors took into consideration these requirements. In addition, MCSO has not developed the procedure for tracking violations, deficiencies, and corrective actions in EIS, as required by Paragraphs 92 and 95. This information will need to be included in Employee Performance Appraisals

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

Phase 1: In compliance

- GC-4 (Employee Performance Appraisals), most recently amended on September 6, 2017.

Phase 2: Not in compliance

We reviewed Employee Performance Appraisals for 31 supervisors and commanders who received EPAs during this reporting period. All 31 of the appraisals rated the quality and effectiveness of supervision. Twenty-one of the 24 appraisals contained comments and/or rated the supervisors' demonstrated ability to identify and effectively respond to misconduct. Twenty-six of the 31 appraisals rated supervisors on the quality of their reviews. Twenty of the 31 EPAs that we reviewed in this reporting period, or 65%, were in compliance with the requirements of this Paragraph. The quality of supervisory reviews, a mandated area of evaluation in this Order, was added to the revised performance appraisal process. However, this dimension is not being consistently addressed. The new EPA form includes a mandatory rating dimension that specifically addresses this requirement. The dimension is listed as "Quality of Supervisory Review/Supervisor Accountability." Commanders completing EPAs should make comments that specifically address supervisors' proficiency in reviewing their subordinates' work, as well as the supervisor's ability to identify and respond to misconduct.

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.

MCSO has no specialized units whose mission includes the enforcement of human smuggling laws as part of their duties. 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 October, November, and December, we received lists containing all incidents involving MCSO arrests and criminal citations. For each month, we requested a random sample of arrests and criminal citations. In total, we reviewed 64 incidents involving arrests and 87 incidents involving criminal citations. We also reviewed a random sample of 270 Incident Reports for this reporting period. We found no evidence of enforcement of immigration-related laws.

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 October 24, 2017.
- CP-11 (Anti-Retaliation), most recently amended on October 24, 2017.
- 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 reviewed hundreds of misconduct investigations involving MCSO personnel. Many of them have been internally generated.

During this reporting period, we reviewed 108 administrative misconduct investigations. Forty-three were initiated internally. Twenty of these investigations involved sworn personnel, one involved a Posse member, and 22 involved Detention or civilian personnel.

MCSO has continued to identify and address misconduct that is brought forward by other employees or observed by supervisory personnel. While some of these investigations did not meet all requirements for the proper completion of misconduct investigations, these failures are addressed in other Paragraphs in 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

In 2016, although we had originally envisioned that PSB would be primarily responsible for the requirements of Paragraph 103, MCSO raised the prospect of shifting integrity testing responsibilities from PSB to BIO. As 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.

BIO established the Audits and Inspections Unit (AIU) to take responsibility for these requirements. AIU continues to develop an Operations Manual that will outline how the AIU will 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 manual again once it had finalized the methodology for complaint intake testing. After receiving another, more developed version of the draft manual, we provided additional comments on the manual following our October site visit. We await the next iteration of the manual from MCSO.

In the meantime, MCSO has developed a structure for AIU that includes one lieutenant, four sworn sergeants, and one Detention sergeant, three senior (civilian) auditors, and an administrative assistant. As of our January site visit, the AIU lieutenant and the four sworn sergeants assigned to the unit had completed a two-part training course on law enforcement audits and inspections offered by a private consultancy. According to AIU's lieutenant, as new personnel are assigned to the unit, they will attend the training, as well.

To explore possible avenues for integrity testing, AIU personnel have begun meeting with analysts from both PSB and the Training Division, and EIU personnel, to discuss information on complaint and other trends. Following our October site visit meeting, in late November, we discussed with AIU personnel via conference call some examples of integrity tests that the unit could conduct that would satisfy the requirements of this Paragraph without being too resource-intensive. We advised AIU to devise tests that rely on the many data sources that are already available at MCSO. For example, we recommended that AIU consider reviews of body-worn camera footage or deputies with patterns of not sustained complaints. During our January site visit, AIU advised us that it intends to soon conduct its first integrity test, which will examine the misidentification of the ethnicity of drivers who are stopped by deputies. While the topics of the integrity tests do not have to be Order-related, this first test is; and it is a topic that is of great interest to the Plaintiffs' class.

While the review process of the 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 108 administrative misconduct investigations. Sixty-three involved sworn MCSO personnel. All were completed after June 20, 2016 and included the use of the required investigative format and checklist. We continue to note that deputies consistently appear for scheduled interviews, provide all required information to investigators, and cooperate with 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 have 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 reviewed 51 sustained misconduct investigations. Thirty involved misconduct by sworn personnel, 12 involved Detention personnel, seven involved civilian personnel, and two involved Posse members. We found that in 50 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 effect 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 PSB Commander was determined to have a conflict. The Appointing Authority and MCSO executive staff determined the findings, discipline range, and final discipline in this case.

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

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

Paragraph 109. *As part of its Community Outreach and Public Information program, the MCSO shall hold at least one public meeting per quarter to coincide with the quarterly site visits by the Monitor in a location convenient to the Plaintiffs class. The MCSO shall consult with Plaintiffs' representatives and the Community Advisory Board on the locations of the meetings. 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 made available. The MCSO shall clarify for the public at these meetings that it does not enforce immigration laws except to the extent that it is enforcing Arizona and federal criminal laws.*

Phase 1: Not in compliance

Phase 2: Deferred

On August 3, 2017, Document 2100, Amendments to the Supplemental Permanent Injunction/Judgment Order, amended Document 670 to direct MCSO to conduct a District community outreach program. This Paragraph, among the provisions of Document 2100, requires that MCSO hold at least one public meeting per quarter to coincide with the quarterly site visits by the Monitor in a location convenient to the Plaintiffs' class. This Paragraph requires MCSO to consult with Plaintiffs' representatives and the Community Advisory Board on the location of the meetings, and to use the meetings to inform community members of the policy changes or other significant actions that MCSO has taken to implement the provisions of the Order. The Order also requires that MCSO provide summaries of audits and reports completed by the MCSO pursuant to this Order and that MCSO clarify for the public at these meetings that it does not enforce immigration laws except to the extent that it is enforcing Arizona and federal criminal laws.

During this reporting period, MCSO held a public meeting coinciding with our October 2017 site visit on October 19, at Taft Elementary School, at 9800 East Quarterline Road, in Mesa, in MCSO Patrol District 1. Approximately 350 community members attended this meeting.

The meeting was used to inform community members of the policy changes or other significant actions that MCSO has taken to implement the provisions of this Order. Sheriff Penzone welcomed the attendees and stated that the community is "a healthier place" when it can focus is on peaceful solutions. He emphasized that MCSO was committed to improving its relationship with the entire community; and acknowledged the Department of Justice (DOJ), ACLU of Arizona, the CAB and the Monitoring Team as partners in the effort. Sheriff Penzone concluded his welcoming remarks by stating that he looked forward to hearing the questions and concerns from the community members. MCSO made summaries of audits and reports completed by MCSO pursuant to this Order available, and MCSO representatives clarified for the attendees that it does not enforce immigration laws except to the extent that it is enforcing Arizona and federal criminal laws.

MCSO will achieve Phase 1 compliance with this Paragraph after it establishes a policy outlining these requirements.

Paragraph 110. *The meetings present an opportunity for MCSO representatives 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 as well as explain to attendees how to file a comment or complaint.*

Phase 1: Not in compliance

Phase 2: Deferred

On August 3, 2017, Document 2100, Amendments to the Supplemental Permanent Injunction/Judgment Order, amended Document 670 to direct MCSO to conduct a District community outreach program. This Paragraph, among the provisions of Document 2100, requires that MCSO's quarterly community meetings present an opportunity for MCSO representatives to listen to community members' experiences and concerns about MCSO practices implementing the Order; and that MCSO representatives make reasonable efforts to address such concerns during the meetings and afterward as well as explain to attendees how to file a comment or complaint.

As noted above, during this reporting period, MCSO held a public meeting coinciding with our October 2017 site visit, on October 19, at Taft Elementary School, at 9800 East Quarterline Road, in Mesa, in MCSO Patrol District 1. The approximately 350 meeting attendees were given ample opportunity to ask questions or offer comments. One attendee inquired whether the 35 deputies who were statistical outliers in the Early Intervention System had been disciplined. Another attendee asked whether the body-worn cameras turn on automatically when deputies pull someone over, and if MCSO is looking at the manner in which people of color are pulled over by deputies. Community members also raised concerns that MCSO is collaborating with ICE by allowing ICE to operate within the Maricopa County jails. At the meeting, MCSO representatives announced that complaint forms were available in the back of the meeting room for any attendees who wanted to provide a written complaint. After the meeting, representatives of MCSO – as well as representatives of the Monitoring Team, the ACLU of Arizona, CAB, and DOJ – remained behind to individually answer questions.

MCSO will achieve Phase 1 compliance with this Paragraph after it establishes a policy outlining these requirements.

Paragraph 111. *English and Spanish-speaking MCSO Personnel shall attend these meetings and be available to answer questions from the public. At least one MCSO supervisor with extensive knowledge of the agency's implementation of the Order, as well as an MCSO Community Liaison, shall participate in the meetings. The Monitor, Plaintiffs' and Plaintiff-Intervenor's representatives shall be invited to attend and MCSO shall announce their presence and state their availability to answer questions.*

Phase 1: Not in compliance

Phase 2: Deferred

On August 3, 2017, Document 2100, Amendments to the Supplemental Permanent Injunction/Judgment Order, amended Document 670 to direct MCSO to conduct a District community outreach program. This Paragraph, among the provisions of Document 2100, requires that both English- and Spanish-speaking MCSO personnel attend MCSO's quarterly community meetings; at least one MCSO supervisor with extensive knowledge of the agency's implementation of the Order participate in these meetings; and that MCSO invite the Monitor, Plaintiffs' and Plaintiff-Intervenors' representatives to attend the meeting, and announce their presence and state their availability to answer questions.

As noted above, during this reporting period, MCSO held a public meeting coinciding with our October 2017 site visit, on October 19, 2017, at Taft Elementary School, at 9800 East Quarterline Road, in Mesa, in MCSO Patrol District 1. MCSO provided a professional Spanish interpreter to act as an interpreter at the meeting at Taft Elementary School to ensure that Spanish-speaking attendees could understand all remarks, questions, and responses. Several MCSO personnel who participated in and attended the meeting play instrumental roles in the implementation of the Orders.

In addition, the Monitor and representatives of the ACLU of Arizona, DOJ, and the CAB were invited to attend, and MCSO announced their presence and stated their availability to answer questions.

MCSO will achieve Phase 1 compliance with this Paragraph after it establishes a policy outlining these requirements.

Paragraph 112. *At least ten days before such meetings, the MCSO shall widely publicize the meetings in English and Spanish after consulting with Plaintiffs' representatives and the Community Advisory Board regarding advertising methods. Options for advertising include, but are not limited to, television, radio, print media, internet and social media, and any other means available. If any party determines there is little interest or participation in such meetings among community members, or that they have otherwise fulfilled their purpose, it can file a request with the Court that this requirement be revised or eliminated.*

Phase 1: Not in compliance

Phase 2: Deferred

On August 3, 2017, Document 2100, Amendments to the Supplemental Permanent Injunction/Judgment Order, amended Document 670 to direct MCSO to conduct a District community outreach program. This Paragraph, among the provisions of Document 2100, requires that MCSO widely publicize, in English and Spanish, its quarterly community meetings at least 10 days before such meetings and after consulting with Plaintiffs' representatives and the CAB regarding advertising methods.

As noted above, during this reporting period, MCSO held a public meeting coinciding with our October 2017 site visit, on October 19, at Taft Elementary School, at 9800 East Quarterline Road, in Mesa, in MCSO Patrol District 1. As required by this Paragraph, MCSO consulted with the CAB and the ACLU of Arizona regarding the site selection, advertisement in local radio and print media in English and Spanish, agenda creation, and meeting logistics. Members of the Monitoring Team also participated in discussions with MCSO regarding preparations for the public meeting.

MCSO's selection of the venue for the meeting was based on accessibility, adequate meeting space, adequate parking, and ease in locating the meeting site. MCSO publicized the meeting with advertisements in both English and Spanish print media. MCSO also ran radio spots in Spanish and English, and distributed flyers in the vicinity of the meeting venue.

MCSO will achieve Phase 1 compliance with this Paragraph after it establishes a policy outlining these requirements.

b. MCSO Community Liaison

Paragraph 113. *MCSO shall select or hire a Community Liaison who is fluent in English and Spanish. The hours and contact information of the MCSO Community Outreach Division ("COD") shall be made available to the public including on the MCSO website. The COD shall be directly available to the public for communications and questions regarding the MCSO.*

Phase 1: Not in compliance

Phase 2: Deferred

On August 3, 2017, Document 2100, Amendments to the Supplemental Permanent Injunction/Judgment Order, amended Document 670 to direct MCSO to conduct a District community outreach program. This Paragraph, among the provisions of Document 2100, requires that MCSO select or hire a Community Liaison who is fluent in English and Spanish; and that MCSO post on its public website the hours and contact information of the Community Outreach Division (COrD), which is responsible for public communications and questions regarding MCSO.

MCSO will achieve Phase 1 compliance with this Paragraph after it establishes a policy outlining these requirements.

MCSO has a Community Liaison who is fluent in English and Spanish, and lists on the MCSO website the hours and contact information for the Community Liaison Officer and other members of the Community Outreach Division. The MCSO website includes information about the Community Outreach Division – such as its mission and frequently asked questions regarding MCSO.

Paragraph 114. *The COD 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 118; and

c. to compile any complaints, concerns and suggestions submitted to the COD 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; and

d. to communicate concerns received from the community at regular meetings with the Monitor and MCSO leadership.

Phase 1: Not in compliance

Phase 2: Deferred

On August 3, 2017, Document 2100, Amendments to the Supplemental Permanent Injunction/Judgment Order, amended Document 670 to direct MCSO to conduct a District community outreach program. This Paragraph, among the provisions of Document 2100, requires that the Community Outreach Division (COrD) be responsible for the following: coordinating MCSO's quarterly community meetings; providing administrative support for, coordinating, and attending meetings of the CAB; compiling complaints, concerns, and suggestions submitted to the COrD by members of the public about the implementation of the Orders, and to respond to the complainants' concerns; and to communicate such concerns from the community at regular meetings with the Monitor and MCSO leadership.

MCSO will achieve Phase 1 compliance with this Paragraph after it establishes a policy outlining these requirements.

As noted above, during the last reporting period, MCSO began the transition to assume responsibility for its Community Outreach and Public Information Program. Shortly after the issuance of Document 2100, COrD – in collaboration with CID – began coordinating the required community meetings. As noted above (in Paragraphs 109-112), during this reporting period, COrD worked with CID to coordinate a community meeting coinciding with our site visit in in Mesa, in MCSO Patrol District 1.

Also during this reporting period, the COrD – also in collaboration with CID – continued working with and providing support to the CAB. During this reporting period, the CAB held one public meeting, at a community center in Grant Park. Approximately 25 community members attended, along with CAB members and nine representatives of MCSO – including personnel from the COrD and CID. CAB members also exchanged numerous email messages with COrD and CID regarding the quarterly community meeting, the CAB's public meeting, and various inquiries and requests for information about MCSO policy and MCSO's implementation of the Orders.

During our October site visit, we discussed with COrD representatives how the division might compile complaints, concerns, and suggestions submitted by members of the public to the COrD; following that visit, COrD created a form for capturing such information and sharing it with the Monitoring Team. We look forward to reviewing such forms as part of our assessment for this Paragraph.

In addition, upon our request, during this reporting period, MCSO provided documentation that all current COrD personnel completed an online Complaint Intake and Processing course via E-Learning. This training should assist COrD personnel in receiving and appropriately directing any complaints or concerns from community members they receive.

c. Community Advisory Board

Paragraph 115. *MCSO and Plaintiffs' representatives shall work with community representatives to create a Community Advisory Board ("CAB") to facilitate regular dialogue between MCSO and the community, 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.*

Phase 1: Not in compliance

Phase 2: Deferred

On August 3, 2017, Document 2100, Amendments to the Supplemental Permanent Injunction/Judgment Order, amended Document 670 to direct MCSO to conduct a District community outreach program. This Paragraph, among the provisions of Document 2100, requires that MCSO have specific duties in relation to the Community Advisory Board (CAB). MCSO and Plaintiffs' representatives are required to work with community representatives to create a CAB to facilitate regular dialogue between MCSO and community leaders, and to provide specific recommendations to MCSO about policies and practices that will increase public trust and ensure that the provisions of this Order and other orders entered by the Court in this matter are met.

MCSO will achieve Phase 1 compliance with this Paragraph after it establishes a policy outlining these requirements.

During the last reporting period, MCSO began the transition to assume responsibility for its Community Outreach and Public Information Program. Shortly after the issuance of Document 2100, MCSO and the Plaintiffs' counsel selected the CAB members, and MCSO began providing support and guidance to the CAB.

During this reporting period, the CAB held one public meeting, at a community center in Grant Park, to facilitate dialogue between MCSO and the community, and to allow community members an opportunity to share their concerns with MCSO. Nine representatives of MCSO attended this meeting, provided information on MCSO's compliance with the Orders to date, participated in the discussion regarding increasing community trust, and answered questions from CAB members and community members in attendance – on topics including how to file complaints.

Also during this reporting period, CAB members and representatives of MCSO – specifically, COrD and CID – exchanged numerous email messages. In these messages, among other topics, CAB members provided 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. For example, CAB members made recommendations regarding outreach and site selection for MCSO's community meeting, and inquired about various Office policies. CAB members also observed a few sessions of training and shared their feedback with MCSO.

Paragraph 116. *The CAB shall have five members, two to be selected by MCSO and two to be selected by Plaintiffs' representatives. One member shall be jointly selected by MCSO and 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. A member of the MCSO COD and at least one representative for Plaintiffs shall attend every meeting of the CAB, but the CAB can request that a portion of the meeting occur without COD or the Plaintiffs' representative. The CAB shall continue for at least the length of this Order.*

Phase 1: Not in compliance

Phase 2: Deferred

On August 3, 2017, Document 2100, Amendments to the Supplemental Permanent Injunction/Judgment Order, amended Document 670 to direct MCSO to conduct a District community outreach program. This Paragraph, among the provisions of Document 2100, reconstitutes the CAB so that it is comprised of five members – two selected by MCSO, two selected by Plaintiffs' attorneys, and one member jointly selected by MCSO and Plaintiffs' attorneys.

MCSO will achieve Phase 1 compliance with this Paragraph after it establishes a policy outlining these requirements.

During the last reporting period, MCSO and the Plaintiffs' counsel announced their selection of the CAB members. One of the two CAB members who had served prior to the issuance of Document 2100 resigned, leaving one CAB member previously appointed by the Plaintiffs' representatives. The MCSO and Plaintiffs' representatives appointed four new CAB members, resulting in a total of five members; two selected by MCSO, two selected by the Plaintiffs' representatives, and one jointly selected by MCSO and Plaintiffs' representatives. None of the CAB members are MCSO employees, named class representatives, or attorneys involved in this case.

As noted above, the CAB held one public meeting during this reporting period. Nine representatives from MCSO attended the meeting, which was held at a community center in Grant Park. The CAB also held two private meetings during this reporting period.

Paragraph 117. *The CAB shall hold meetings at regular intervals. The meetings may be either public or private as the purpose of the meeting dictates, at the election of the CAB. The Defendants shall provide a suitable place for such meetings. The MCSO shall coordinate the meetings and communicate with CAB members, and provide administrative support for the CAB.*

Phase 1: Not in compliance

Phase 2: Deferred

On August 3, 2017, Document 2100, Amendments to the Supplemental Permanent Injunction/Judgment Order, amended Document 670 to direct MCSO to conduct a District community outreach program. This Paragraph, among the provisions of Document 2100, requires that the CAB hold either public or private meetings at regular intervals; and that MCSO should provide a suitable place for such meetings, coordinate the meetings and communicate with CAB members, and provide administrative support to the CAB.

MCSO will achieve Phase 1 compliance with this Paragraph after it establishes a policy outlining these requirements.

The CAB held one public meeting during this reporting period. Nine representatives from MCSO attended the meeting, which was held at a community center in Grant Park. MCSO communicated with CAB members and offered administrative support to the CAB, in such areas as scheduling the meeting and developing the agenda.

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 transmit them to the COD for investigation and/or action. Members may also hear from MCSO Personnel on matters of concern pertaining to the MCSO's compliance with the orders of this Court.*

Phase 1: Not in compliance

Phase 2: Deferred

On August 3, 2017, Document 2100, Amendments to the Supplemental Permanent Injunction/Judgment Order, amended Document 670 to direct MCSO to conduct a District community outreach program. This Paragraph, among the provisions of Document 2100, requires that at their meetings, CAB members relay or gather concerns from the community about MCSO practices that may violate the provisions of the Orders; this Paragraph also allows for the CAB to hear from MCSO personnel on matters of concern pertaining to MCSO's compliance with the Orders.

MCSO will achieve Phase 1 compliance with this Paragraph after it establishes a policy outlining these requirements.

During this reporting period, the CAB held one public meeting, at a community center in Grant Park, to facilitate dialogue between MCSO and the community, and to allow community members an opportunity to share their concerns with MCSO. Nine representatives of MCSO attended this meeting, provided information on MCSO's compliance with the Orders to date, participated in the discussion regarding increasing community trust, and answered questions from CAB members and community members in attendance – on topics including how to file complaints.

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:

- 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 October 24, 2017.
- CP-8 (Preventing Racial and Other Bias-Based Profiling), most recently amended on October 24, 2017.
- CP-11 (Anti-Retaliation), most recently amended on October 24, 2017.
- EA-2 (Patrol Vehicles), most recently amended on December 8, 2016.
- GA-1 (Development of Written Orders), most recently amended on January 9, 2018.
- GB-2 (Command Responsibility), most recently amended on February 1, 2017.

- GC-4 (Employee Performance Appraisals), most recently amended on September 6, 2017.
- GC-7 (Transfer of Personnel), most recently amended on May 17, 2017.
- 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.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices), published on October 13, 2017.
- GE-4 (Use, Assignment, and Operation of Vehicles), most recently amended on October 7, 2017.
- 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.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- 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.
- GI-5 (Voiance Language Services), most recently amended on December 8, 2017.
- GJ-24 (Community Relations and Youth Programs), most recently amended on January 7, 2017.
- GJ-26 (Sheriff's Reserve Deputy Program), currently under revision.
- GJ-27 (Sheriff's Posse Program), currently under revision.
- GJ-35 (Body-Worn Cameras), most recently amended on January 7, 2017.
- Audits and Inspections Unit Operations Manual, currently under revision.
- Body-Worn Camera Operations Manual, published on December 22, 2016.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.
- Training Division Operations Manual, currently under revision.

We received a majority of the documents listed above within one month of the entry of the Order. The Monitoring Team and the Parties conducted initial reviews and returned the revised documents, with additional recommendations, to MCSO for additional work. During this reporting period, MCSO did not publish any policies related to this Paragraph. MCSO continues to revise the remaining policies and operations manuals related to misconduct investigations, 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.

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 October 24, 2017.
- CP-11 (Anti-Retaliation), most recently amended on October 24, 2017.
- 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.

In the last reporting period, we reviewed 74 closed administrative misconduct investigations. Thirty-six cases involved sworn personnel. Four cases involved Posse members. Thirty-one cases involved Detention personnel, and three involved civilian personnel. Sworn or Detention personnel assigned to PSB conducted 54 of the investigations. Sworn supervisors in Districts or other Divisions outside of PSB investigated the remaining 20 cases.

During this reporting period, we reviewed 108 closed administrative misconduct investigations. Sixty-three cases involved sworn personnel. Three cases involved Posse members. Thirty cases involved Detention personnel, and 12 involved civilian personnel. Sworn or Detention personnel assigned to PSB conducted 62 of the investigations. Sworn supervisors in Districts or other Divisions conducted 45 of the investigations, and one investigation was conducted by an outside law enforcement agency.

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 was one instance where a potential conflict of interest was identified. The conflicted member of MCSO did not participate in the investigative process, the determination of findings, or the disciplinary decision in this case.

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 108 completed administrative investigations for this reporting period revealed one instance where MCSO identified a conflict of interest by an MCSO member responsible for determining the presumptive range of discipline. This responsibility was properly delegated to another member of MCSO. There are pending investigations that have been 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 assigned to the contract investigator are still in progress.

Paragraph 167.c. requires that investigations into truthfulness be initiated by the Chief Deputy or the PSB Commander. There were eight 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 do so.

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. Per the requirement, 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 108 completed administrative cases we reviewed for this reporting period, there were 34 investigations where an employee reported potential misconduct by another employee. We became aware of one traffic stop and arrest where potential misconduct occurred, and there was no indication that a supervisor was notified. We inquired with PSB and learned that this incident is currently being reviewed as a use of force incident. PSB will follow up regarding any possible misconduct that occurred. We will discuss the outcome of this follow-up during our next site visit.

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 34 cases where employees brought forward potential misconduct, all were properly documented and forwarded by the supervisor in a timely manner.

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, there were no misconduct investigations initiated for this reason. As noted in Subparagraph 167.e, we identified one instance where an employee may have failed to report potential misconduct, and have requested follow-up by PSB.

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 we 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 October 24, 2017.
- CP-11 (Anti-Retaliation), most recently amended on October 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.

- 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 108 administrative misconduct investigations that were completed during this reporting period.

During this reporting period, there were no completed investigations 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. MCSO also reported that there were no grievances or other documents filed with PSB or the Compliance Division that alleged any conduct related to the requirements of this Paragraph.

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 October 24, 2017.
- CP-11 (Anti-Retaliation), most recently amended on October 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.
- 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 108 administrative misconduct investigations that were completed during this reporting period. None contained allegations of retaliation for reporting or investigating misconduct. MCSO also reported that there were no grievances or other documents submitted to PSB or to the Compliance Division that alleged any retaliation related to the requirements of this Paragraph.

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

- 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

To assess Phase 2 compliance with this Paragraph, we reviewed 108 completed administrative misconduct investigations conducted during this reporting period. We also reviewed 11 criminal misconduct investigations. Seventy-three of the 119 total investigations resulted from external complaints. Forty-six were generated due to employee reports of misconduct, or discovery of potential misconduct by MCSO supervisory personnel.

Of the 108 administrative misconduct investigations we reviewed this reporting period, seven involved anonymous complaints from external parties. Two external third-party complaints were also received. All were completed as required for compliance. None of the criminal misconduct investigations were generated due to anonymous or third-party complaints. 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 108 misconduct investigations that we reviewed during this reporting period included any allegations indicating that any third-party or anonymous complaints were not 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 108 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

We determined that 11 of the 108 completed administrative investigations involved complainants who sought to withdraw their complaints; or were unavailable, unwilling, or unable to cooperate. MCSO completed all 11 investigations and reached a finding as required. We also found that in six of the 108 investigations, the principal resigned during the investigation. MCSO completed all six of these investigations and reached a finding. Of the 108 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 October 24, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- 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 during this reporting period, we reviewed 108 completed administrative misconduct investigations conducted by MCSO personnel. There were no investigations identified by MCSO where an employee failed to accurately provide all information or evidence required during the investigation. We did not identify any cases during our reviews where we believe 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: In compliance

- GC-4 (Employee Performance Appraisals), most recently amended on September 6, 2017.
- 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: Not in compliance

During our April 2017 site visit, we met with PSB representatives regarding the status of several policies. PSB command personnel 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 checks are provided to attendees at the promotion meeting as part of the promotional consideration process. Additionally, the PSB Commander generally attends the promotion meetings for both Detention and sworn promotion candidates. When an employee is moved from a civilian employment position to a sworn employment position, MCSO conducts a thorough background investigation. The 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 January 2018 site visit, we reviewed personnel files for numerous employees who had been promoted during the previous months. In our reviews, we found two instances of employees with open internal affairs investigations who were promoted; a justification memo was provided for each. We are concerned with one particular supervisor whose justification for promotion was questionable.

During our inspection of personnel files in January, we found discrepancies in the information that was provided for Paragraphs 173 and 174. We noted four instances where the cover documents provided stated that employees had no discipline. In these four cases, we found either disciplinary actions or internal investigations in their personnel files. We believe that the problem occurred as a result of more than one individual providing documentation of verification of compliance, without a methodology to channel all information through a gatekeeper to ensure consistency and accuracy. As a result, MCSO established a process to ensure that the information provided is coordinated and verified. The review process of personnel files for compliance with this Paragraph has been evolving. We believe we have addressed the miscommunication issues related to document production and retention.

We are concerned with a memo justifying the promotion of a detention supervisor to lieutenant. The employee was a principal in an active internal investigation at the time of his promotion. The memorandum contained a statement that was very concerning. The command officer who authored the memorandum wrote, "Sgt. [] is not alleged to have engaged in any act of serious misconduct from the limited information I have been able to attain." We believe that promoting an employee with limited or incomplete information, especially one with an active administrative investigation, could have adverse consequences. We expect that the background investigation of any employee who is being promoted will be detailed and thorough. If the background investigation was hindered or stalled for any reason, MCSO should have deferred the promotion until the investigation could clearly establish the employee's fitness for promotion.

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

During this reporting period, we requested and received the names of employees hired, promoted, and transferred for each month of the quarter. For transfers to or from PSB, CID, and BIO, we reviewed the resumes and disciplinary histories of the affected employees. MCSO submitted the resumes and disciplinary history of three incoming transfer requests to PSB, CID, and BIO for approval. In addition, two 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. For employees hired or promoted, the documentation provided included any applicable disciplinary actions. The only new hires that would fall under this category, that may have had previous discipline, are civilian or Detention employees who have been upgraded in classification, to sworn. We reviewed the documentation provided for new employees and found no issues of concern. During our January site visit, we audited the files of the transferred employees to verify the accuracy of the information submitted. We did not note any issues of concern with any of the transferred employees.

As part of our personnel file inspection related to this Paragraph, we reviewed the files of employees who were promoted during this reporting period. In our last quarterly status report, we wrote that during our file inspections in October, we noted that several employees had disciplinary actions that were not accounted for in the summaries submitted to us as part of the requirements of this Paragraph. During our January inspection, we identified four employees who had either disciplinary actions or administrative investigations in their personnel files that MCSO had not noted in the document production memorandums submitted during this reporting period. We do not believe this was intentional, but rather an oversight resulting from a faulty production process. We discussed this concern with MCSO, and we believe the issue has been addressed.

There were two command-level Detention employees promoted who had previous disciplinary histories. The first employee had sustained policy violations, from a case in 2009, for which she received a 16-hour suspension. The employee did not have any discipline prior to the incident, and has not had any discipline since the incident in 2009. We reviewed the information and did not have any concerns. The second employee was also a Detention supervisor who was promoted to lieutenant. In this case, the MCSO employee who conducted the background investigation wrote that he was making the recommendation based on limited information. As stated in Paragraph 173, we expect MCSO to conduct a thorough due diligence process in reviewing the disciplinary histories of employees who are promoted. In our last quarterly status report, we found that MCSO was not in Phase 2 compliance with this Paragraph due to the promotion of employees who did not meet the requirements. We found that the promotion of the aforementioned Detention commander does not meet the requirements of Paragraph 174. However, when we consider that MCSO promoted 36 employees during the fourth quarter, and we found that 35 employees promoted were in compliance, MCSO's compliance rate with this Paragraph is 97%.

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

Per MCSO policy, an EIS review is to be conducted within 14 days of an affected employee's transfer. We requested documentation of EIS reviews of those employees that were transferred during this reporting period. We received and reviewed the Blue Team Notes submitted as verification of compliance with this Paragraph. We then compared the Supervisory Notes with the list of transfers received for each respective month of the quarter.

For October, MCSO submitted a list of employees who were transferred during the previous month. From the list, we selected a random sample of 23 employees to assess MCSO's compliance with this Paragraph. The transfers included only Detention personnel. Of the 23 employees selected, 16 contained documentation of command review of their disciplinary history after the transfer. The compliance rate for October was 70%.

For November, MCSO submitted a list of employees who were transferred during October. From the list, we selected a random sample of 25 employees to assess MCSO's compliance with this Paragraph. The transfers included sworn, Detention, and civilian personnel. Of the 25 employees selected, 12 contained documentation of command review of their disciplinary history after the transfer. The compliance rate for November was 50%.

For December, MCSO submitted a list of employees who were transferred during November. From the list, we selected a random sample of 25 employees to assess MCSO's compliance with this Paragraph. The transfers included only Detention personnel. Of the 25 employees selected, four contained documentation of command review of their disciplinary history after the transfer. The compliance rate for December was 16%.

The total combined compliance rate for the fourth quarter of 2017 was 18%.

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: In compliance

- GC-4 (Employee Performance Appraisals), most recently amended on September 6, 2017.

Phase 2: Not in compliance

We reviewed Employee Performance Appraisals for 31 supervisors and commanders who received EPAs during this reporting period. All 31 of the appraisals rated the quality and effectiveness of supervision. Twenty-one of the 24 appraisals contained comments and/or rated the supervisors' demonstrated ability to identify and effectively respond to misconduct. Twenty-six of the 31 appraisals rated supervisors on the quality of their reviews. Twenty of the supervisors' 31 EPAs reviewed for this reporting period, or 65%, were in compliance with the requirements of this Paragraph. Although commanders have been more conscientious about documenting comments pertaining to the quality of internal investigations, too few supervisors' performance appraisals have addressed this dimension to attain compliance.

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

Phase 1: In compliance

- 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

To assess Phase 2 compliance with this Paragraph, we reviewed 108 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: In compliance

The 2017 40-hour Misconduct Investigative Training was delivered six times during this reporting period. A total of 194 (41 PSB personnel, 136 sworn supervisors, 17 Detention, and one civilian) received the training. Only one individual required testing remediation.

During this reporting period, we observed a delivery of the Misconduct Investigative Training. We noted that the instructors facilitated discussions with effective communication techniques. It was evident that both instructors were competent and credible to the students.

However, in general, MCSO must continue to improve on instructor selection criteria to ensure that it assigns only the strongest instructors.

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

During this reporting period, the initial Misconduct Investigative Training was delivered to the personnel who were required to receive the training. All required persons have now completed the initial training. MCSO now anticipates that the annual in-service training required by this Paragraph will be held during this calendar year.

During our January site visit, we discussed in greater detail the development of this curriculum. PSB personnel indicated a desire to bifurcate the in-service training: one curriculum for PSB personnel, and the second curriculum for all other supervisors. They expressed that District supervisors would benefit from a more fundamental class refresher, and PSB staff would benefit from a more advanced refresher. We do not disagree with this approach. PSB has discussed this option with a third-party vendor to develop the District supervisor curriculum. The initial plan is to design a three-day, eight-hour in-service class. PSB has also been in discussions with the Department of Justice to deliver an eight-hour investigation of domestic violence training specific to PSB personnel.

Although we do not disagree with PSB's use of third-party vendors in general, doing so misses an opportunity to enhance the credibility of the bureau. PSB advised that the decision to retain third-party vendors was predicated upon a perceived adverse impact upon the investigative ability of PSB when investigators were diverted to instructional duties. Ultimately the decision is up to MCSO, so long as the curriculum development and instructor selection and vetting processes are adhered to.

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

- 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

During this reporting period, MCSO continued transitioning from the E-Policy platform to the HUB to distribute and inform employees of new or revised policies. In both systems, after review, employees attest that they reviewed the required procedures. Currently, the policies we identified for compliance with this Paragraph are housed on the E-Learning platform. As a result, we will continue to review attestations related to CP-2 (Code of Conduct), CP-3 (Workplace Professionalism Discrimination and Harassment), GB-2 (Command Responsibility), GH-2 (Internal Investigations), GC-17 (Employee Disciplinary Procedures), and GC-16 (Employee Grievance Procedures). These policies were published between December 2016-October 2017. Approximately 4,009 personnel were required to review these policies. MCSO has achieved a 94% compliance rate. Policy training for each of these continues to be delivered via the E-Policy platform. MCSO anticipates a complete transition to the HUB by March 1, 2018.

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

- 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

During this reporting period, all employees continued to receive training for Complaint Reception and Processing. At the end of this reporting period, 3,666 total personnel (501 sworn, 21 reserves, 23 retired reserves, 1,817 Detention, 679 civilian, 625 Posse members) required this training. December reporting indicated that 3,580 personnel (490 sworn, 21 reserves, 23 retired reserves, 1,790 Detention, 664 civilian, 592 Posse members) had received the training.

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

- 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

The requirements of this Paragraph were addressed in several training curricula. The 2017 SRELE, ACT, EIS, and Misconduct Investigative Training programs each provide adequate direction to supervisors and deputies alike. As each curriculum is revised, we will continue to ensure that MCSO reinforces supervisory obligations.

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: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 108 completed administrative misconduct investigations conducted during this reporting period.

Of the 108 cases, there were three (3%) where we do not believe that the final investigative finding reached was based on an appropriate standard of proof. This demonstrates continuing improvement from the 11% and 7% of cases we reviewed during the prior two reporting periods, where the findings were not based on an appropriate standard of proof. In these three cases, we noted failures to complete a thorough investigation and failures to make an appropriate credibility determination. Two of these investigations involved sworn personnel and were investigated by a District supervisor. The third involved Detention personnel, and Detention personnel assigned to PSB conducted the investigation. During our next site visit, we will discuss these investigations with MCSO personnel.

MCSO is now in Phase 2 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 108 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period. In all 108 cases we reviewed, PSB was properly and immediately notified of the complaint.

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 served as the primary administrator for the IAPro database system. The lieutenant's demonstration 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 conducted a weekly evaluation of closed cases to ensure that data was entered in to the system, and a monthly review 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 in 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 hired a management analyst dedicated to the administration of the centralized tracking system. The documentation that PSB provided to us for review, and the direct user access that one Monitoring 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 our January 2018 site visit, a Monitoring Team member met with the management analyst assigned to PSB who is now responsible for management of the IAPro database. The management analyst again demonstrated the functionality of the tracking system in use. The analyst also showed us the documents that are sent out regarding the status of investigations and demonstrated how the Blue Team Dashboard can be used to track investigation information.

During this reporting period, we found that all 108 of the administrative misconduct investigations were properly assigned a unique identifier. All but five of the cases were both initiated and completed after July 20, 2016. Sixty-five of the cases involved an external complainant requiring that PSB provide the complainant with this unique identifier. Sixty-four (98%) cases complied with this requirement.

During the last reporting period, we removed MCSO from Phase 2 compliance due to two consecutive reporting periods of non-compliance. During this reporting period, we found that MCSO is again in Phase 2 compliance with the requirements of this Paragraph.

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

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 previously verified that PSB maintains both hardcopy and electronic files intended to contain all the documents required for compliance with this Paragraph.

During our January 2018 site visit, a Monitoring Team member again inspected the file rooms where hardcopies of investigations are stored and randomly reviewed case files to verify compliance. We again verified that criminal and administrative investigation files are stored in separate rooms, and access to these rooms is restricted. Our Team member also used the access granted to IAPRO to randomly select internal affairs case files to verify that all information is being maintained electronically.

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 108 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 108 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.

During the last reporting period, MCSO completed eight service complaints. All were properly classified and handled as service complaints. We found that two of the eight cases should have had additional follow-up or documentation prior to closing the complaint. We noted that this was a new process for MCSO, and we discussed our concerns regarding these cases with PSB personnel during our January 2018 site visit.

During this reporting period, MCSO completed 10 service complaints. Two of the service complaints were appropriately reclassified to internal affairs investigations after review by PSB. The remaining eight were classified and handled as service complaints. Three involved complaints that were determined not to involve MCSO personnel. Four involved complaints regarding MCSO policies or procedures. In the final case, an anonymous complainant did not make any specific allegations, and MCSO was unable to take any action. We concur with MCSO's handling of all 10 service complaints. During this reporting period, we had several discussions with PSB personnel to clarify questions regarding the process and use of the service complaint forms. We are satisfied that MCSO is properly handling service complaints and completing the required documentation.

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 exist. If the PSB Commander makes this determination, this decision must be documented. There were no internal complaints during this or the last two reporting periods where the PSB Commander determined that the 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 October 24, 2017.
- CP-11 (Anti-Retaliation), most recently amended on October 24, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- 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 during this reporting period, we reviewed 108 completed administrative misconduct investigations conducted by MCSO personnel.

Division or District personnel outside of PSB investigated 45 of the 108 administrative misconduct investigations conducted during this reporting period. PSB investigated 62 of the cases, and one was investigated by an outside law enforcement agency. There was one case investigated by a supervisor assigned to a Division other than PSB that contained allegations of a serious nature. This investigation should have been conducted by PSB, and we will discuss this case with PSB during our next site visit.

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 119 misconduct investigations conducted by MCSO personnel and completed during this reporting period. Of these, 108 were administrative investigations, and 11 involved alleged criminal misconduct. PSB personnel conducted all of the criminal investigations.

Of the 108 administrative misconduct cases we reviewed for this Paragraph, PSB investigators conducted 62 of the investigations. Forty-five were investigated at the District or Division level, and one was investigated by an outside law enforcement agency. We noted that one case investigated by a Division other than PSB contained serious allegations and should have been investigated by PSB.

We have indicated previously that supervisors in the Districts and Divisions outside of PSB had not yet met the requirements of this Paragraph related to qualifications and training; and as a result, we have deferred our Phase 2 compliance assessment for this Paragraph.

During this reporting period, all supervisory personnel at MCSO who conduct administrative misconduct investigations attended the 40-hour Misconduct Investigative Training. As the investigations closed and reviewed for this reporting period were not necessarily completed after supervisors attended this training, we will continue to defer our compliance assessment with this Paragraph until the next reporting period.

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 108 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

There were no cases reviewed for this reporting period where an investigating supervisor outside of PSB discovered potential serious or criminal misconduct during their investigation and failed to forward the case to PSB as required. Our Team identified one investigation where the complainant alleged serious misconduct had occurred, and the case was not forwarded to PSB for investigation. As noted above, we will discuss this case with PSB during our next site visit.

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

MCSO has not yet published a semi-annual public report that meets the requirements of this Paragraph. The report, when published, should identify problematic trends or patterns, and report upon the aggregate data as required. PSB command personnel advised us that they continue to review investigations in "real time" as they come into the bureau. During this reporting period, MCSO provided copies of PSB daily reviews of 45 completed Division level misconduct investigations that were assigned outside the bureau. The report review template used by PSB includes sections that address whether or not the investigation is properly categorized, whether the investigation is being properly conducted, and whether appropriate findings have been reached. Additionally, copies of emails detailing the quality of the investigation, identified deficiencies, and required edits sent electronically to affected Division Commanders have been provided for each case reviewed.

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

- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- GH-2 (Internal Investigations), 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 108 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period. In all 51 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 October 24, 2017.
- CP-11 (Anti-Retaliation), most recently amended on October 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.
- 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 a total of 74 administrative misconduct investigations and 19 criminal investigations. All but three were both initiated and completed after July 20, 2016. Eighteen (95%) of the 19 criminal investigations, and 44 (59%) of the 74 administrative investigations were in compliance with MCSO policy and the requirements of the Second Order. Of the 93 total investigations reviewed, 67% were in compliance with MCSO policy and the requirements of the Second Order. This was an increase of 17% from the previous reporting period.

During this reporting period, we reviewed a total of 108 administrative misconduct investigations and 11 criminal investigations. All 11 criminal investigations complied with MCSO policy and the requirements of the Second Order. Of the 108 administrative investigations, 68 (63%) were in compliance with MCSO policy and the requirements of the Second Order, an increase of 4% from the previous reporting period. The overall compliance rate for all 119 investigations was 66% for this reporting period.

We found during this reporting period that all criminal cases, and all administrative misconduct cases reported in Paragraphs 33 (biased policing), 249 (investigatory stops), and 275 (CRMS) complied with all Second Order requirements. Of the 108 total administrative misconduct cases we reviewed, we noted that investigations conducted by PSB sworn personnel complied in 84% of the cases. PSB investigations conducted by Detention personnel complied in 74% of the cases, and those conducted by Divisions and Districts outside of PSB were compliant in 33% of the cases.

There are many factors that impact the PSB Commander's ability to ensure compliance in all cases. The most consistent factors we have noted in our reviews 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 are not identified prior to being forwarded to PSB, errors that cannot be corrected after the fact, a lack of training for some who conduct internal investigations, and final findings and disciplinary decisions that are made by the Appointing Authority.

While PSB continues to experience challenges to ensuring that completed internal investigations are reaching full compliance with both MCSO policy and both Court Orders, PSB continues 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 at or near 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, most notably in the investigations conducted by Districts and Divisions outside of PSB. These include: failure to locate and interview all potential witnesses or investigative leads; poorly conducted investigative interviews; and lack of thorough investigations.

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 has taken immediate action when we bring serious matters to her attention.

Since October 2016, during each site visit, we have met with PSB personnel and District and Division Command personnel to update them on our identification of training and performance issues that adversely affect compliance with the Second Order. Since January 2017, Detention personnel assigned to PSB to oversee investigations have also participated in these meetings. We have found them all to be attentive and responsive to our input during these meetings, though we have found only limited improvement in cases submitted by Divisions and Districts outside of PSB after these meetings.

Since we have begun 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 provided additional training and oversight for those who conduct these investigations. As a result of these efforts, we continue to note improvement in the cases completed by Detention personnel. To address some of the concerns with the cases conducted outside of PSB, the PSB Commander assigned PSB liaisons to every District; and in some cases, the liaisons provide oversight and assistance during the investigations. 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. The PSB Commander has also noted that PSB does not have adequate staffing and has submitted requests for additional personnel.

During the last reporting period, we noted a decline in the number of cases that MCSO forwarded for our review each month. We discussed this issue with the PSB Commander to determine what factors are contributing to this reduction in completed cases. The PSB Commander informed our Team that in 2013, PSB initiated 76 internal investigations. In 2014, PSB initiated 717 cases. In 2015, PSB initiated 986 cases; and in 2016, PSB initiated 847 cases. The PSB Commander informed us that as of the end of the first nine months of 2017, PSB has initiated more than 800 internal investigations. During our January 2018 site visit, the PSB Commander advised us that there were over 1,000 internal affairs investigations opened in 2017, more than in either 2015 or 2016.

The PSB Commander continues to dedicate 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. During our January site visit, PSB personnel reported that their investigators are averaging a caseload of between 20 and 24 cases per month. In 2016, this average was between eight and 12 cases per investigator per month.

Since our April 2017 site visit, the PSB Commander has continued to inform us that the assignment of additional sworn and Detention supervisors is necessary for PSB to handle the number of cases PSB investigates and reviews. The PSB Commander reaffirmed the need for additional staffing during our January 2018 site visit, and again informed us that MCSO had submitted a July 2018 budget request for additional personnel. This budget request includes two sworn lieutenants, six sworn sergeants, and four Detention sergeants. An executive member of MCSO informed us during our site visit that this budget request would need to be split over a two-year period, and that the request for 2018 had been reduced to a total of six personnel for PSB. We remain concerned that while additional staff increases are pending, PSB will simply continue to fall further behind, especially with the noted increase in internal investigations. As stated in our last quarterly status report, the assignment of additional personnel to PSB is not only necessary, it is critical, if MCSO is to achieve compliance with all requirements of the Second Order related to the investigation of misconduct. The failure to provide adequate investigative personnel continues to be a disservice to both the community and MCSO employees.

While we are encouraged by the responsiveness of PSB and the overall improvement in the investigation of misconduct investigations, MCSO still falls short of overall compliance. The PSB Commander is held responsible for compliance with the 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 continued to communicate that they are properly outsourcing those cases where conflicts of interest exist. PSB has contracted with a qualified private vendor to conduct these investigations. Additionally, PSB outsourced investigations to another local law enforcement agency. PSB updated us on these investigations during our January 2018 site visit. Both cases outsourced to another law enforcement agency have been completed. The contract investigator continues with his investigations, and MCSO outsourced an additional six investigations to him during this reporting period.

MCSO finalized and published the revised internal investigation and discipline policies on May 18, 2017. The required 40-hour Misconduct Investigative Training was completed during this reporting period.

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 who 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 on a monthly basis that they have not identified any additional members of MCSO who are disqualified from conducting misconduct investigations.

Paragraph 195. *Within six months of the entry of this Order, the Professional Standards Bureau shall include sufficient trained personnel to fulfill the requirements of this Order.*

Phase 1: Not in compliance

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

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, and further requires sufficient trained personnel in PSB within six months of the entry of the Order. The first week of the required Misconduct Investigative Training commenced on September 18, 2017 and was completed on November 10, 2017 for the required PSB and Division level personnel. The required Misconduct Investigative Training was offered four times to 91 students in October 2017, and two times to 63 students in November 2017. One student failed the final course examination, requiring a retest – but the student passed the remedial examination. MCSO did not offer any Misconduct Investigative Training in December 2017, and the 40-hour Misconduct Investigative Training ended during this reporting period with a 98% compliance rate for MCSO personnel trained.

During our January 2018 site visit, we learned that, due to a reorganization of MCSO and promotions, PSB is remains understaffed by two sworn lieutenants' positions and six sworn sergeants' positions. The PSB Commander also indicated that PSB is understaffed by four sergeants/lieutenants on the Detention investigative side of the bureau. The PSB Commander indicated that the budget request for additional staffing has been split in half for 2018 (six total PSB positions) and 2019 (six total PSB positions). 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.

The Second Order requires that PSB have "sufficient trained personnel to fulfill the requirements of this Order." We have been deferring our Phase 2 compliance assessments with this and other Paragraphs pending the delivery of the Misconduct Investigative Training. MCSO has now delivered that training, and our focus shifts to the sufficiency of PSB staff to carry out its mission. As documented in this and previous reports, PSB, in its own command's estimation, is understaffed. We will not find MCSO in compliance with this Paragraph until PSB's understaffing is addressed.

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 envisioned any need to retain additional contract investigators beyond the one investigator that had been already retained. A member of PSB's staff serves as MCSO's single point-of-contact to liaise and assist with scheduling for the contract investigator. The private investigator will advance the investigations to the level of recommending findings.

PSB previously outsourced three misconduct investigations to a separate regional law enforcement agency. During our October 2017 site visit, the PSB Commander explained that, of the three cases, one had been completed and closed, one had been completed and was being appealed by the employee, and one was closed as the Independent Investigator was investigating the alleged misconduct. During our January 2018 site visit, PSB advised us that the second investigation being conducted by an outside law enforcement agency has now been completed and closed.

During this reporting period, PSB outsourced an additional six investigations to the contract investigator because allegations of misconduct were made against members of the administration; there were multiple complaints involving the same personnel; or the outside investigator previously investigated misconduct related to the new allegations. All investigations outsourced to the contract investigator remain in progress.

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

- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- GH-2 (Internal Investigations), 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. The PSB Commander has consistently demonstrated 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 continued to note improvements in investigative processes and outcomes under the leadership of this Commander.

In January 2018, MCSO advised that due to reorganizations within the Office, the responsibility to serve as the PSB Commander for purposes of compliance with this Order was being transferred to a captain within PSB. The PSB Deputy Chief, who previously had this responsibility was promoted, but will maintain overall oversight of PSB as an Executive Chief. We have worked with the assigned captain during his tenure in PSB, reviewed his qualifications, and believe he possesses the requisite qualifications and capabilities to fulfill the requirements of this Paragraph. We are optimistic that additional improvements in the investigation of misconduct will occur under his leadership. 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

MCSO will use the former East Court Building Library as an off-site PSB facility. During our January 2018 site visit, PSB advised us that the building is currently scheduled for move-in by June 2018. MCSO obtained 10 dedicated parking spaces for visitors and intends to identify parking spaces for employees. PSB's criminal investigators will be housed on the first floor, and administrative investigators will be housed on the second floor. The MCSO PSB off-site facility will have two dedicated security personnel assigned during normal business hours, currently scheduled for 8:00 am to 4:00 pm, Monday through Friday.

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 January 2018 site visit, the PSB Commander stated that MCSO has not identified any additional personnel that fail to meet the qualifications to conduct internal affairs investigations. PSB staff are 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 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: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 108 administrative misconduct investigations that were completed by MCSO personnel during this reporting period. All 108 administrative misconduct investigations we reviewed were completed after the issuance of the Second Order. PSB investigated 62 of these cases. District or Division supervisory personnel not assigned to PSB investigated 45 of the cases. One case was investigated by an outside law enforcement agency. Of the cases we reviewed, 65 involved external complaints and the remaining 43 were internally generated. All but four of the investigations reviewed were both initiated and completed after the issuance of the Second Order. Twenty-three of the investigations were initiated after May 18, 2017, and are subject to all requirements of the new internal affairs policies finalized and published on that date.

Paragraph 200.a. requires that misconduct investigations be conducted in a rigorous and impartial manner. During the last reporting period, we identified four investigations (5%) that did not comply with the requirements of this Subparagraph. During this reporting period, three investigations (3%) 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, two completed investigations (3%) 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, one completed investigation (1%) was not in compliance with the requirements of this Subparagraph. During this reporting period, all investigations complied with the requirements of this Subparagraph.

Paragraph 200.d. requires that investigators make reasonable attempts to locate and interview all witnesses. During the last reporting period, four completed investigations (5%) were not in compliance with this Subparagraph. During this reporting period, two investigations (2%) fell short of compliance with this Subparagraph.

Paragraph 200.e. requires that investigators make reasonable attempts to interview civilian complainants in person. During the last reporting period, three completed investigations (4%) did not comply with the requirements of this Subparagraph. During this reporting period, six investigations (6%) fell short of compliance with this Subparagraph.

Paragraph 200.f. requires audio- and video-recording of all interviews. During the last reporting period, three completed investigations (4%) did not comply with the requirements of this Subparagraph. During this reporting period, there were 15 investigations where interviews were not both audio- and video-recorded. In 12 of these cases, MCSO documented appropriate reasons the interviews were not video-recorded. There were three investigations (3%) that were not video-recorded when equipment was available to do so, and no explanation was provided.

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, three completed investigations (4%) 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, two completed investigations (3%) did not comply with the requirements of this Subparagraph. During this reporting period, three completed investigations (3%) fell short of compliance with this Subparagraph.

Paragraph 200.i. requires that investigators attempt to resolve all material inconsistencies. During the last reporting period, one completed investigation (1%) did not comply with the requirements of this Subparagraph. During this reporting period, investigators attempted to resolve all material inconsistencies.

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 108 administrative misconduct investigations conducted by MCSO personnel that were completed during this reporting period.

Sixty-five of the complainants in the 108 completed administrative misconduct investigations were not MCSO employees. Forty-two of the 108 investigations included interviews with witnesses or investigative leads who were not MCSO employees. We did not identify any cases where there was an automatic preference for the statement of an employee over a non-employee witness.

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 108 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period. In three of these investigations, MCSO identified additional potential misconduct during the course of the investigations and properly added additional allegations. We did not identify any instances 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 108 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

There were no indications in any of the 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 this reporting period, PSB conducted 62 of the 108 administrative misconduct investigations. Seven of the 29 investigations not completed within the required 85-day time period did not include a request for, or an approval of, an extension. Three of these investigations were conducted by sworn supervisors, and four were conducted by Detention supervisors.

Districts or Divisions outside of PSB conducted 45 of the administrative misconduct investigations. Fourteen of the 24 cases not completed within the required 60-day time period did not include a request for, or an approval of, an extension.

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 October 2017 and January 2018 site visits, we reminded PSB and District and Division command personnel of these 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 numerous 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

- 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.
- GH-5 (Early Identification System), most recently amended on March 24, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

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 January 2018 site visit, we met with PSB personnel and observed IAPro to ensure that the system still generates alerts to responsible investigators and PSB supervisors/commanders if deadlines are not met. We also reviewed copies of emails PSB disseminates to the District/Divisions on the 15th of every month to identify investigatory deadlines. The Blue Team Dashboard was also viewed, which uses a color system (green, yellow, red) to identify investigations that are nearing deadlines or are past deadlines. Case management information appears in each supervisor's Blue Team while they are monitoring ongoing/open cases. Once again, this demonstration represented IAPro as a technological 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 civilian PSB management analyst has the primary responsibility to administer 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. 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 108 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 but one of the 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. Two of the investigations submitted for review during this reporting period did not include recordings or transcripts of employee interviews.

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 conducted by MCSO complied with the requirements of this Subparagraph. One investigation, conducted by an outside law enforcement agency, did not include this evaluation by the investigator. The evaluation was completed by MCSO.

Paragraph 206.f. requires that investigative reports include a precise description of evidence that supports or detracts from credibility assessments. All completed investigations complied 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. All completed investigations complied 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. All completed investigations complied with the requirements of this Subparagraph.

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 108 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. Fifty-one of the 108 misconduct investigations we reviewed had sustained findings against one or more MCSO employees. The sustained investigation completed by the outside law enforcement agency did not comply, as the investigator did not determine any findings.

Paragraph 206.k. requires that any contacts and updates with the complainant be documented in the investigative report. All of the investigations we reviewed for this Subparagraph complied 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 this reporting period, we reviewed 108 administrative misconduct investigations. MCSO properly assessed and documented whether any of the requirements of this Paragraph were relevant in all but one of the completed cases. MCSO identified 10 cases where action related to this Paragraph was appropriate; and addressed the concerns identified with either memorandums of concern, requests for policy review, remedial training, or referral to another Division for review and potential action. We identified one investigation during this reporting period where we believe that training, in addition to discipline, would have been appropriate; and the training did not occur. We routinely follow up with PSB on the outcomes of the concerns identified and have found that generally, appropriate actions are being taken.

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: 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 of PSB in five (7%) of the 74 cases that were completed after the issuance of the Second Order. There were no cases where the Appointing Authority changed the findings made by the PSB Commander.

During this reporting period, we did not concur with the findings of the PSB Commander in three (3%) of the 108 cases that were completed after the Second Order. These three cases resulted in findings of unfounded or exonerated without adequate investigation or justification for the findings. There was also one case where the Appointing Authority changed the findings made by the PSB Commander, and we disagree with his decision to do so. As is our practice, we will discuss those cases where we disagree with findings with PSB and the Appointing Authority during our next site visit.

MCSO is now in Phase 2 compliance with the requirements of this Paragraph.

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 45 administrative misconduct investigations not conducted by PSB personnel and completed during this reporting period. All 45 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 two reporting periods, 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 this 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 62 administrative misconduct investigations conducted by PSB investigative personnel and completed during this reporting period. All 62 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 108 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

We previously noted 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. This issue was 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 five (7%) of the 74 investigations reviewed. We identified that of the 20 investigations conducted outside of PSB, 13 cases (65%) included some issues. In two of the 13 cases, concerns were identified and addressed at the District level, prior to forward the cases to PSB. In the cases investigated by PSB for the last reporting period, we had some concern with 14 (30%) of the 54 investigations.

During this reporting period, we disagreed with the findings by the PSB Commander in three (3%) of the 109 administrative misconduct investigations we reviewed.

In the cases investigated by PSB for this reporting period, we had some concerns with 16 of the 62 investigations. The majority of these concerns involve the failure to complete the investigation within the required timeframes without the approval for an extension; or failure to properly notify complainants of complaint tracking information within seven days of receipt of a complaint, as required. In general, the investigations completed by PSB display appropriate – and often excellent – investigative efforts. PSB's compliance with this and other Second Order Paragraphs would likely be near full compliance were it not for the continuing issues with proper notifications and the timely completion of investigations.

Of the 45 investigations investigated by Districts or Divisions outside of PSB, we identified 31 (67%) where we had some concerns. In one of the 31 cases, these concerns were identified and addressed at the District level, prior to forwarding the case to PSB for review. As has been the case in prior reporting periods, many of the District cases required corrections – and in some cases, additional investigation – after review by PSB. Beyond the concerns with timely completion of investigations, we are still noting investigations with leading questions; failure to conduct a rigorous investigation; failure to determine appropriate credibility; failure to audio- and video-record interviews without explanation; and failure to make reasonable attempts to conduct in-person interviews.

In 30 of the 45 investigations conducted by Divisions or Districts outside of PSB, PSB returned the investigation for additional information or corrections. In 10 of these cases, additional investigation was required. The remaining 20 investigations were returned for corrections to the allegations or findings, or for failures to complete all the administrative requirements.

The 40-hour Misconduct Investigative Training was completed during this reporting period. All supervisors and command personnel who conduct or review administrative misconduct investigations have attended this training. Both the supervisors who complete deficient investigations and the command personnel who approve them must be held accountable if MCSO is to achieve Phase 2 compliance with this Paragraph.

During our next site visit, we will discuss the 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: In compliance

- GB-2 (Command Responsibility), most recently amended on February 1, 2017.
- GC-4 (Employee Performance Appraisals), most recently amended on September 6, 2017.

Phase 2: Deferred

To assess Phase 2 compliance with this Paragraph, we reviewed 108 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 January and April 2017 site visits, we discussed with District Captains and the PSB Commander the need 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 would be included in the training curricula developed in compliance with Paragraph 178. 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, none of the 108 administrative misconduct investigations we reviewed included any allegations related to the requirements of this Paragraph. MCSO also provided monthly documentation that there had not been any corrective or disciplinary action taken for the failure by a supervisor to conduct an adequate misconduct investigation.

We previously deferred our Phase 2 compliance assessment for this Paragraph, as MCSO had not yet completed the 40-hour training for supervisory personnel on conducting internal investigations. That training was completed during this reporting period. As the investigations closed and reviewed for this reporting period were not necessarily completed after a supervisor attended this training, we will continue to defer our compliance assessment of this Paragraph until the next reporting period. Should MCSO fail to take corrective action as required under this Paragraph during the next reporting period, we will find MCSO to be not in compliance with this Paragraph.

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 108 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period. Of the 108 investigations, 62 were investigated by PSB personnel. Forty-five were investigated by MCSO personnel outside of PSB, and one was conducted by an outside law enforcement agency.

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 45 District or Division level approved cases were forwarded to, and reviewed by, PSB as required. Thirty (67%) of the 45 cases investigated at the District or Division level were returned by PSB personnel for additional investigation, corrections, proper documentation, or other changes.

PSB documented all of the cases returned to District investigators for additional investigation or corrections, and this information was included in 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 108 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

Our analysis for this reporting period revealed that of the 45 investigations conducted outside of PSB, 29 investigations were returned by PSB to the original investigating supervisor for further investigation, analysis, or corrections. One investigation was reassigned to another District supervisor, as the initial investigating supervisor was not available to complete the investigation. This reassignment was properly documented.

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

- 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

To assess Phase 2 compliance with this Paragraph, we reviewed 45 administrative misconduct investigations conducted by MCSO personnel outside of PSB and completed during this reporting period.

Twenty-three of the 45 completed misconduct investigations conducted outside of PSB resulted in sustained findings and a discipline decision. In 21 of these cases, the reports included documentation that appropriate discipline or corrective action was taken. In two cases, the employees resigned prior to receiving discipline. Six of the 21 cases involved training in addition to discipline for the involved employees, and one resulted in a procedural change.

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

- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- 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 108 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

Sixty-two of the completed investigations were conducted by PSB, and one was conducted by an outside law enforcement agency. Twenty-seven of these resulted in a sustained finding against one or more MCSO employees.

In 26 of the sustained investigations conducted by PSB, the PSB Commander ensured that appropriate discipline and/or corrective action was recommended. In one investigation, the PSB Commander had an identified conflict, and an executive staff member determined the disciplinary action. The preliminary determination of the range of discipline was provided by the PSB Commander in 26 cases. Due to the conflict identified, the Appointing Authority determined the preliminary range of discipline in one case. The PSB Commander cannot ensure that appropriate discipline or corrective action are the final *outcomes* of a Pre-Determination Hearing (PDH), as the Appointing Authority makes the final decisions for discipline on both minor misconduct cases and in serious misconduct cases that result in PDHs. The hearing officer has the authority to change the findings or reduce the discipline; and in three cases during this reporting period where he did so, we disagreed with his decision.

Of the 62 completed misconduct investigations conducted by PSB, one indicated a training concern, and a second identified a tactical concern. PSB conducted proper follow-up in both cases. In one case, we believe a training need should have been identified and was not. We routinely follow up with PSB to ensure that those concerns identified have been, or are being, addressed.

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 previously verified during our site visits that the administrative files and reports are being maintained by PSB as required.

During our January 2018 site visit, a Monitoring Team member again inspected the file rooms where hardcopies of administrative investigations are stored and randomly reviewed case files to verify compliance. Our Team member also used the access granted to IAPRO to randomly select internal affairs case files to verify that all information is being maintained electronically.

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

- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- GH-2 (Internal Investigations), 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 review completed misconduct investigations conducted by MCSO personnel.

During the last reporting period, 26 of the 74 administrative misconduct investigations resulted in sustained findings against one or more members of MCSO. In three of the cases, the employees left MCSO employment prior to discipline being imposed. In the remaining 23 cases, discipline ranged from coaching to suspensions.

During this reporting period, 51 of the 108 administrative misconduct investigations resulted in sustained findings against one or more members of MCSO.

Paragraph 220.a. requires a presumptive range of discipline for each type of violation. In 50 of the sustained investigations we reviewed for this reporting period, the PSB Commander determined and documented the preliminary proposed discipline range. In one case, the PSB Commander had an identified conflict, and a designee of the executive staff determined the presumptive range of discipline.

Paragraph 220.b. requires that presumptive discipline be increased if an employee has prior violations. In 18 of the 51 sustained investigations we reviewed for this reporting period, the employee had prior sustained violations. In five of these cases, the PSB Commander considered and increased the presumptive discipline range based on these prior violations in accordance with the discipline policy in effect prior to May 18, 2017. In 13 cases, the alleged misconduct and the sustained finding occurred after May 18, 2017; and are subject to the discipline policies that became effective on that date. The PSB Commander considered the discipline range consistent with these revised internal investigation and discipline policies in these cases.

Paragraph 220.c. requires that mitigating and aggravating factors be defined. Aggravating and mitigating factors are not specifically defined in the internal affairs investigation or discipline policy in effect prior to May 18, 2017. The revised discipline policy, effective May 18, 2017, does define these factors. 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 justification and documentation for all factors he considered when making the final discipline decisions for cases initiated both before and after May 18, 2017. While we found both aggravating and mitigating factors in these justification documents when appropriate, they are not clearly identified as such. To ensure factors considered to be mitigating or aggravating are clearly identified in the justification document, we have encouraged the Appointing Authority to specifically delineate these factors in future justification documents.

Paragraph 220.d. prohibits the consideration of any prohibited biases when determining discipline. None of the sustained cases that resulted in discipline that we reviewed during this reporting period 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 we reviewed 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 we reviewed during this reporting period indicated any 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.

Paragraph 220.i. requires that MCSO will not take only non-disciplinary action in cases where the Discipline Matrices call for the imposition of discipline. None of the sustained cases we reviewed during this reporting period resulted in MCSO taking non-disciplinary action when the Discipline Matrices in effect 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 51 sustained investigations for this reporting period. Investigators identified six cases where non-disciplinary corrective action was also appropriate. All six cases resulted in the recommendation for training for the involved employees, in addition to the discipline imposed.

Paragraph 220.k. requires that any departure from the discipline recommended under the Discipline Matrices be justified in writing and included in the employee's file.

During the last reporting period, we reviewed 26 investigations with sustained findings against one or more employees. Eight of these cases resulted in the recommendation for serious discipline against current employees. The Appointing Authority did not change the findings in any of these eight cases, but deviated from the presumptive range of discipline in two of the cases. We concurred with his decision to do so in one of the cases, and disagreed with his decision in the second.

During this reporting period, we reviewed 51 investigations with sustained findings against one or more employee. Thirty-four of the cases resulted in the recommendation for minor discipline, and 17 resulted in the recommendation for serious discipline. The Appointing Authority did not change any of the recommendations for findings or discipline for the 34 cases resulting in minor discipline.

In 17 cases, a recommendation for serious discipline was made; and in 16, a Pre-Determination Hearing was conducted as required. In one case, the employee did not attend a hearing, but submitted a written document. In two cases, though the final discipline findings fell within the presumptive range of discipline, we believe the Appointing Authority failed to properly consider the number and types of violations sustained when he made his final decision. In both cases, we believe the final discipline was insufficient for the violations that occurred. We will discuss these cases with MCSO personnel during our next site visit.

Paragraph 220.l. requires that a Discipline Matrix for unclassified management employees be at least as demanding as the Discipline Matrix for management-level employees. We 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.

Of the total 51 sustained investigations reviewed, 13 were both initiated and completed after May 18, 2017; and are subject to all the requirements relative to investigations and disciplinary procedures contained in these revised policies. All 13 of these investigations complied with the requirements of this Paragraph.

We had deferred our Phase 2 compliance assessment for this Paragraph until investigations that were both initiated and completed after May 18, 2017 were submitted for our review. That occurred during this reporting period, and MCSO is now in Phase 2 compliance with this Paragraph.

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

- 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

To assess Phase 2 compliance with this Paragraph, we review completed misconduct investigations conducted by MCSO personnel.

During this reporting period, we reviewed 51 misconduct investigations with sustained allegations that resulted in the recommendation for discipline for current MCSO employees. We found that MCSO again met the requirements of this Paragraph.

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

- 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

To assess Phase 2 compliance with this Paragraph, we review completed misconduct investigations conducted by MCSO personnel.

During the last reporting period, we reviewed 23 sustained investigations that were completed after July 20, 2016 where discipline was assessed. One of these cases was both initiated and closed after May 17, 2018, and was subject to the requirements of the revised investigation and discipline policies. In all 23 cases, the PSB Commander determined the presumptive range of discipline and provided written documentation as required.

During this reporting period, there were 51 sustained investigations that were completed after July 20, 2016 where discipline was assessed. In 38 cases, the PSB Commander determined and documented in writing the presumptive range of discipline based on the policies and Discipline Matrices that were in effect prior to May 18, 2017. In 13 cases, the investigations were both initiated and closed after May 18, 2017. The PSB Commander determined the presumptive discipline based on the policies and Discipline Matrices in effect after May 18, 2017. The documentation submitted for compliance with this Paragraph included the category, offense number, and employee's discipline history.

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

- 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

To assess Phase 2 compliance with this Paragraph, we review completed misconduct investigations conducted by MCSO personnel where MCSO holds a Pre-Determination Hearing (PDH).

During the last reporting period, 26 investigations resulted in sustained findings against employees of MCSO. Twenty-three resulted in discipline for current employees. Eight of the 23 cases resulted in the recommendation for serious discipline as defined in this Paragraph, and MCSO held a Pre-Determination Hearing as required.

During this reporting period, 51 administrative misconduct investigations resulted in sustained findings against MCSO employees. Forty-three investigations resulted in discipline for current employees. Seventeen of the 51 cases resulted in the recommendation for serious discipline as defined in this Paragraph. In 16, MCSO held a Pre-Determination Hearing, as required. In one, the employee declined to attend a hearing, but provided a written document for consideration.

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, 17 cases were referred for a PDH based on the serious nature of the sustained violations. In 16 cases, the hearing occurred and was audio- and video-recorded as required, included in the administrative file, and reviewed by a Monitoring Team member. In one case, the employee chose not to attend the hearing, but submitted a written statement.

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, eight investigations resulted in the recommendation for serious discipline. In all eight cases, a PDH occurred as required. A Monitoring Team member reviewed the recordings from all eight hearings. There were no investigations where an employee brought forward any new or additional information that necessitated additional investigation or follow.

During this reporting period, 17 investigations resulted in the recommendation for serious discipline and a PDH was scheduled. In 16 cases, MCSO held the PDH, as required. We reviewed the recordings from all 16 hearings. In one case, the employee chose not to attend the hearing, but submitted a written document to be considered by the Appointing Authority. This document was provided for our review. In two cases, during the PDH, the employee brought forth concerns with the investigation that were referred to PSB for additional review as required. There were no changes in the findings or discipline as a result of the concerns brought forth by the employees. In one instance, during the PDH, the employee alleged potential misconduct involving other MCSO personnel. This information did not impact the findings or discipline in the subject case, but was appropriately forwarded to PSB for information and review.

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 every site visit, we meet with the Appointing Authority and the Compliance Division to discuss our concerns with final outcomes and decisions that result from Pre-Determination Hearings. We have emphasized the need to comply with agency policies when determining disciplinary outcomes, and encouraged the Appointing Authority to provide more detailed written justification in those cases where he determines that a sustained finding should be changed or discipline should be reduced.

During this reporting period, 17 cases resulted in the scheduling of a PDH. Sixteen hearings occurred. In all cases, the Appointing Authority provided a justification for the final decisions, and this information was provided to our Team in the submissions regarding closed internal affairs investigations. One finding of sustained by the PSB Commander was overturned by the Appointing Authority. We disagreed with the decision to do so. In two cases, discipline that we believe was insufficient for the type and number of policy violations that were sustained in the investigations was assessed; however, in both cases, the discipline assessed fell within the identified presumptive range of discipline. As is our practice, we will discuss these cases with MCSO during our next site visit.

During our January 2018 site visit, we met with the Appointing Authority and personnel from the Compliance Division to discuss the PDH process and the final outcomes of cases completed during this reporting period. While we continue to disagree with the final decisions in some cases we discussed, the Appointing Authority provided useful feedback and information during this meeting on the process and his decision-making.

Also during the meeting, we discussed specific cases where the 180-day timeframe has been an issue. MCSO advised us that the Appointing Authority does not have the authority to reduce discipline based only on timeframe concerns when an employee appeals discipline in these cases. It is the MCAO that reviews these cases and determines whether the cases should go forward. Both the Appointing Authority and the representative from the MCAO advised that they have taken some of these cases forward; but in others, they did not believe it was appropriate to do so, based on the totality of circumstances. The Parties present at the meeting also commented on their concerns regarding cases involving the Plaintiffs' class that might result in reductions in discipline as a result of the failure to complete the case within the 180-day timeframe. We discussed the specific requirements of Arizona Revised Statutes 38-1110, and that the statute only requires a "good faith" attempt to complete cases that result in suspensions, demotions, or dismissals within the 180-day timeframe.

We also discussed cases where a decision may be made after a PDH that a reduction in discipline will occur, and those cases where a decision to reduce the discipline may occur if an appeal is filed. It is our understanding from our meeting with the Appointing Authority and other staff who were present that the MCSO consults with the MCAO in these cases and their input is related to the final outcomes. However, all the documentation we receive and review is authored and signed by the Appointing Authority, so our assessment can only consider any final decisions as his.

As has been our experience during prior site visits, the Appointing Authority was attentive to our concerns and provided detailed information and explanations regarding the PDH process and the case concerns we brought forward.

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 51 administrative misconduct investigations where discipline was imposed. The serious sustained allegations in 17 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 Discipline 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:*

a. that decision does not relate to the Sheriff or his designee;

b. the Sheriff or his designee provides a thorough written and reasonable explanation for the grounds of the decision as to each employee involved;

c. the written explanation is placed in the employment files of all employees who were affected by the decision of the Sheriff or his designee; and

d. the written explanation is available to the public upon request.

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 previous 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.

During this reporting period, there was once instance where a designee of the Sheriff altered the disciplinary decision made by the Appointing Authority. The initial discipline decision by the Appointing Authority in this case was a 40-hour suspension. The employee was notified, and a PDH was scheduled. The employee did not appear for the PDH, but provided a written document for review. After reviewing the case information and written input from the employee, the Appointing Authority determined that a written reprimand would be the final discipline. The Sheriff's designee altered this discipline decision, citing GC-17 (Employee Disciplinary Procedure), Section 5, as his authority. The range of discipline for the misconduct was a written reprimand to a 40-hour suspension. The Sheriff's designee assessed a 40-hour suspension as the final discipline. He authored the appropriate documentation for his decision, and it was included in the case file as required.

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 this reporting period, we reviewed 11 internal criminal investigations. Eight were externally generated, and three were internally generated. All were completed after July 20, 2016, and appropriately assigned to criminal investigators in 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 is not submitted and reviewed during the same reporting period as the criminal investigation, as generally, administrative investigations are 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 this reporting period, we reviewed eight administrative misconduct investigations where there was a companion criminal investigation completed and previously reviewed. We found PSB in compliance with all requirements of 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 previously verified during our site visits that the required separation of criminal and administrative investigations and restricted access to IAPro is in place, and did so again during our January 2018 site visit.

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 last reporting period, we reviewed 19 criminal misconduct investigations conducted by MCSO personnel. All but one had a companion administrative misconduct investigation as required by this Paragraph. Eighteen of the 19 criminal investigations complied with the requirements of this Paragraph.

During this reporting period, we reviewed 11 criminal misconduct investigations conducted by MCSO personnel. All have a companion administrative misconduct investigation, as required; and are in compliance with the requirements of this Paragraph.

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.

During this reporting period, seven of the 11 criminal investigations were closed without submittal to a prosecuting agency. In all cases, these decisions were supported by the facts of the investigation, interviews, or other investigative follow-up. The investigators documented their conclusions and decisions to close the cases without submittal and the PSB Commander 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 this reporting period, we reviewed 11 criminal misconduct investigations conducted by PSB personnel. Four of the 11 cases were forwarded to an appropriate prosecutorial agency. In all four cases, MCSO provided documentation that the PSB Commander reviewed and approved the submittal to the prosecuting agency. None of the cases noted that the PSB Commander had directed any further investigation prior to the submittal to the prosecuting agency. Three of the cases were turned down for prosecution, citing no reasonable likelihood of conviction; and one resulted in 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 this reporting period, we reviewed three criminal misconduct investigations that were submitted to a prosecuting agency, but turned down for prosecution. In all three cases, the prosecuting agency provided a reason for the turndown in writing. None of the turndowns noted any failure by investigators to conduct thorough investigations.

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 observed that PSB maintains both hardcopy and electronic files that are intended to contain all the documents required per this Paragraph.

During previous 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.

During our January 2018 site visit, a Monitoring Team member again inspected the file rooms where hardcopies of criminal investigation are stored and randomly reviewed case files to verify compliance.

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 MCSO's complaint process.

The Monitoring Team contacted faith organizations and civic groups throughout Maricopa County requesting that they make complaint process information forms available to members of their congregations and groups. 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 74 administrative misconduct investigations. Fifty-five 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 (three instances). None of the investigations we reviewed involved an allegation that any MCSO employee failed to accept a civilian complaint.

During this reporting period, we reviewed 108 administrative misconduct investigations. Sixty-five of these investigations were initiated based on a civilian complaint, including some in which the complaints were made by third parties (seven instances) or were anonymous (two instances). None of the investigations we reviewed involved an allegation that any MCSO employee had failed to accept a civilian complaint.

Our reviews of traffic stops and body-worn camera video conducted for other Paragraphs of the Orders identified one instance during this reporting period where a subject who was stopped for a traffic violation and subsequently arrested for DUI made numerous statements about being struck by a deputy during the arrest. One of the deputies at the scene provided the names of the deputies involved in the stop and arrest to this subject upon his request and informed him that he would put a complaint form with the subject's property. Yet there was no indication in the traffic stop data or DUI report that this information was brought to the attention of a supervisor. We contacted PSB, and learned that this incident is still pending a use of force review. PSB will ensure that follow-up is conducted, and that attempts are made to contact the subject who was arrested to obtain further information. We will discuss this incident 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, the permanent placards were prominently displayed at MCSO Headquarters, and Monitoring Team members visiting MCSO Districts found that the permanent 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

MCSO Facility Management continues to develop its plans to establish the PSB off-site location at 100 West Jefferson Street, in downtown Phoenix. During our October 2017 site visit, PSB advised us that the building asbestos abatement was completed, and the projected move-in date for PSB is now June 2018.

The facility, the former East Court Building Library, 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. The recording advises callers 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 that MCSO will contact them 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 received two 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:*

a. within seven days of receipt of a complaint, the Professional Standards Bureau will send non-anonymous complainants a written notice of receipt, including the tracking number assigned to the complaint and the name of the investigator assigned. The notice will inform the complainant how he or she may contact the Professional Standards Bureau to inquire about the status of a complaint;

b. when the Professional Standards Bureau concludes its investigation, the Bureau will notify the complainant that the investigation has been concluded and inform the complainant of the Bureau's findings as soon as is permitted by law; and

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

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 74 administrative misconduct investigations conducted by MCSO personnel. Fifty-five of these complaints were generated externally. Eleven of the cases (20%) did not meet all the requirements of this Paragraph.

During this reporting period, we reviewed 108 administrative misconduct investigations conducted by MCSO personnel. Sixty-five of these complaints were generated externally. Seven of the cases did not meet all the requirements of this Paragraph. Though still not in compliance, this is a significant improvement from previous reporting periods.

Paragraph 246.a. requires that a civilian complainant receive a written notice of receipt of his/her 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 six (9%) of the 65 external complaints, a complaint receipt was not provided to the complainant within seven days or was missing from the material provided to our Team for review. All of the letters that were sent and reviewed 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 one of the 65 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. All the letters that were sent to complainants provided information that was consistent with the findings that were noted in the MCSO internal documents.

Paragraph 246.c. requires that PSB notify a civilian complainant of any discipline imposed as soon as permitted by law. In the same complaint where MCSO failed to notify the complainant of the outcome of the investigation, MCSO also failed to notify the complainant of the discipline that was imposed in the case. The remainder of the investigations with sustained misconduct complied with this Subparagraph.

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 this reporting period, we reviewed 108 administrative misconduct investigations conducted by MCSO. Sixty-five 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 his/her complaint, or to request and receive an update. MCSO appropriately had contact with complainants as required in Paragraph 246 in all but one of the 65 externally generated complaints where the complainant was known. MCSO also had contact with complainants during the course of the investigation in six of the 65 externally generated complaints. This additional contact was documented in the case investigation files.

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 two investigations where potential bias was alleged that did not affect members of the Plaintiffs' class. Both 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 complaints relative to this Paragraph, PSB provides information concerning these investigations in its monthly document submission relative to this Paragraph.

During this reporting period, there was one investigation completed that is subject to the requirements of this Paragraph. It was initiated and completed after July 20, 2016; investigated by PSB; and tracked in a separate category as required by this Paragraph.

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: In compliance

PSB completed formal assessments as required by this Paragraph each month during this reporting period. PSB identified patterns of: two employees named as the principals in four separate misconduct investigations each; complaints involving the mistreatment of inmates; and complaints alleging misuse of force against inmates. PSB notified the appropriate command personnel of these patterns for appropriate action. The assessment of complaints received during this reporting period complies with the requirements of this Paragraph in scope and content. Moving forward, PSB will provide these assessments on a quarterly basis as authorized by the Monitoring Team.

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.

We reviewed the semi-annual public report for the period July 1-December 31, 2016, and provided feedback to PSB. 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 concerning appeals beyond the Council.

During this reporting period, PSB command personnel indicated that the bureau completed the semi-annual public report for January 1-June 30, 2017, but it was under review at the close of the reporting period and had not been posted on the MCSO website.

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: Internal Affairs 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 (October, November, and December 2017) 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 January 2018 site visit, the Bureau of Internal Oversight (BIO) Commander indicated that BIO has not produced a semi-annual public audit report regarding misconduct investigations. After a telephone conference between BIO and the Monitoring Team on January 10, 2018, it was determined that the semi-annual public audit report be placed on hold while BIO's Audit and Inspections Unit (AIU) develops the appropriate methodology for the inspection. MCSO will provide the methodology developed to the Monitoring Team for approval prior to conducting the final inspection. Once the methodology is approved, AIU will commence the inspection involving cases completed on or after December 1, 2017, and cases closed during the six-month time period under review. Moving forward, AIU will inspect the closed case sample of reports monthly and complete a semi-annual public report outlining the inspection results.

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 January 2018 site visit, the BIO Commander indicated that the vendor responsible for auditing telephone, email, U.S. Mail, and website complaints completed two tests initially to establish the testing process; and completed 15 tests of the 24 budgeted for calendar year 2017. BIO's review of these 15 tests is still in progress. BIO command indicated that there is neither methodology for this process, nor a plan for how the test results would be inspected or reviewed. BIO is in the process of drafting the review process for these tests.

BIO will meet again with the second vendor, who will conduct the required in-person testing; to discuss program expectations, methodology, and required documentation for review. This part of the Complaint Intake Testing (CIT) program is still under development. Delays can be attributed to vendor personnel changes and no agreed-upon protocol on the frequency for the number of in-person tests over a specific time period to allow for proper inspection of the results by BIO.

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 is currently reviewing the 15 tests completed for calendar year 2017 involving telephone, email, U.S. Mail, and website complaints. The required in-person testing portion of the Complaint Intake Testing program is still under development with the other contracted vendor.

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 is currently reviewing the 15 tests completed for calendar year 2017 involving telephone, email, U.S. Mail, and website complaints. The required in-person testing portion of the Complaint Intake Testing program is still under development with the other contracted vendor.

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 is currently reviewing the 15 tests completed for calendar year 2017 involving telephone, email, U.S. Mail, and website complaints. The required in-person testing portion of the Complaint Intake Testing program is still under development with the other contracted vendor.

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 is currently reviewing the 15 tests completed for calendar year 2017 involving telephone, email, U.S. Mail, and website complaints. The required in-person testing portion of the Complaint Intake Testing program is still under development with the other contracted vendor.

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 is currently reviewing the 15 tests completed for calendar year 2017 involving telephone, email, U.S. Mail, and website complaints. The required in-person testing portion of the Complaint Intake Testing program is still under development with the other contracted vendor.

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

a. a description of the testing program, including the testing methodology and the number of tests conducted broken down by type (i.e., in-person, telephonic, mail, and electronic);

b. the number and proportion of tests in which employees responded inappropriately to a tester;

c. the number and proportion of tests in which employees provided inaccurate information about the complaint process to a tester;

d. the number and proportion of tests in which employees failed to promptly notify the Professional Standards Bureau of the civilian complaint;

e. the number and proportion of tests in which employees failed to convey accurate information about the complaint to the Professional Standards Bureau;

f. an evaluation of the civilian complaint intake based upon the results of the testing program; and

g. a description of any steps to be taken to improve civilian complaint intake as a result of the testing program.

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 is currently reviewing the 15 tests completed for calendar year 2017 involving telephone, email, U.S. Mail, and website complaints. The required in-person testing portion of the Complaint Intake Testing program is still under development with the other contracted vendor.

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 CAB did not explore the possibility of retaining a consultant to conduct a study to identify barriers to the filing of civilian complaints against MCSO personnel.

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, as noted above, the Amendments to the Supplemental Permanent Injunction/Judgment Order (Document 2100) issued on August 3, 2017 altered the composition of the Community Advisory Board (CAB) and CAB's responsibilities and relationship to MCSO. As of September 1, 2017, the CAB is now comprised of five members – two selected by the Plaintiffs, two selected by MCSO, and one jointly selected.

During this reporting period, the Monitoring Team briefly discussed with the CAB members how CAB could propose an annual budget. We look forward to continuing these discussions with the CAB before and 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

To verify Phase 2 compliance with this Paragraph, we reviewed monthly rosters and shift rosters for the fourth quarter of 2017. During this reporting period, consistent with our methodology, for October, we reviewed a sample of shift rosters from Districts 1 and 2; for November, we reviewed a sample of shift rosters from Districts 3 and 4; and for December, we reviewed a sample of shift rosters from Districts 6 and 7, and Lake Patrol. Monthly and daily rosters indicated that deputies were assigned to one single consistent supervisor.

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, 90, 93, and 94 as they relate to this Paragraph. We acknowledge that Patrol supervisors, especially those in the busier Districts, are burdened with heavier workloads. From meeting with supervisors during our District visits, we understand that they have difficult jobs, and we recognize their efforts to improve. At the same time, we continue to observe weaknesses, specifically in the areas of traffic documentation reviews and reviews of Non-Traffic Contact Forms (NTCFs). For MCSO to achieve compliance with Paragraph 265, it must be in compliance with Paragraph 91, in addition to the previously noted Paragraphs.

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 fourth quarter of 2017. During this reporting period, consistent with our methodology, for October, we reviewed a sample of shift rosters from Districts 1 and 2; for November, we reviewed a sample of shift rosters from Districts 3 and 4; and for December, we reviewed a sample of shift rosters from Districts 6 and 7, and Lake Patrol. Monthly and daily rosters indicated that deputies were assigned to one single consistent supervisor and that on most days supervisors were assigned no more than eight deputies. Of the 42 shifts we reviewed, 40 were in compliance with the 1:8 deputy ratio.

We select a random sample of different dates of each quarter to examine shift rosters. We include rosters from all Districts to ensure that our compliance inspections cover all the Districts. We have found that Districts 1, 2, and 3 are more likely to have span-of-control issues than the rest. District 1 had one day in October where a shift had a supervisor-deputy ratio of 1:9. District 2 also had one day in October where the supervisor-deputy ratio was 1:9. For this reporting period, MCSO was in compliance with this Paragraph.

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 during this reporting period, MCSO was in compliance with Paragraphs 83, 85, 89, 90, 93, and 94. Consistent with our methodology, although we found MCSO not to be in compliance with Paragraph 96 in this reporting period, MCSO will retain Phase 2 compliance. If we find that MCSO is not in compliance in the next reporting period, we will withdraw MCSO's compliance for Paragraph 96.

We continue to note progress with supervisory reviews of subordinates' performance, but there are still areas of that require additional effort. For MCSO to achieve compliance with Paragraph 267, in addition to the Paragraphs previously referenced, MCSO must attain compliance with Paragraph 91 and regain compliance with Paragraph 96.

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.

Phase 2: In compliance

During this reporting period, MCSO submitted the resumes and disciplinary histories of three employees, whose approval was requested, to transfer to PSB, CID, and BIO. One of these was a transfer within these specialized units, from CID to PSB. In addition, two employees were transferred out of these units to Patrol. 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. MCSO also notified us of a PSB sergeant who was promoted to lieutenant and retained in PSB. During our January 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 no irregularities or deficiencies.

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: In compliance

- GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices), published on October 13, 2017.

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 January 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) manages 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 which agency divisions can properly address the hold, and then drafts a Document Preservation Notice which is sent out to the divisions within five business days.

During our January site visit, we reviewed a sample of the third-party source documents that generate the litigation holds that the LLS receives from MCAO. In each case, the information contained in the third-party source document was correctly conveyed in the Document Preservation Notices drafted and distributed by the LLS. In addition, the LLS consistently distributed the Document Preservation Notices to MCSO divisions in a timely manner.

GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices) requires that the employee who receives a document preservation request complete two forms: Attachment A, Document Preservation Acknowledgment and Attachment B, Document Preservation Questionnaire. The LLS is responsible for sending the forms to the employee who may have responsive documents, along with the Document Preservation Notices. In each case, the LLS sent the attachments in a timely manner. Attachment A, the attestation, is due within five days of receipt; while Attachment B – which requires more in-depth information such as steps taken to search documents, the outcome of the search, and the itemization of the documents identified as responsive – is due within 10 days of receipt. The employees are returning the forms in a timely manner 89% of the time. For the most part, most employees send both forms at the same time, even though they have different deadlines.

During our January site visit, we reviewed completed copies of Attachment B and found that the same employees repeatedly had not properly completed them. We found the following deficiencies: failure to identify the steps taken to search for pertinent records, but then identifying responsive documents found; the use of boilerplate language to fill out the form such as "Searched using key terms" or "Identified documents" without identifying what those were; the use of "N/A" or "None" on all entries without taking the time to appropriately completing the form; and the failure to list the documents that are being preserved. We discussed our observations with the LLS personnel, and they have already identified some employees who will need additional explanation of the policy. In addition, we continued to find that alternate physical files for the documents are being created when, in fact, the documents should be kept in the ordinary course of business. LLS personnel explained that employees who access databases – such as the Jail System or CAD – that they do not administer must print documents to comply with their responsibility to preserve documents; while the administrator for each of the databases also preserves the Electronically Stored Information (ESI). MCSO is currently developing a user guide for GD-9 that will more plainly set out deadlines, interchangeable terms, office requirements, helpful hints, the Division Commander and employees' responsibilities, and frequently asked questions and answers on the policy. The expectation is that the user guide will be provided or made available to all employees to clarify the policy requirements.

During our January site visit, we conducted District visits, as well as visits to over 15 MCSO divisions to assess document preservation practices. We verified that document preservation practices were followed in each division, and we only provided minimal suggestions regarding the proper identification of preservation areas. At one of the Districts, we encountered personnel who stated that the policy was confusing to them due to some of its legal language.

MCSO aims to perform the searches and preservations in a centralized process through Open Axes, a discovery software program. The tool will help the LLS in performing case management; LLS will be able to create a case, assign a case number, make associations with other cases, and trigger time alerts to the employees. Open Axes will search on the H, W, and U drives of MCSO, which are shared among Headquarters and the Districts. MCSO expects that Open Axes will be fully operational in the LLS by June 2018, with the pilot program expected to be up and running by mid-March 2018. Open Axes will serve as a case management platform for document preservation notices that only the LLS can access. The software will not be available to other MCSO users, and it will not become a document production records management system or document repository.

Currently, MCSO is indexing all the materials on the shared drives so that they can be searched via the program. The employees will ultimately have to filter the data that the system identifies as responsive, but the system will allow for additional sub-searches and filters within the initial search. Although the Open Access software provides for a wider range of uses, MCSO has limited the discovery database to case management within the LLS. Consequently, documents will not be uploaded into the system, and each area will continue to preserve documents within their sections. Open Axes will eventually require the integration of all data systems within the agency to allow for preservation of records through a centralized process.

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), published on October 13, 2017.
- Open Axes Operations Manual, not yet drafted.

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 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. GD-9 requires the LLS to enter the data into a tracking system within five business days and to draft a Document Production Notice within five additional business 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.

Our review revealed that MCSO is forwarding the Document Production Notices in a timely manner to all its divisions. In addition, MCSO is sending Attachment C, the Document Production Acknowledgement Questionnaire, to all employees. In 81% of the cases, the personnel who provided responsive documents properly completed Attachment C. Eighteen percent of the forms lacked the proper identification of the steps that personnel took to search for documents or the itemization of the documents that were being provided.

At the close of this reporting period, in 90% of the instances, MCSO complied with the policy's timeframes between the receipt of the request and the transmittal of the Request for Production of Records. We will follow up during our next site visit to learn the reasons for the delay in the remaining cases.

Paragraph 270.b. requires that all responsive ESI be stored, sequestered, and preserved by MCSO through a centralized process. The software will aid the LLS in performing their duties under GD-9, but we cannot yet anticipate the results of the software's implementation and whether it will have the intended result of preserving ESI through a centralized process.

MCSO will continue to not be in compliance with this Subparagraph until it develops an Open Axes Operations Manual with the protocols and procedures for the centralized process of document preservation, and makes any necessary amendments to GD-9 as a result of deploying the software.

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 through and adequate search of all relevant physical and electronic files. We reviewed a sample of responsive documents for this reporting period; and note that MCSO has identified responsive documents to the document production notices, in most of the cases we reviewed.

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), published on October 13, 2017.
- Compliance Division Operations Manual, currently under revision.

Phase 2: Not in compliance

We and the Parties reviewed the Compliance Division Operations Manual, and we sent our combined comments to MCSO on January 19, 2018.

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: In compliance

- GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices), published on October 13, 2017.

Phase 2: In compliance

No internal investigations were completed against any MCSO employee during this reporting period for failure to preserve or produce 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 previously delivered this training on the E-Policy platform. All personnel requiring this training have received it. There were two personnel who did not receive the training due to resignation or retirement. All individuals (100%) determined by CID have received this training.

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 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 determines the classification of the cases.

Since August 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 for 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 the cases did not meet the basic criteria for 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 were determined to be CRMs; and one other was pending a CRM decision. The remaining cases were determined not to be CRMs.

During the four previous reporting periods, 88 cases were reviewed as possible CRMs. Twenty 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 29 cases had been determined to be CRMs.

During this reporting period, an additional 26 cases were reviewed as potential CRM cases. Five were determined to be CRMs. As of the end of this reporting period, there are a total of 34 cases that have been determined to be CRMs since the July 20, 2016 Court Order.

A total of 26 CRM cases have been *closed* since July 20, 2016, including two during this reporting period. Four of these 26 cases had sustained findings on a deputy who is deceased or a deputy who has left MCSO employment. Seven resulted in sustained findings against current MCSO deputies. Two of these sustained CRM cases 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 the case resulted in discipline, the sustained allegation was not related to any bias. In two separate cases, deputies received discipline for failing to properly complete the report of an incident; and a sergeant received discipline for signing off on the incomplete reports. One case resulted in a 40-hour suspension for an inappropriate and biased comment that was made by a Detention officer. One case resulted in a sustained finding for failing to meet standards and resulted in a coaching. The remaining CRM cases were closed with findings of exonerated, unfounded, or not sustained. Our Team has approved the investigation; findings; and where appropriate, the discipline in all 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 members of our Team. 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 Team member reviews the new cases that are presented each week. There has been no need for us to independently identify CRMs, as PSB consistently properly identifies and reports 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 generally, their briefings include all appropriate information. They have been responsive to any questions from our 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 this reporting period, cases involving both sworn and non-sworn members of MCSO have continued to be reviewed as possible CRMs, when appropriate. There were no appeals by any Parties regarding any of the CRM 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

- 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.
- 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 this reporting period, PSB completed and closed two CRM cases. One of these cases had a sustained finding for failure to meet standards. In this case, the employee was using improper screening protocols for visitors at a jail facility. In the second case, allegations of rude and unprofessional conduct were properly unfounded based on the investigation and review of body-worn camera videos. In our review of the two completed CRM cases during this reporting period, we found both complied with the requirements specific to the investigation of CRMs; and other requirements for administrative misconduct investigations. Both case reports we reviewed were consistent with the briefings that had been provided during the weekly CRM meetings. PSB 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 concerning the allegations and the justifications for findings in their investigative reports. In the one sustained case, MCSO arrived at a disciplinary decision as required. In this case, PSB also identified a training issue and ensured that it was properly documented and addressed.

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

- 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.
- 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 26 CRM cases have been closed since July 20, 2016. Four had sustained findings against a deputy who was either deceased or had left MCSO employment. Seven resulted in sustained findings against current deputies, including one that was closed this reporting period. In two of these six cases, a 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 (profanity) made by the deputy during a contact with a community member. While this conduct was inappropriate and the allegation appropriately sustained, the comment was not biased in nature. In two sustained cases, the misconduct involved the failure of a deputy to properly complete a report and the failure of his supervisor to identify that the report was not properly completed. In one sustained case, the misconduct involved a Detention officer who made an inappropriate and biased comment to an inmate. In the final sustained case, the misconduct involved the failure to properly screen visitors to a jail facility. We reviewed and approved all of these disciplinary decisions.

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

- 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.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

During this, and 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 if 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 11 CRM cases with sustained findings. Four involved deputies who are either deceased or have left MCSO employment and thus no disciplinary findings were made. Two cases resulted in the termination of employees for sustained truthfulness allegations. The remaining five 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

- 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.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

Of the 11 total sustained CRM cases since the issuance of the Second Order, six have resulted in minor discipline. One resulted in serious discipline. We concurred with MCSO's decision in these cases.

During this reporting period, there were no grievances or appeals filed on discipline received by employees on any sustained CRM case.

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 prior reporting periods, we and PSB concurred on the investigative outcome of each CRM investigation completed.

PSB is responsible for the investigation of all CRM cases, and 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.

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 October 24, 2017.
- CP-11 (Anti-Retaliation), most recently amended on October 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.
- 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 a total of 93 internal investigations. All but three were both initiated and completed after the issuance of the Second Order. Seventy-four were administrative misconduct investigations, five of which were CRMs. We also reviewed 19 criminal misconduct investigations. All but one of the criminal misconduct investigations were in compliance with the requirements of the Second Order. We found MCSO in compliance with all requirements of the Second Order in 44 (59%) of the total 74 administrative misconduct investigations.

During this reporting period, we reviewed a total of 119 internal investigations. All but five were both initiated and completed after the issuance of the Second Order. There were 108 administrative misconduct investigations, two of which were CRMs, and 11 criminal misconduct investigations. All of the criminal investigations were in compliance with all Second Order requirements. We found MCSO in compliance with all Second Order requirements in 44 (58%) of the 108 total administrative conduct investigations reviewed.

We found during this reporting period that all criminal cases, and all cases reported in Paragraphs 33 (biased policing), 249 (investigatory stops) and 275 (CRMS) complied with all requirements during this reporting period. We noted that investigations conducted by PSB sworn personnel were compliant in 84% of the cases. PSB investigations conducted by detention personnel were compliant in 74% of the cases, and those conducted by Divisions and Districts outside of PSB were compliant in 31% of the cases.

While the overall percentage of administrative misconduct cases that were fully compliant did not increase for this reporting period, we noted an increase in compliance in those cases investigated by PSB. We also noted a decrease in cases that had serious investigative deficiencies, and that the overall investigative quality has improved in both PSB and in the Districts and Divisions. While MCSO still falls short of compliance, there is evidence of improvement.

During our next site visit, we will discuss overall compliance and the concerns we identified with PSB and District and Division personnel, and provide them with specific case examples.

Effective with the revisions to internal affairs 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 under this Paragraph.

PSB investigated and reported 10 service complaints during this reporting period. Research conducted by PSB determined that in two of these cases, a service complaint was not appropriate and administrative misconduct investigations were initiated. Three of the complaints did not involve MCSO employees, and were forwarded to the responsible law enforcement agency for review. Four involved complaints regarding MCSO policies or procedures and were appropriately addressed. One case, which was anonymous, did not contain any specific allegations and MCSO was unable to conduct any follow-up on the complaint. We reviewed all 10 of these service complaints and believe that each was handled appropriately by MCSO.

Also, effective with the revisions to the internal affairs 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 or the last 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 74 administrative misconduct investigations – including five that were CRMs, and an additional 19 criminal misconduct investigations. All were completed after the issuance of the Second Order. We found all but one of the 19 criminal investigations in compliance with the Second Order. Of the 74 administrative misconduct investigations reviewed, 44 (59%), including the five CRMs, were in compliance with the Second Order.

During this reporting period, we reviewed a total of 108 administrative misconduct investigations, including two that were CRMs. We also reviewed 11 criminal misconduct investigations. We found all 11 of the criminal investigations in compliance with the Second Order. Of the 108 administrative investigations, 63 (58%) were in full compliance with the Second Order. As noted in previous Paragraphs, while the overall compliance percentage did not increase this reporting period, we are observing fewer cases with serious substantive investigative errors.

During the period of 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 former Chief Deputy, or other conflicts of interest identified by MCSO, and included the investigations identified in Paragraph 300. MCSO processed a Request for Proposal and retained an outside investigator who met the requirements of Paragraphs 167.iii. and 196 to conduct the investigations 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 appeared to exist.

PSB provided us with a document sent by 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 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.

During each site visit, we meet with PSB personnel to discuss the status of those cases that have been outsourced to any contract vendor, other law enforcement agency, or other person or entity, so that we can continue to monitor these investigations and ensure that all misconduct cases, including those identified in the Findings of Fact, are thoroughly investigated. PSB has continued to keep us apprised of the status of all such investigations.

During our January 2018 site visit, PSB advised us that the two administrative misconduct investigations that had been outsourced to a separate law enforcement agency are completed and closed. We have received and reviewed both of these investigations. A third investigation that was outsourced to this same law enforcement agency was previously returned to MCSO without investigation, as the allegations duplicated those already being investigated by the Independent Investigator.

There have been no cases completed and submitted for our review that have been investigated by the contract investigator. PSB personnel advised us during our January 2018 site visit that they had outsourced six additional investigations to the contract investigator. The Independent Investigator continues investigations identified by the Court, and notifies us of the status of these cases on a regular basis. He has completed six cases, and we reviewed them, only to ensure that the misconduct identified by the Court is being addressed.

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 quarterly status reports and elsewhere in this report, we continue to note numerous concerns with internal investigations, but have also noted many improvements.

All 11 of the criminal misconduct investigations that we reviewed for this reporting period were investigated by PSB and complied with the Second Order requirements. Of the 108 administrative misconduct investigations we reviewed for this reporting period, MCSO's overall compliance was 58%. The highest compliance rate (74%) was in those cases completed by sworn and Detention investigators assigned to PSB. Compliance in those cases investigated by Districts or Divisions outside of PSB was 31%.

Administrative misconduct investigations completed by sworn personnel assigned to PSB were compliant in 84% of the cases we reviewed for this reporting period, an increase of 8% from the last reporting period. Investigations completed by Detention personnel assigned to PSB were compliant in 74% of the cases, an increase of 10% from the last reporting period. Some of the concerns from the last reporting period – including timely completion of investigations, failure to thoroughly conduct investigations, and a lack of required documentation – remain, but the overall investigative quality of investigations by personnel assigned to PSB continues to improve.

Of the cases investigated outside of PSB, 31% complied with all Second Order requirements. These cases continue to be the greatest concern, due to limited improvement and the continuing low overall rate of compliance. Most of these cases were investigated at the District level. In many of the cases, non-compliance is still a result of procedural errors, or failure to meet established timelines, but we also continue to observe ongoing issues with the quality of some investigations.

During the past several reporting periods, District supervisors and Command personnel have informed us they believed that many of the errors in the proper completion of internal investigations resulted from a lack of training, and a lack of understanding regarding the investigative and procedural requirements. We acknowledge that the investigative training had not yet occurred at this time, but also note that we have been meeting with District supervisors and command personnel for over one year and specifically addressing with them the areas where compliance issues continue to exist. We also note that PSB personnel have provided significant input, assistance, and oversight of the District investigations; and have also identified those areas with ongoing compliance issues. Despite extensive feedback and recommendations, we have observed only limited improvement in District and Division cases outside of PSB.

During this reporting period, MCSO completed delivery of the 40-hour Misconduct Investigative Training, and all sworn supervisors who investigate administrative misconduct attended the training. During our site visit meetings and District visit meetings in January 2018, those we talked to offered positive feedback: they believed that it was beneficial. We are hopeful that we will now note a significant improvement in the investigations being conducted outside of PSB, and that any deficient investigations and reviews will be properly addressed.

PSB personnel continue to be receptive to our input, and we have had many productive meetings and discussions regarding the investigations being conducted. We continue to note that PSB addresses issues we bring forward during our site visit meetings. Overall compliance continues to improve in those investigations conducted by PSB personnel, and we continue to believe that PSB is making sincere efforts to comply with the Orders of the Court. 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 that MCSO's executive leadership not only understand the challenges faced by PSB personnel and others charged with the responsibility to conduct internal investigations – but that they also provide appropriate oversight, necessary resources, and support for their personnel. As we have noted elsewhere in this report, PSB lacks adequate resources to conduct investigations and oversee those investigations completed outside of PSB. This must be ameliorated if MCSO is going to achieve full compliance with the Paragraphs related to internal investigations. MCSO must also begin to hold those who conduct and review internal investigations accountable for the quality of these investigations if they are going 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 verify 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 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 personnel 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 October 2017 and January 2018 site visits, we discussed the status of investigations being conducted in compliance with this Paragraph requirement. We also reviewed the status reports regarding those cases being investigated by the Independent Investigator.

During this reporting period, there were no internal investigations closed by the contract investigator retained by MCSO. PSB outsourced an additional six investigations to the contract investigator – as allegations of misconduct were made against members of the administration, there were multiple complaints involving the same personnel, or the outside investigator previously investigated misconduct related to the current allegations. All investigations previously outsourced to the contract investigator remain in progress. MCSO has previously completed and closed one investigation identified in the FOF.

During this reporting period, the Independent Investigator completed six investigations identified by the Court in the FOF. We did not review these investigations for compliance with the investigative requirements in the Second Order, but reviewed them only to ensure that the misconduct outlined in the FOF was being addressed.

Our ability to verify that all potential misconduct outlined in the FOF has been investigated by PSB, the PSB contract investigator, or the Independent Investigator remains pending until all of the investigations are identified and completed. Once this occurs, we can determine if there is any additional misconduct identified in the FOF that still requires investigation. Finally, the PSB Commander and MCAO advised us that the acts of misconduct involving (former) Sheriff Arpaio as identified in the FOF would not be investigated by any entity, as 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

During this reporting period, no grievances were filed that met the criteria for transmitting to the Monitor.

Section 18: Concluding Remarks

We assess compliance with 99 Paragraphs of the First Order, and 114 Paragraphs of the Second Order, for a total of 213 Paragraphs. MCSO is in Phase 1 compliance with 73 of the First Order Paragraphs, or 85%; and 80 of the Second Order Paragraphs, or 77%. MCSO is in Phase 2, or operational compliance, with 64 of the First Order Paragraphs, or 65%; and 82 of the Second Order Paragraphs, or 72%. Combining the requirements of both Orders, MCSO is in Phase 1 compliance with 153 Paragraphs, or 81%; and in Phase 2 compliance with 146 Paragraphs, or 69%.

As noted in other areas of this report, MCSO provided the required misconduct investigations training to all supervisors who are tasked with conducting such investigations, whether assigned to the Professional Standards Bureau (PSB) or to the Patrol Districts. We commend MCSO on this accomplishment. However, we note that the Second Order requires that PSB have "*sufficient* trained personnel to fulfill the requirements of this Order." (Italics added.) MCSO has, to its credit, self-reported for several reporting periods that PSB is understaffed. We concur with this assessment. MCSO will be unable to comply with Paragraph 195 – and potentially other Paragraphs – until PSB is sufficiently staffed to fulfill its investigative obligations in a timely matter.

Shortly after the close of the reporting period, MCSO advised us that the Captain in charge of the Bureau of Internal Oversight (BIO) was being transferred to a patrol assignment. During the site visit we also learned of an important deadline that was going to be missed relevant to the Supervisory Discussions that were to take place. This matter was brought to the attention of the Court, and culminated in weekly status conferences and the publication of a post mortem report personally authored by the Sheriff.

This should underscore the need for constant vigilance on the part of all personnel who are involved in the important TSAR process. The need for careful succession planning that will assure continuity in the TSAR process has become increasingly apparent. The agency appears to have recognized this and is adjusting itself accordingly.

Additionally, we have noted some document production issues emanating from BIO, and other instances where it is clear that protocols were not reduced to writing so that they could be duplicated by the new leadership there. If these issues transcend two successive reporting periods, MCSO's Phase 2 compliance with some Paragraphs could be affected. This also highlights the need for MCSO to finalize and publish the EIU and AIU Operations Manuals so that day-to-day functions can continue uninterrupted despite the movement of key personnel.

Appendix: Acronyms

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

ACLU	American Civil Liberties Union
AIU	Audits and Inspections Unit
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
COrD	Community Outreach Division
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

PLAINTIFFS' COMMENTS ON MONITOR'S DRAFT FIFTEENTH QUARTERLY REPORT DATED MARCH 30, 2018

I. Introduction

Plaintiffs reviewed the Monitor's Draft Fifteenth Quarterly Report. Without responding comprehensively to the Monitor's report, this document highlights those issues that are most concerning from the perspective of the Plaintiff Class. Training (Section 6), Traffic Stop Documentation and Traffic Stops (Section 7), Early Identification System (EIS) (Section 8), Supervision (Section 9), Community Engagement (Section 11), Misconduct Investigations, Discipline, and Grievances (Section 12), and Community Outreach and Community Advisory Board (Section 13) remain of particular concern to Plaintiffs, and comments to those sections are provided below.

II. Training (Section 6)

The Monitor comments that he continues to observe inaccuracies in the Master Training Calendar. *See* Draft Report ¶ 44. Plaintiffs agree with this observation, and once again recommend that MCSO make the Calendar more accessible to MCSO personnel and the public, and provide more in-depth descriptions of upcoming trainings.

The Monitor reports that five Posse members failed to pass the Annual Combined Training (ACT). *See* Draft Report ¶ 48. Of those five individuals, four were able to pass after remediation. *Id*. Some of the more egregious complaints that Plaintiffs have reviewed in the past have involved Posse members, and we stress the importance of having all MCSO employees and representatives, even volunteers, properly trained to understand policing limitations as dictated by the Constitution and MCSO's own policies.

III. Traffic Stop Documentation and Traffic Stops (Section 7)

a. Annual Traffic Stop Analysis (ASU Report)

Plaintiffs have repeatedly expressed their concern with the findings of Arizona State University Professor Danielle Wallace and MCSO's inadequate attempts to remedy the problems identified in her reports.

In her first report, Dr. Wallace concluded that there were problems "associated with racially biased policing among some deputies and within certain administrative boundaries (i.e., beats and districts) across the distribution of stops, type of stop, length of stop, arrests, searches, and seizures by the race/ethnicity of drivers." Danielle Wallace, Ph.D., et al., *Preliminary Yearly Report for the Maricopa County Sheriff's Office, Years 2014-2015* (First ASU Report) at 49; *see also* Draft Report¶ 66. Additionally, Dr.

Wallace has made two significant findings in both of her reports. The first finding is an inferential analysis that concludes that there is a culture of racially biased policing in MCSO. First ASU Report at 10; Danielle Wallace, Ph.D., et al., *Yearly Report for the Maricopa County Sheriff's Office, Years 2015-2016* (Second ASU Report) at 12; Doc. 2116-1. The second finding is that individual deputies are engaging in suspected racially biased policing when compared to the average behavior of their peers. *Id*.

Dr. Wallace's Second Annual Report found no change in any area except for a slight improvement in disparities between Latino and Caucasian/Asian drivers in the length of stop. Second ASU Report at 12. In other words, despite the substantial efforts of MCSO and the Monitor team, there has been practically no change in MCSO's racially disparate treatment of Latinos and African Americans drivers and passengers over the past two years.

As with the first and second reports where MCSO belatedly identified issues that ultimately had no effect on the findings of those reports, MCSO again belatedly identified issues with the Third Report that, as far as the Plaintiffs are aware, had no effect on Dr. Wallace's ultimate findings. Dr. Wallace's summary of her findings during the April 2018 site visit indicate that she has again found little or no change in MCSO's record towards Latino and African American drivers and passengers.

In the Draft Fifteenth Quarterly Report, the Monitor reported MCSO's failure to meet the court deadline for completing interventions with deputies who may be engaged in biased policing and the agency's request for an extension. *See* Draft Report Section 1: Introduction. MCSO has subsequently produced a number of reports on the recent interventions, which Plaintiffs are still reviewing. Plaintiffs intend to discuss the delay in the intervention process in more detail in our comments to the Monitor's Draft Sixteenth Quarterly Report.

b. Recording Traffic Stop Data

As the Monitor explains, the Supplemental Permanent Injunction requires MCSO to record several pieces of data pertaining to traffic stops, including the pre- and post-stop perceived race of drivers and passengers. *See* Draft Report ¶ 54. Plaintiffs' own review of provided traffic stop data and supervisor notes revealed at least three instances during this period, MC17283464, MC17277971, and MC17294662, in which deputies misidentified the race of drivers and passengers. Plaintiffs first brought this issue to the Monitor and MCSO's attention in December 2016, which prompted additional oversight and training. Plaintiffs are concerned that this problem continues a year-and-a-half later.

c. Body-Worn Cameras

Like the Monitor, Plaintiffs continue to observe problems with MCSO's body worn cameras (BWC): improper positioning, late activation, premature inactivation, and complete inactivation. *See* Draft Report ¶¶ 61-62. Plaintiffs have also continued to

observe the failure of supervisors to identify or document these issues. The Monitor explains that MCSO is in the process of replacing its BWCs with new models. *See* Draft Report ¶61. MCSO reports that the new models will resolve many of the issues observed over the past two years. Plaintiffs look forward to MCSO implementing this new system, and reviewing its training for the proper utilization of the cameras.

d. Plan to Promote Constitutional Policing

MCSO drafted a plan to address problems of biased policing identified in the annual traffic stop analysis. *See* Draft Report ¶ 70. This Plan to Promote Constitutional Policing outlined nine goals to be achieved in late 2017 and early 2018, and was accepted by the Court in October 2017. *Id*. Plaintiffs agree with the Monitor that MCSO has made little progress on this plan, and further comment that MCSO should provide regular, detailed updates on its progress. The Monitor mentions that he received some information after requesting it from MCSO, but this information should be regularly provided to all parties without request. MCSO recently produced a draft update of the plan to the parties, and Plaintiffs commented that MCSO should also include information about that progress in the plan itself.

IV. Early Identification System (Section 8)

The Fifteenth Report of the Independent Monitor states that MCSO has reached complete policy compliance with all Paragraphs in Section 8 (EIS). *See* Draft Report, Section 8. MCSO reached practice or Phase 2 compliance with five paragraphs and is still out of compliance with five paragraphs in Section 8. This represents an improvement of compliance with one paragraph in Phase 2 compliance since the last quarter. MCSO has made progress in some aspects in this section. However, MCSO must still make significant improvements in deputy interventions and in complying with the spirit, as well as the letter, of the EIS requirements.

MCSO's most notable accomplishment in the quarter under review was to complete formal training on the entire EIS system. The EIS system had been somewhat operational prior to this time and was used by supervisors who were not properly trained. It is expected that both the knowledge and acceptance of the EIS program will increase now that formal training has concluded.

The Monitor made these points on the key paragraphs still not in compliance:

1. MCSO remained out of compliance with the all-important paragraph 72, which directs MCSO to "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." Deficiencies here include inadequate tracking of the amount of time it takes supervisors to clear alerts, a crucial check on ensuring that the EIS program is being used as intended.

2. Regarding paragraph 74, the Monitor team noted that EIU had not adequately tracked intervention effectiveness as required by paragraph 81. In the interventions just concluded, MCSO has developed action plans for the subject officers. Plaintiffs will monitor and evaluate if and how these action plans are tracked to ensure they are properly concluded.

3. MCSO has not met several expected target dates regarding the production of analyses for the Monthly Traffic Stop Report and is therefore not in compliance with Phase 2 of paragraph 79, which requires that the EIS computer program and computer hardware be operational, fully implemented, and used in accordance with policies and protocols within one year of the effective date of the Court's first permanent injunction.

4. MCSO is not in compliance with paragraph 81 in part because the Second ASU Report was postponed. MCSO published the report in July 2017, but it conducted two pilot tests of supervisory discussions related to outlier deputies, which were inadequate and ineffective. More recently, MCSO has conducted additional interventions which Plaintiffs are still reviewing.

The Monitor concludes his analysis of paragraph 81 by noting that "while supervisors have improved how they respond to alerts sent to them by EIU, we have not seen much evidence of supervisors initiating such actions on their own. Command staff should take an active role in ensuring the thoroughness of their line supervisors." *See* Draft Report ¶ 81.

This failure of MCSO supervisors to initiate actions on their own is reflected in Plaintiffs' findings through their own review that the questionable conduct of deputies identified by EIS have almost never been identified by their supervisors in supervisory notes. Plaintiffs have written to the Monitor about this issue and have discussed it at the recent site visit. There is some indication that MCSO was responsive to our concerns, but Plaintiffs will continue to focus on this issue in our review.

V. Supervision Section 8

In the Draft Report, the Monitor team notes that it has concerns with Districts 2 and 4 reverting to the 3/13 shift configuration because, among other concerns, the four days off may impact the timeline for supervisory reviews and span of control. *See* Draft Report ¶ 83. During the April 2018 site visit, District 1 reported that it was also considering going to a 3/13 shift configuration. We echo the Monitor team's concerns of potential issues with this shift configuration, and welcome the Monitor team's future assessment of whether this configuration affects supervision.

Plaintiffs continue to be concerned with the substance of supervisor notes, including quarterly supervisor notes, as well as other notes (e.g., notes on review of VCSFs and bi-monthly EIS reviews). Our review of supervisor notes during this quarter revealed instances where supervisors failed to identify, or failed to document their

identification of, body-worn camera issues and issues with the misidentification of pre- and post-stop race of the driver. *See, e.g.*, MC17280800 (note that BWC turned off to "Speak to Sgt. About Case," but no note from supervisor as to whether supervisor assessed if turning off camera was consistent with GJ-35); MC17283464 (note that BWC turned off due to "No contact with public"; this is not reason to turn off BWC under GJ-35 and no note from supervisor as to whether issue was discussed with deputy); MC17283464 (potential misidentification of race, no note from supervisor that issue was discussed with deputy); MC17275128 (same); MC17277971 (same). Our review of supervisor notes during this quarter also showed the continued problem of entries where supervisors did nothing more than read or provide rote recitations of bias-free policies to their deputies. We have written to the parties about our concerns regarding rote recitations by supervisors of MCSO's policy of bias-free policing, and we discussed this issue of during the April 2018 site visit.

VI. Community Engagement (Section 11) / Community Outreach and Community Advisory Board (Section 13)

The Monitor explains that MCSO held its first community meeting since assuming responsibilities for the quarterly meetings at Taft Elementary School on October 19, 2017. *See* Draft Report ¶ 109. MCSO refused advance requests from the other parties and the Community Advisory Board (CAB) to make statements during this meeting, and the community meeting held in January 2018. After receiving feedback from the CAB and other community members that they would like to hear from Plaintiffs at these meetings, MCSO invited Plaintiffs to speak at the April 2018 community meeting solely to discuss the Victim Compensation Program.

The Monitor also reports that MCSO is now required to provide administrative support to the CAB. *See* Draft Report ¶¶ 114, 117. Since the Court transferred this duty to MCSO at the agency's request, the CAB has submitted several requests to MCSO for information and's technical support. MCSO's responsiveness to the CAB's requests and full and transparent provision of information need improvement. MCSO's cooperation and transparency are both required by the Court's orders and necessary to build community trust and goodwill, and Plaintiffs will continue to closely monitor these matters.

The Monitor comments that the CAB held its first community meeting in its new configuration during this quarter. *See* Draft Report ¶117. The meeting, which took place at Grant Park, was well attended and included several personnel from MCSO and a representative of Plaintiffs. Plaintiffs' evaluation was that the CAB facilitated meaningful discussion and that the meeting was successful.

VII. Misconduct Investigations, Discipline, and Grievances (Section 12)

The Second Supplemental Permanent Injunction prohibits MCSO from promoting employees with open internal affairs investigations without providing a

detailed justification, even if those investigations are unlikely to result in sustained findings of serious misconduct. *See* Draft Report ¶ 173. Like the Monitor, Plaintiffs are concerned that an employee was promoted without much inquiry by command staff into an active allegation. *Id*. Plaintiffs also remain concerned that the justification memos drafted by supervisors and command staff in this instance do not provide enough detail explaining why particular investigations are discounted when an employee is hired, promoted, or transferred.

Plaintiffs also agree with the Monitor's assessment of MCSO's noncompliance with paragraph 175, which requires command staff to review the disciplinary history of new transfers as soon as practicable. *See* Draft Report ¶ 175. In addition to supervisors simply not completing this task, Plaintiffs review of supervisors' notes show the persistent use of boilerplate language. Plaintiffs recommend that MCSO reiterate to its command staff the need for meaningful reviews and thorough documentation of those reviews.

The Monitor describes MCSO's continued problem with staffing the Professional Standards Bureau, which contributes to delays in completing investigations. *See* Draft Report ¶¶194-195. Plaintiffs understand that PSB is in the process of obtaining approval for additional staff, but are concerned that this process will take too long, and that the uncompleted investigations will continue to accumulate.

Plaintiffs continue to agree with the Monitor that there are problems with administrative investigations exceeding the required timeframes for completion. *See* Draft Report ¶ 204. Exceeding these deadlines violates the Court's orders and infringes on deputies' statutory rights, and can affect the permanency of agency-imposed discipline. Investigators must be mindful of deadlines and submit detailed requests for extensions if it becomes clear that investigators cannot meet those deadlines. Plaintiffs have written to the parties about our concerns regarding this issue, and we will continue to monitor this matter.

Comments on the Draft Fifteenth Report of the Independent Monitor for the Maricopa County Sheriff's Office Provided by Plaintiff-Intervenor United States April 30, 2018

Pursuant to Paragraph 132 of the Court's Supplemental Permanent Injunction (Injunction) (Doc. 606), Plaintiff-Intervenor United States comments on the draft of the Fifteenth Report of the Independent Monitor for the Maricopa County Sheriff's Office (Draft Report), which covers the fourth quarter of 2017.

How to Read These Comments

The United States is providing these comments pursuant to paragraph 132 of the Injunction, which states:

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

(Injunction at 51-52.) What may be somewhat confusing to members of the public is that when our comments prompt the Monitor to make changes or clarifications to a draft report, those changes are reflected in the final version that is made available to the public. But our comments, which are appended to that final version, actually refer to an earlier draft. Because of this discrepancy, our citations to page numbers may be wrong, and any specific language in the draft with which we take issue may differ from the final version.

Section 4: Policies and Procedures

We have no comments on this section.

Section 5: Pre-Planned Operations

We have no comments on this section.

Section 6: Training

Paragraph 42. This paragraph requires that persons delivering training "be competent instructors with significant experience and expertise in the area." Draft Report at 47. The Monitor reports concerns regarding MCSO's approach to selecting and preparing instructors for Court-ordered training. As the Monitor notes, there is a "marked contrast among instructors," and MCSO selects instructors based on availability rather than "expertise, experience, or classroom presence." Draft Report at 48. The Monitor concludes that "[o]verall, MCSO's selection

process for instructors requires improvement," and "MCSO should require that the best instructors are selected and retained for all Order-related training classes." *Id.*

The Monitor's concerns about how MCSO selects instructors are exacerbated by previously identified issues about how MCSO conducts "Train-the-Trainer" sessions for instructors. In his last quarterly report—covering the third quarter of 2017—the Monitor identified trainers who "had failed to attend the required Train-the-Trainer" class for the Annual Combined Training (ACT), which addresses the requirements of the Fourth and Fourteenth Amendments; the Early Identification System (EIS) Training; Supervisory Training; and Misconduct Investigative Training. *See* Fourteenth Report of the Independent Monitor for the Maricopa County Sheriff's Office, Dkt. 2218 (Feb. 13, 2018) at 48 (Fourteenth Report). MCSO explained that trainers who miss the train-the-trainer class "had been required to view a class in its entirety before being allowed to assist or teach a lesson on their own." Fourteenth Report at 48. In other words, instructors are not required to attend the train-the-trainer session and instead may watch a class taught by another instructor who may or may not be a skilled presenter who adheres to the agreed-upon lesson plan. These issues continued during the fourth quarter of 2017. Draft Report at 47.

As a result, MCSO does not ensure that qualified instructors deliver training that is consistent with the Court's Order. We recommend that in selecting and preparing instructors, MCSO adopt the criteria that the Monitor identified: "the recommended train-the-trainer teach-back process; Training Division observations and documentation of instructors; and the instructors' content expertise, delivery confidence, and classroom management skills." Draft Report at 48. Until MCSO has addressed these issues regarding training instructors, there are at least serious questions about whether instructors are consistently "competent . . . with significant experience and expertise in the area," as the injunction requires.

Section 7: Traffic Stop Documentation and Data Collection and Review

Paragraph 54(i). This subparagraph requires MCSO to document the time each traffic stop began; any available data from the E-Ticketing system regarding the time any citation was issued; the 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. We continue to believe that MCSO is not in full compliance with this subparagraph. As we have explained in our comments to previous Monitor reports, rather than identifying a way to accurately collect this required information, MCSO has altered its Vehicle Stop Contact Form to allow deputies to identify certain stops that typically take longer, such as DUI investigations or those that require a tow truck. But in collecting stop data, MCSO does not require that deputies record when the person stopped is free to go and no longer "seized" for purposes of the Fourth Amendment. Rather, MCSO records the time a stop is "cleared" in CAD, which occurs when the deputy no longer has any responsibilities pertaining to that stop. While CAD clearance typically establishes when a deputy departed from the scene, it does not establish when "the stop/detention was concluded" for purposes of the injunction, leaving out critical information about MCSO's compliance with the injunction and the Fourth Amendment in an area where the Court previously found widespread constitutional violations.

In the sample of traffic stops reviewed during this quarter, the Monitor identified four stops that "were prolonged." Draft Report at 68. Though the Monitor "found that reasonable justification existed for the additional time expended for all four of the stops," that justification is not relevant to whether MCSO complied with this subparagraph, which requires the accurate documentation of the length of each traffic stop. The accuracy of data about the length of a stop is critical to ensuring that MCSO has a full picture of what its deputies are doing, and that any statistical analysis that draws conclusions about the length of a stop is based on accurate data. The Monitor's assessment of this subparagraph does not address this gap in data collection.

Paragraph 54(k). This subparagraph requires MCSO to document all searches, including when deputies conduct, or request to conduct, consent searches. The Draft Report explains that the Monitor requested a sample of 30 traffic stops where the Vehicle Stop Contact Form indicated that a search was conducted, but found that only six of those stops met "the criteria specific to searches of individuals." Draft Report at 69. Several of those incidents revealed potential problems, *id.*, but, because of the small sample size of just six cases, it is difficult to draw broader conclusions about MCSO's overall compliance. We therefore recommend that the Monitor take steps to ensure that in the future he assesses compliance with paragraph 54(k) based on a larger sample size.

We also note that the Monitor continues to find discrepancies between how deputies document searches on the Vehicle Stop Contact Form and how those searches are actually conducted, as recorded by body-worn cameras. According to the Draft Report, in addition to documenting each search conducted and the type of search on the Vehicle Stop Contact Form, "MCSO requires that deputies document requests to conduct searches by way of video-recording the event via the [body-worn cameras]." Draft Report at 69. When a deputy's body-worn camera is not operational, the deputy must fill out a consent-to-search form. As noted in previous Reports, the Monitor continues to find that not all searches are being appropriately captured on the Vehicle Stop Contact Form. Consistent and complete documentation of searches is essential for compliance with this subparagraph, and it also impacts MCSO's ability to conduct accurate statistical analysis of agency-wide trends. While a body-worn camera recording may provide information related to whether consent was truly voluntary, this method of documentation alone does not lend itself to aggregation and statistical analysis of agency-wide trends. So long as the Vehicle Stop Contact Form is not a reliable source of information related to searches, we agree with the Monitor that MCSO should take measures to ensure that information is collected in a form that can be aggregated for analysis.

Paragraph 54(l). This subparagraph requires MCSO to document whether any contraband or evidence was seized from any individual, and the nature of the contraband or evidence. It is unclear from the Draft Report how large of a sample size the Monitor used to assess MCSO's compliance with this subparagraph; the sample may have been as small as eight cases. Draft Report at 70. We therefore request that the Monitor clarify its methodology for ensuring that a representative sample of relevant incidents are evaluated.

Paragraph 56. This paragraph requires that MCSO's traffic stop data collection system be subjected to regular audits and quality-control checks and that MCSO develop a protocol for maintaining the integrity and accuracy of the traffic stop data. Draft Report at 72-73. We

continue to believe that, as part of this auditing and quality-control protocol, the agency should calculate error rates when audits uncover problems in the data and then use those error rates to assess whether problems are serious enough to warrant changes to policy or procedure.

Paragraph 66. This paragraph requires MCSO to conduct one agency-wide comprehensive analysis of traffic stop data every year. MCSO has struggled to produce these comprehensive analyses in a timely fashion. For example, the Parties, the Monitor and the community are still awaiting the release of the third annual report, which will evaluate MCSO's traffic stop activity from July 2016 to June 2017, and provide an update on whether the patterns identified in the second annual report persist. The delay in the release of these studies impedes MCSO's ability to take action to address negative behavior and makes it more difficult to measure the positive impact of any corrective action. MCSO should strive for a more timely delivery of the annual reports in the future.

Paragraph 67. This paragraph describes "warning signs or indicia of possible racial profiling or other misconduct" that should be evaluated in MCSO's traffic stop data analysis. The Monitor finds that MCSO is in Phase 1 compliance, in that it has created a policy that directs some pattern analysis on an annual, quarterly, and monthly basis. Draft Report at 86. The Monitor continues to defer a finding for MCSO's Phase 2 compliance. *Id.*; *see also* Fourteenth Report at 82. We understand that the Monitor defers Phase 2 compliance "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." Draft Report at 5. Here, however, MCSO has not settled on workable methodologies that fully incorporate the requirements of Paragraph 67 for all analyses, and the Parties and the Monitoring team continue to work together to develop those methodologies. We recognize that it may take time to develop a reliable and sound methodology, and we note that the Parties and the Monitoring team continue to work together to develop those methodologies. But, because so much of this process remains in flux, the more appropriate Phase 2 compliance finding for this paragraph is "Not in Compliance."

Section 8: Early Identification System (EIS)

MCSO has worked hard to connect the data systems that comprise the Early Identification System, or EIS, and to deliver a functional system. We remain concerned that the administration of the EIS relies too heavily on the efforts of a few people, who must intervene to evaluate every EIS alert before sending the alert to supervisors. As the Early Intervention Unit (EIU) continues to develop the EIS, we recommend that it focus on automation and standardization, so that the system is more consistent, reliable, and user-friendly. In making improvements, MCSO should also focus on tools that will help supervisors be more efficient in using the system.

Paragraph 75(a). The Monitor finds MCSO in compliance with this subparagraph, which requires the agency to include in the EIS "all misconduct complaints or allegations (and their dispositions)," with some exclusions. Draft Report at 108. The Draft Report states that open and closed case summaries are viewable by supervisors. *Id.* at 110. The two MCSO personnel responsible for creating these summaries and access levels are "preparing a protocol of these responsibilities to be included in the [Professional Standards Bureau (PSB)] Operations Manual." *Id.* These protocols have been outstanding for months: The Fourteenth Report also indicated

that MCSO had to develop "protocols to ensure that any parties involved in the complaint could not view the summaries for those cases." Fourteenth Report at 102. *See also* Thirteenth Report at 99; Twelfth Report at 97. Until PSB has actually created appropriate rules for access levels, it is premature to find MCSO in compliance with this subparagraph.

Paragraph 75(b). The Monitor finds MCSO in compliance with this subparagraph, which requires MCSO to include in the EIS "all internal investigations of alleged or suspected misconduct." Draft Report at 110. As noted above, PSB personnel are "preparing a protocol" for the access levels. *Id.* Until PSB has adopted an appropriate protocol for preparing access levels, a finding of compliance for this subsection is premature for the reasons explained in our discussion of subparagraph 75(a).

Paragraph 75(h). This paragraph requires that the EIS 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." Draft Report at 112. The Monitor found this paragraph not in compliance in the previous quarter, Fourteenth Report at 105, but now finds the agency in compliance. Draft Report at 112.

The Draft Report does not articulate a specific basis for changing Paragraph 75(h)'s compliance status, and it appears that issues the previously led to a finding of noncompliance have not been resolved. In the Draft Report and the Fourteenth Report, the Monitor expressed the expectation that MCSO would either begin to include Non-Traffic Contact Form (NTCF) activities in the Bureau of Internal Oversight (BIO) Incident Report audit or "create a new audit covering only NTCF activities." Draft Report at 113; Fourteenth Report at 105. Neither of these events has occurred. Instead, the Monitor notes that "[s]upervisors have shown the ability to search [the NTCF] field," but that is not a substitute for an audit to confirm that each NTCF stop, detention, and/or search is supported by reasonable suspicion or probable cause. Draft Report at 112-13; Fourteenth Report at 105. We recommend that Paragraph 75(h) remain not in compliance until MCSO develops a method to audit NTCF activities.

Section 9: Supervision and Evaluations of Officer Performance

Paragraph 97. This Paragraph requires MCSO commanders and supervisors to periodically review EIS reports and information, and initiate, or assess the effectiveness of, interventions for individual deputies, pursuant to the obligations set forth in Paragraphs 81(c)-(h). (This is distinct from the requirements of Paragraph 70 regarding interventions to address issues raised by the Traffic Stop Annual Report.) We agree that MCSO is not in compliance with Paragraph 97. Under Paragraph 81(c), MCSO commanders and supervisors must review, on a regular basis but not less than bimonthly, EIS reports regarding their subordinates and, at least quarterly, broader pattern-based reports. Based upon our continued review of supervisory notes, along with on-site observations of supervisors' use of EIS, we do not believe that the bimonthly reviews of EIS information have been meaningful, or that supervisors are equipped to review broader pattern-based reports. In addition, we have yet to see evidence that supervisors properly prepare for or conduct appropriate interventions with deputies identified for intervention through the EIS.

Section 10: Misconduct and Complaints

We have no comments on this section.

Section 11: Community Engagement

Paragraphs 111 and 112. These paragraphs require MCSO to have Spanish-speaking personnel at community meetings and to publicize the meetings in Spanish. Draft Report at 160-61. According to the Draft Report, MCSO provided "a professional Spanish interpreter" at a community meeting "to ensure that Spanish-speaking attendees could understand all remarks, questions, and responses." *Id*. The services of a professional interpreter represent an improvement over past interpretation efforts at community meetings, but there remained inaccurate translations in the slide show presented during the meeting. We agree with the Monitor's findings for these paragraphs (Phase 1 not in compliance; Phase 2 deferred), and we recommend that MCSO use professional translation services to review written Spanish materials to achieve compliance with these paragraphs.

Section 12: Misconduct Investigations, Discipline, and Grievances

Paragraph 199. This paragraph requires that MCSO ensure that internal affairs investigators "possess excellent investigative skills," and requires that employees with a history of serious misconduct or a history of conducting deficient investigations are presumptively ineligible to be internal affairs investigators. Draft Report at 198. This requirement applies not only to investigators assigned to the Professional Standards Bureau, but also to field supervisors, who conduct investigations of minor misconduct. (Doc. 1765 at ¶ 190.) According to the Monitor's Thirteenth and Fourteenth Reports, MCSO was developing a formal review process to ensure that district captains are notified of any field supervisors under their command who are ineligible to conduct internal affairs investigations. Thirteenth Report at 179; Fourteenth Report at 193. In the Draft Report, the Monitor indicates that MCSO still had not developed the formal review process to notify district captains of ineligibility. Given that MCSO lacks a formal review process to identify ineligible field supervisors, Paragraph 199's Phase 1 compliance finding should be changed from "in compliance" to "not in compliance," and Phase 2 should be changed to "deferred."

Paragraphs 219 and 220. These paragraphs require that, among other things, "discipline for sustained allegations of misconduct. . . [be] consistently applied, fair, and based on the nature of the allegation, and that mitigating and aggravating factors [be] identified and consistently applied and documented." Draft Report at 216. In addition, these paragraphs "require that any departures from the discipline recommended under the disciplinary matrices be justified in writing." *Id*.

The Draft Report indicates that of the 17 cases reviewed in which there was a recommendation for serious discipline, there were two cases in which "the Appointing Authority failed to properly consider the number and types of violations sustained when he made his final decision" such that "the final discipline was insufficient for the violations that occurred." Draft Report at 219. Put differently, in 11 percent of cases warranting serious discipline, MCSO reduced the discipline to

be within the presumptive range but below what the Monitor considered appropriate. In light of this finding, we recommend that the Monitor find Paragraphs 219 and 220 out of compliance until MCSO demonstrates that serious misconduct will receive appropriate discipline.

Paragraph 238. This paragraph requires 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. The Monitor finds MCSO in compliance with this paragraph after reviewing completed misconduct investigations and states that "[n]one of the investigations we reviewed involved an allegation that any MCSO employee had failed to accept a civilian complaint." Draft Report at 232.

We recommend that the Monitor alter his methodology for assessing compliance with this paragraph, as completed investigations are unlikely to include evidence of the failure to accept a complaint. Other sources are more likely to provide relevant information, including the testing program required by paragraphs 254-260 of the Second Supplemental Permanent Injunction (Doc. 1765), body-worn camera footage, supervisor notes, or traffic stop forms in which deputies and supervisors are required to memorialize the events that occurred during an incident. Indeed, the Draft Report described an incident captured by a body-worn camera in which a person made numerous statements about being struck by a deputy during an arrest, and demanding the names of the deputies involved. Though one of the deputies at the scene told the person he would put a complaint form with the person's property, "there was no indication in the traffic stop data or DUI report that this information was brought to the attention of a supervisor," as required by the second supplemental injunction. Draft Report at 232. This incident demonstrates that a methodology that surveys allegations in completed investigations to discover discouragement of complaints will miss instances in which the complainant never files a complaint.

Section 13: Community Outreach and Community Advisory Board

We have no comments on this section.

Section 14: Supervision and Staffing

We have no comments on this section.

Section 15: Document Preservation and Production

We have no comments on this section.

Section 16: Additional Training

We have no comments on this section.

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

We have no comments on this section.

Maricopa County Sheriff's Office Comments on Monitor's Fifteenth (15th) Quarterly Draft Report October 1- December 31, 2017

The Monitor's Fifteenth (15th) Quarterly Draft Report covers the time from October 1 – December 31, 2017. The end of this rating period also marks the first full year of Sheriff Penzone's administration. Since taking office, Sheriff Penzone has made compliance with the *Melendres* Court Orders a priority. The MCSO continues to work collaboratively with the Monitor, American Civil Liberties Union, and the Department of Justice to achieve compliance. The Monitor's report notes, "We continue to enjoy a close working relationship with the Sheriff; his upper command staff; and the Maricopa County Attorney's Office (MCAO), which has taken over exclusive representation of MCSO as it pertains to compliance." This collaborative relationship between the MCSO, the Monitor, as well as the Parties, has been critical in assisting the Office achieve several milestones during this rating period.

One such noteworthy accomplishment was the delivery of several training courses. After months of hard work, the Training Division provided numerous Court-Ordered related training courses during the 4th Quarter of 2017, including:

- 2017 Supervisor Responsibility: Effective Law Enforcement (SRELE)
- 2017 Early Identification System (EIS)
- 4th & 14th Amendment Training /Bias Free Policing Annual Combined Training (ACT); and
- Misconduct Investigations Training / Complaint Intake Training

At the close of the reporting period, MCSO was nearing 100% completion for the Misconduct Investigations Training, EIS training, and Supervisor Responsibility: Effective Law Enforcement (SRELE) training. In 2017, the Training Division provided an estimated 43,433 hours of Court Order Related Training to MCSO staff members.

On October 18, 2017, the Sheriff and the MCSO hosted the quarterly community meeting pursuant to Document 670 at Taft Elementary School in Mesa, AZ. There was a marked increase in community attendance with over 250 people from the community attending. The Sheriff himself told the community about the progress being made under the *Melendres* Orders and more community members participated in the meeting, which allowed meaningful and direct dialogue between the community and the Sheriff.

On September 21, 2017, the MCSO filed with the Court its stipulated Plan to Promote Constitutional Policing and actively began working on achieving the identified goals. This plan gives MCSO a roadmap to meet the expectations of the community and to be a leader in 21st Century Policing. Much of this rating period was spent exploring opportunities for the plan, implementing the various reforms and striving to achieve the identified goals. As this was the first full quarter with this plan in place, MCSO's implementation and reporting efforts continue to be refined to better articulate the progress being made.

Also discussed within the Monitor's 15th Quarterly Draft Report, the MCSO finalized, published and produced the reanalysis of the second Traffic Stop Annual Report (TSAR). In response to the findings in the Annual Report and through the technical assistance process, the MCSO worked collaboratively with the Monitor and Parties to establish a supervisory intervention process. The supervisory intervention process is a mechanism to address individual deputies identified in the annual analysis. The finalized supervisory intervention process was underway during this rating period, in accordance with the requirements of Court-Ordered directives issued on November 13, 2017.

On March 12, 2018, MCSO submitted and filed with the Court MCSO's 15th Quarterly Report which delineates the steps taken to implement the Orders, plans to correct issues, and responses to concerns raised in the Monitor's previous quarterly report. We ask that the content of MCSO's 15th Quarterly Report be considered as comments to the Monitor's draft 14th Quarterly Report as it contains relevant feedback. Below are a few specific areas MCSO would like to specifically address.

Paragraph 11:

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.

In the Monitor's 15th Draft Quarterly Report it states, "As of this writing, MCSO has not submitted its quarterly report as required by this Paragraph." MCSO would like to note the quarterly report was filed with the Court on March 12, 2018.

Paragraphs 43, 48, 50:

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

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.

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.

In the Monitors draft report, under Paragraph 43, 48, and 50, the 10 hour 2017 ACT training was reported 92% of required staff attended this training. This compliance rate was based off of 1231 MCSO personnel completing the course out of 1329 total personnel required to take the course. The 1231 number is correct, but 1329 is incorrect. The Training Division did not account for 70 personnel that had taken the 20 hour ACT training during 2017. These 70 personnel (64 Posse and 6 Sworn), took the 20 hour, ACT training course and were therefore not required to take the 10 hour 2017 ACT. All 70 are incorrectly listed in the master roster (December 2017) and count towards the 1329. If MCSO appropriately removes the 70 personnel, 1231 total personnel remain but the number of personnel who are required to take it is reduced to 1259. This accounting amounts to a 97.7% compliance rate for the 10 hour 2017 ACT.

Paragraph 75.d

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

> *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."*

The Monitor's Draft Quarterly Report states, "MCSO's Legal Liaison Section currently evaluates and enters forwards this information to the EIU who evaluates and enters this information in EIS."

MCSO would like to clarify the Legal Liaison Section does not evaluate and enter this information. Upon receipt of this information it is forwarded to the Early Intervention Unit.

Paragraphs 109/110/111/112/113/114/115/116/117/118:

MCSO notes the Monitor's 15th Draft Quarterly Report indicates MCSO will achieve Phase 1 compliance for each of these paragraphs after it establishes a policy outlining the requirements set forth in each respective paragraph. MCSO discussed with the Monitoring Team this requirement and it was clarified that MCSO would achieve Phase 1 compliance if it memorialized the language in an operations manual. MCSO intends to include the language of the paragraphs in the Court Implementation Division Operations Manual, which is currently under review. The Monitoring Team indicated that while the MCSO is in practice compliant with these paragraphs, Phase 2 compliance will be given once Phase 1 compliance is achieved.

MCSO's practices comport with the requirements of these paragraph.