

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



Review Period – Third Quarter 2015

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Independent Monitor

February 9, 2016

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Section 1: Introduction

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

The Maricopa County Sheriff's Office (MCSO) made some modest gains during this reporting period in its compliance with the provisions of the Supplemental Permanent Injunction/Judgment Order ("Order") issued by the Honorable G. Murray Snow in the above-referenced litigation. While the pace of achieving compliance remains slow, it can be described as steady. On September 15, 2015, in accord with Paragraphs 12 and 13 of the Order, MCSO filed its Annual Compliance Report, documenting the Office's efforts and progress made during the fiscal year completed on June 30, 2015. We found the report to be a fair accounting of the agency's compliance-related activities. While the report documented activities in various components of MCSO, the Court Implementation Division (CID) clearly shoulders the lion's share of responsibility in shepherding the reform process in MCSO. We continue to find CID staff, including its new commanding officer, responsive to our requests and facilitating during our site visits. We expressed concern over the change in leadership in our last report, but we are happy to report that transition has been, for the most part, seamless.

Similarly, in our last report, we noted a change in the command of the Professional Standards Bureau (PSB), which is MCSO's internal affairs component. We review the operations of PSB pursuant to our obligations to monitor Section XI of the Order (Misconduct and Complaints) and our expanded authority regarding investigations pursuant to the Court's Order of November 20, 2014. We continue to hope that the new commanding officer of the bureau will begin to address the systemic issues we have noted in our reviews. MCSO does not appear to have the institutional knowledge necessary to address all of the issues we are discovering, and in accord with our responsibilities, we continue to provide guidance and technical assistance.

Two critical components of the Order remain in development. The first is the Early Identification System. MCSO has continued its pattern of slow but steady progress in this area. MCSO continues to work with Arizona State University (ASU), and ASU representatives have participated with MCSO in our last two site visits. MCSO advised us and the Parties of a possible change in the proposed functionality of the EIS during the last site visit. When we and the Plaintiffs and Plaintiff-Intervenors expressed concerns over the change, we were advised that no final decisions had been made. We cautioned MCSO not to embark on changes to the EIS unilaterally, without first consulting the Monitor and the Parties, lest the changes adversely impact MCSO's ability to comply with any of the Order's provisions. Time and resources are at a premium, and our goal is to prevent MCSO from squandering either by embarking on a path that ultimately may not lead to compliance with the EIS-related Paragraphs of the Order.

The second area of concern is one we have repeatedly highlighted in past reports: the development and delivery of Supervisor and Command Level Training. Our Team and the Parties have provided comments on several iterations of the lesson plans, but progress has been incremental at best; and while some of the more minor points we raised have been addressed, some of the overarching issues, such as a lack of substantive content on leadership and ethics, remain. Subsequent to the reporting period and our October site visit, we and the Parties have participated in further reviews and conference calls in an effort to move the process along (to be further documented in our next report), but this reporting period passed with little progress in an area that is extremely critical. Quality training for MCSO's supervisors can positively impact the Office's ability to comply with all aspects of the Order, since the role of the first-line supervisor is crucial in the day-to-day implementation of the Order's requirements.

During this reporting period, the United States Department of Justice moved to intervene in the case and was granted Intervenor status by the Court on August 13, 2015. The Department of Justice has been a welcome addition to the process and participated fully with the Monitoring Team and the other Parties during our most recent site visit. The Department of Justice has access to all documents that the Plaintiffs have access to, and has taken advantage of the review and comment process outlined in Section IV of the Order.

**Maricopa County Sheriff's Office
Joseph M. Arpaio, Sheriff**

**MCSO COMMENTS ON DRAFT SIXTH QUARTERLY
COMPLIANCE REPORT FROM THE INDEPENDENT
MONITOR**



3RD QUARTER 2015, JULY 1 – SEPTEMBER 30

MELC1443205

The Maricopa County Sheriff's Office requests the Independent Monitor take the following comments into consideration before publishing the final draft of the Sixth Quarterly Report covering a review period for the Third Quarter of 2015.

- **Page #16, Paragraph 2, last sentence, "...September 21015...".** (Typo-2015)
- **Page #17, Paragraph 3, second sentence regarding CAD inspections, "Using a randomizing program, we selected 10 days out of 30 as samples for each inspection".** (This is in reference to the BIO CAD methodology for selecting which days we (MCSO) inspect. The monitor team does not participate in the randomization or inspection process, so the word "we" is misleading and not accurate)
- **Page #32, Paragraph 3, first sentence, "...25were...".** (Spacing Typo)
- **Page #52, Paragraph 2, first sentence, "...The Blue Team ELS..."** (Typo-EIS)
- **Page #90, Paragraph 2, fifth sentence, "and Blue Note..."** (Typo- Blue Team)
- **Page #92, Paragraph 2, fourth sentence, "For instance, in the case of alerts triggered by "County Attorney Turndown" of prosecution, the BIO reports for July and September note that "there was no reasonable likelihood of conviction for 100% of these cases." In the October BIO report, there were three of 38 cases that were turned down because the incident report lacked the probable cause to sustain a prosecution, while the remaining 35 cases fell under the "no reasonable likelihood of conviction" category. As a result of the October findings, these three cases were assigned to the immediate supervisors of these officers to begin an investigation of these EIS alerts.**

There are several issues to point out here and it seems as if there is some confusion between County Attorney Furthers and Turndowns tracked in EIS and the monthly BIO County Attorney Dispositions Inspection. These are two completely separate functions. The EIU tracks Furthers and Turndowns and have set thresholds for alerts when deputies reach a certain number of these incidents. When an alert is set, it is evaluated by EIU and if necessary, forwarded to the employees supervisor for review.

Completely separate of EIS alerts, the BIO conducts monthly inspections of all County Attorney Turndowns to determine if there were any irreversible errors (lack of probable cause). BIO inspections do not trigger alerts. If our inspections

identify deficiencies, those will be noted in the inspection reports and forwarded to the responsible chain of command for review and feedback via a BIO Action Form.

Therefore, the first sentence of the Monitors report; "For instance, in the case of alerts triggered by County Attorney Turndown of prosecution, the BIO reports for July and September note that "there was no reasonable likelihood of conviction for 100% of these cases", is not correct. In the July and August BIO County Attorney Disposition inspections, no deficiencies were noted for a 100% compliance rate. It is unknown where the quote "there was no reasonable likelihood of conviction for 100% of these case" was taken from. This was not in our inspection reports.

The phrase, "no likelihood of conviction" is one of many categorical designators used by the Maricopa County Attorney's Office to inform the submitting law enforcement agency of their reason for turning down a case for prosecution. This does not necessarily mean the case lacked probable cause for an arrest. The BIO does not make assessments on likelihood of convictions, but we do review for probable cause.

The next sentence of the monitor report read, "In the October BIO report, there were three of 38 cases that were turned down because the incident report lacked the probable cause to sustain a prosecution, while the remaining cases fell under the "no reasonable likelihood of conviction" category. First off, the monitor team is referring to the wrong month. The month they have described, in terms of the three of 38 cases occurred in September 2015. October of 2015 had a 100% compliance rate.

Secondly, our September inspection report never indicated the three cases were turned down because the incident reports lacked probable cause. Our inspection report reflects the cases were turned down because of "no reasonable likelihood of conviction". In addition, our inspection report never claimed the remaining cases (35) fell into the category of "no reasonable likelihood of conviction".

In the September 2015 report, BIO inspected all 38 turndowns for the month and found three that lacked probable cause. These were judgements of BIO based on the reports and attached supplements and had nothing to do with the County Attorney assessment.

The last sentence read, "As a result of the October findings, these three cases were assigned to the immediate supervisors of these officers to begin an investigation of these EIS alerts". Again, it was the September inspection and not the October report. These were not sent out to the immediate supervisors as EIS alerts, but were documented in memorandums of concern and sent to the

appropriate command personnel. Action Forms were required to be returned to BIO after review and disposition.

- **Page #94, Paragraph 1, last sentence**, “...Blue Note...” (Typo- Blue Team)
- **Page #116, Paragraph 3, first sentence**, “...MSO...” (Typo-MCSO)
- **Page #122, Bullet Point 2**, Regarding the August 2015 BIO Traffic Stop Data Inspection report, the monitor team cites, “Three of the 35 stops, or 9%...” (This is incorrect; it should be Two out of 35 or 5.7%)
- **Page #123, Paragraph 2, last sentence**, Regarding the September 2015 BIO Traffic Stop Data Inspection report, the monitor team cites, “Of the 35 reports, 21 traffic-related events, or 71%, had no deficiencies noted” (This is incorrect; it should be 28 traffic-related events, or 80% had no deficiencies noted)
- **Page #117, Paragraph 1**, the report incorrectly states, MCSO advised us that the Criminal Employment Unit has been renamed the Anti-Trafficking Unit, and that its mission has changed to drug interdiction.” The former Human Smuggling Unit was renamed to the Anti-Trafficking Unit and its mission was changed to drug interdiction. The report makes a similar incorrect statement in the next sentence, “MCSO submitted an organizational chart for the Special Investigations Division, which shows that the Criminal Employment Unit name has been changed to ATU.” This should state that the Human Smuggling Unit’s name has been changed to “ATU”. The Criminal Employment Unit (CEU) was disbanded, personnel were reassigned, and the unit was not renamed. The Monitor Report correctly describes the CEU disbandment and HSU re-task and name change on pages 36-37 under the comments for Paragraph 35.
- **Page #117, Paragraph 2, First Sentence** Should Read: “During our July 2015 site visit, we met with MCSO command staff and attorneys to review proof of compliance that the Anti-Trafficking Unit, formerly known as the Criminal Employment Unit, had its mission changed, as MCSO had asserted, and that there were no specialized units enforcing immigration-related laws.” The Human Smuggling Unit was renamed to the Anti-Trafficking Unit and re-tasked with drug interdiction. The Criminal Employment Unit was disbanded. The Monitor Report correctly describes the CEU disbandment and HSU re-task and name change on pages 36-37 under the comments for Paragraph 35.
- **Page #133, Paragraph 1**, the report incorrectly states, “Anti-Trafficking Unit, formerly known as the Criminal Employment Unit”. The Monitor Report correctly

describes CEU disbandment and HSU re-task and name change on pages 36-37 under the comments for Paragraph 35.

Section 2: Executive Summary

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

- COURT ORDER III. MCSO IMPLEMENTATION UNIT AND INTERNAL AGENCY-WIDE ASSESSMENT: During the last reporting period, MCSO's Court Implementation Division (CID) published its Operations Manual, which brought MCSO into Phase 1 compliance with several more Paragraphs. The division published its quarterly report as required by Paragraph 11.
- COURT ORDER V. POLICIES AND PROCEDURES: MCSO has promulgated and trained to the policies identified in this section of the Order. The policies were distributed in conjunction with the agency-wide Fourth and Fourteenth Amendment training, which was completed during the last reporting period. During this reporting period, MCSO published several Briefing Boards and Administrative Broadcasts that touched on Order-related topics, but it did not publish any new General Orders relevant to the Court Order. Several key Order-related General Orders are currently in development.
- COURT ORDER VI. PRE-PLANNED OPERATIONS: MCSO has achieved Phase 1 and Phase 2 compliance with this Section of the Order. MCSO did not report that it conducted any applicable pre-planned operations during this reporting period.
- COURT ORDER VII. TRAINING: During this reporting period, we continued a joint review process with the Parties for the 2015 Annual Combined Training, a single lesson plan that combines the Bias-Free Policing and Fourth Amendment Training. Some progress has been made on the development of the Order-required supervisory training. We received and held initial conversations with the Parties regarding an administrative systems component of the draft "Supervisor Responsibilities: Effective Law Enforcement" lesson plan, as well as a subsequent lesson plan "Supervisor Responsibilities: Effective Law Enforcement Part 2." The second draft failed to substantively address leadership, ethics, and integrity; and it also did not provide assistance to supervisors to develop interpersonal skills to aid in personnel counseling, coaching, or generational issues. The Plaintiffs' attorneys echoed similar concerns. CID advised that the assistance of an outside contractor to develop a secondary leadership component for this training has been terminated, and Training Division personnel have now been tasked with developing this piece of the lesson plan. MCSO has developed a new policy, GG-1 (Peace Officer Training Administration), that is under further review. Training classes for Body-Worn Camera and TraCS were delivered to deputies without final Monitor approval during this period. While the competency component for TraCS showed some measures of thoughtful considerations, the competency component of the Body-Worn Camera training lacked in comparison.

- COURT ORDER VIII. TRAFFIC STOP DOCUMENTATION AND DATA COLLECTION AND REVIEW: MCSO continues to provide traffic stop data to us on a monthly basis. Most of the systems used to collect the data have been automated, and for the most part, deputies are complying with the information capture and documentation requirements associated with traffic stops. We also continue to note some of the inadequacies of MCSO practices surrounding the setting of alert thresholds used for ongoing monthly and quarterly data analyses related to these. We are concerned that data problems discovered by Arizona State University audits will cause unreasonable delays in conducting the annual, agency-wide comprehensive evaluation to look for warning signs or indicia or possible racial profiling or other improper conduct. However, we are hopeful that the outside contractual support MCSO is now receiving from ASU will resolve these data problems and bring a statistically-based approach to the setting of thresholds for the benchmarks used in the monthly, quarterly, and annual analyses of traffic stop data. On October 10, 2014, the Order was amended to allow MCSO to substitute “on-person” recording devices for “fixed mounted” recording devices. MCSO received approval from the Maricopa County Board of Supervisors for the purchase of this equipment on January 29, 2015; and has drafted a policy to cover all aspects of the distribution, operation, and maintenance of the recording devices. We and the Plaintiffs’ attorneys commented on the policy, GJ-35 (Body-Worn Cameras), which was adopted on June 24, 2015. Additionally, we have reviewed evaluations by EIU personnel regarding supervisory oversight of their subordinates; in addition to the Inspection Reports (Supervisory Notes, County Attorney Dispositions, and the like) of BIO; and find that they both show steady improvements in the level of supervisory oversight.
- COURT ORDER IX. EARLY IDENTIFICATION SYSTEM (“EIS”): The policies that describe the EIS remain under development. This, among other factors, has contributed to a delay in the development and delivery of Supervisory Training. TraCS training for all personnel who have traffic stop contact with the public has commenced and been memorialized as required. MCSO has acquired the EIPro software mentioned in our previous reports, and this has provided greater access to data by first-line supervisors concerning their subordinates. However, they still lack access to their subordinates’ complaint histories and dispositions. MCSO is in the process of testing modifications to EIS that would rectify this situation. During our most recent site visit, MCSO advised that it is reconsidering the means by which it incorporates incident reports into the EIS database. We advised that MCSO must demonstrate easy access for supervisors to the reports they need to successfully use the EIS system. MCSO has engaged an outside contractor to assist in developing the thresholds that trigger alerts generated by the EIS system. We have suggested several alternatives for consideration. We will evaluate these as they come to fruition; however, at this time, MCSO continues to make progress toward meeting requirements of the Order.

- COURT ORDER X. SUPERVISION AND EVALUATIONS OF OFFICER PERFORMANCE: Supervisory review of incident reports and documentation related to traffic stops has improved. MCSO reported that it is working to implement several initiatives including a daily activity log, a revised employee performance evaluation process, specific disposition codes for incident reports of field interviews, and specific searchable codes for arrest reports. MCSO also submitted written documentation that it no longer operates specialized units whose mission is to enforce immigration-related laws. The review process for Incident Memorialization Forms and related corrective action continues to be slow. We continue to note that many supervisors are not adequately documenting their interactions with their deputies or properly memorializing their oversight of deputy activity. In general, the documentation of interactions between supervisors and subordinates lacks the specificity needed to demonstrate compliance with the Order's requirements. Similarly, required information is not being captured in deputy and supervisor performance evaluations.
- COURT ORDER XI. MISCONDUCT AND COMPLAINTS: While the quality of MCSO's investigations at both the Professional Standards Bureau (PSB) and at the district levels remains inconsistent and in many areas lacking, MCSO has taken steps to address these issues. Lieutenants in PSB have been designated as liaisons to the districts and Detention to serve as resources for investigations conducted by those entities. Generally, investigations have shown some improvement, but we continue to have concerns with thorough investigations, justified findings, and disciplinary decisions. MCSO continues to work on possible revisions of its Internal Affairs policies and a training module for supervisory personnel. PSB has created both a checklist and an investigative format to be used for internal investigations that we are currently reviewing.
- COURT ORDER XII. COMMUNITY ENGAGEMENT: We scheduled two community meetings during this reporting period: one in Peoria; and one in Buckeye. Our meeting in Peoria attracted approximately 60 community members; in Buckeye, no community members attended, despite area-focused radio, print, and social media advertising in both English and Spanish. The purpose of these events is to inform community members of the many changes taking place within MCSO, as well as to provide community members the opportunity to voice support or criticism in a safe forum. While we are responsible for Community Engagement, MCSO has been supportive of our efforts. Key members of the MCSO's leadership, representatives from the Court Implementation Division (CID), and district personnel have participated at each of these events; and CID personnel have been responsive and helpful in satisfying all requirements to reserve venues we have selected for community meetings. The Community Advisory Board (CAB) initiated actions to raise community awareness of the existence and function of the CAB. CAB members have also attended some of our site visit meetings with the MCSO to offer their feedback and input.

Compliance Summary:

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

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

The table below summarizes the compliance status of Paragraphs tracked in this report.¹ During this reporting period, MCSO’s Phase 1 compliance increased by 6% (from 51% to 57%), while Phase 2 compliance increased by 9% (from 28% to 37%).

Sixth Quarterly Report Summary		
Compliance Status	Phase 1	Phase 2
Not Applicable	14	
Deferred	0	6
Not in Compliance	32	50
In Compliance	43	33
Percent in Compliance	57%	37%

¹ The percent in compliance for Phase 1 is calculated by dividing the number of Order Paragraphs determined to be in compliance by the total number of Paragraphs requiring a corresponding policy or procedure. Paragraphs with the status of Deferred are included in the denominator, while Paragraphs with the status of Not Applicable are not included. Therefore, the number of Paragraphs included in the denominator totals 75 for Phase 1. The number of Paragraphs included in the denominator totals 89 for Phase 2.

Section 3: Implementation Unit Creation and Documentation Requests

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

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

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

At the beginning of our tenure, the division was staffed with a captain, two lieutenants, and two sergeants. The staff has grown significantly, and as of this writing, CID consists of one captain, one lieutenant, four sergeants, one detective, one deputy, and one management analyst. CID's administrative assistant transferred to another division; CID reports that it is actively recruiting a replacement and expects to conduct interviews with potential candidates in November.

At the beginning of September, the captain and lieutenant assigned to the Division were transferred. The captain was assigned to a patrol district, and the lieutenant was promoted to captain and reassigned. One of the longest tenured and most experienced sergeants in the unit was promoted to lieutenant and remains as the second in command of CID. We had a productive site visit with the new commanding officer, and we look forward to continuing to work with him and his staff.

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

On January 5, 2016, the division published its quarterly report as required by this Paragraph. The report covers the period from July 1, through September 30, 2015.

The report is divided into three major parts. Part I: Background and Overview of MCSO’s Efforts Towards Compliance provides a brief description of a few major compliance activities since the issuance of the Order. The report also includes a table that was developed from information provided in our fifth quarterly report (covering the reporting period of April 1, through June 30, 2015) and updated by MCSO to reflect what MCSO believes to be its compliance progress.

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

Part III: Response to Concerns Raised in Monitor's Previous Quarterly Report responds directly to only one concern we raised in our fifth quarterly report, published October 16, 2015. Specifically, we had speculated that the remarkably low number of Incident Memorialization Forms could indicate supervisors' failure "to identify serious issues" or "properly review...subordinates' work products." In its quarterly report, MCSO maintains that, based on internal audits conducted by BIO, "it is plausible that the training and policies are working and MCSO has improved in this area." MCSO did not respond to any other concerns we raised in our fifth quarterly report.

MCSO's quarterly report concludes, "MCSO has taken major steps toward compliance with the Court's Order. The ability in the near future to implement training and promulgate additional policies and procedures will further assist in these efforts. A large amount has been achieved in many areas particularly involving the creation of directives; the delivery of Court Order related training; technology acquisition and programming to allow for data collection; the implementation of electronic data collection; the creation of the Early Intervention Unit and the BIO; increased supervision; improvements to the PSB data collection process; and community outreach."

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

See Paragraph 13.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

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

On September 15, 2015, MCSO filed with the Court its 2015 Annual Compliance Report in compliance with this Paragraph. We reviewed this report in detail and addressed any follow-up questions we had with CID personnel during our October site visit. We found the report to be a comprehensive accounting of MCSO's efforts to achieve compliance with the Order's requirements over the most recently completed fiscal year. The report was organized around the Order's main sections (Implementation Division and Internal Agency-Wide Assessment; Monitor Review Process; Policies and Procedures; Pre-Planned Operations; Training; Traffic Stop Documentation and Data Collection and Review; Early Identification System (EIS); Supervision and Evaluations of Officer Performance; Misconduct and Complaints; and Community Engagement). While MCSO appropriately highlighted areas in which it achieved compliance with certain provisions of the Order, we confirmed during the site visit that it was not asserting *Full and Effective Compliance* with any subpart of the Order that would trigger the review process required by this Paragraph.

In the Policies and Procedures section of the report, MCSO highlighted several Order-related Briefing Boards and Administrative Broadcasts which were published during the last fiscal year, many of which we had not seen or reviewed. During our October site visit, we asked that MCSO provide these documents for our review. We also reminded CID and Counsel of MCSO's obligation to provide to the Monitoring Team and the Parties any policy – including Briefing Boards and Administrative Broadcasts – that provides direction on an Order-related topic *before* it is issued.

As the annual assessment was filed in a timely manner, MCSO is in compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

Section 4: Policies and Procedures

COURT ORDER V. POLICIES AND PROCEDURES

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

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

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

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

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

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

a. Policies and Procedures to Ensure Bias-Free Policing

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

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

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

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

Compliance Status:

Phase 1: In compliance

Phase 2: Deferred

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

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

During our December 2014 site visit, we discussed with MCSO methods and procedures that could be put in place to “consistently reinforce to subordinates that Discriminatory Policing is unacceptable.” This discussion included utilizing the review of monthly supervisor notes, facility and vehicle inspections, as well as conducting both email and CAD (Computer Aided Dispatch) audits. MCSO has implemented many of these methods and the Bureau of Internal Oversight (BIO) conducted its first supervisory notes audit in late 2014. At that time, only 2% of the 47 sworn supervisors randomly inspected were in compliance with consistently reinforcing that discriminatory policing is unacceptable in their supervisory notes. The BIO recommended additional training and policy review, and began publishing reports of its findings on the BIO website for MCSO. We requested that MCSO continue to provide copies of any monthly or quarterly audit reports for supervisory notes, as well as other audits conducted. We also requested that MCSO provide its “action request form” that allows us to review the outcomes of any concerns found, and have confirmed that concerns noted are captured in MCSO’s EIS system.

MCSO has made efforts in this area, developed policies, and implemented Blue Team for the reporting of supervisory notes. During district visits, individual supervisory personnel have informed Monitoring Team members that they are consistently reinforcing this information as required.

The first supervisory notes inspection conducted by the BIO in November 2014 demonstrated that there was still much to be done for MCSO supervisory personnel to achieve compliance with this Paragraph and did not include detention personnel as required to attain compliance. Since that time, MCSO has continued to conduct the monthly supervisory notes audits, now including detention personnel in its audits, and has shown an increase in supervisory personnel reinforcing the requirements of this Paragraph and documenting this reinforcement in their supervisory notes.

During this reporting period, MCSO provided sworn supervisory notes audits for patrol personnel on its MCSObio.org website. MCSO reported that in July 2015, 78% of the sworn supervisory notes inspected included an “Anti-Racial Profiling Message.” MCSO also reported that in August 2015, 41% of the notes included the anti-racial profiling message; and in September 2015, 71% of the notes inspected included the anti-racial profiling message.

MCSO now includes both detention and civilian personnel in the supervisory notes audits conducted and reports these audits on the MCSObio.org website. For the month of July 2015, MCSO reported 38% of the supervisor notes contained an anti-racial profiling message. In August 2015, 39% contained the message; and in September 2015, 34% contained the message.

During follow-up discussions with MCSO BIO personnel during our October 2015 site visit, we determined that the audit reporting in place was not providing complete information specific to the anti-racial profiling message requirements and may not be an accurate reflection of the actual numbers. Adjustments were made to the reporting methodology for both sworn and detention personnel supervisory notes, and it was agreed that monthly submissions in the future would include both the audits and a sample of specific supervisory notes inspected for both sworn and detention personnel. In both cases, the samples selected for review will be determined based on the criteria currently used for collection of traffic stop documentation and data. BIO and CID were supportive of this methodology for collection and have already begun producing the samples for our review. We have also reminded MCSO that compliance is dependent on specific reinforcement from the supervisor – not just an entry that there was no indication of any discriminatory policing.

During this current reporting period, BIO also continued to conduct inspections of both email and CAD messages. The outcomes of these inspections/audits are covered in Paragraph 23.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

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

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

During this reporting period, MCSO conducted CAD messaging audits in July, August, and September of 2015. Using a randomizing program, MCSO selected 10 days out of 30 as samples for each inspection. The BIO reviews CAD messages in an effort to identify compliance with MCSO policies CP-2 (Code of Conduct), CP-3 (Workplace Professionalism), and GM-1 (Electronic Communications and Voicemail). In its submission to our Team, the MCSO also includes the specific nature of any potential concerns that could be relevant to compliance with this Paragraph.

In the July CAD audit, no concerns were identified relative to compliance with this Paragraph. MCSO reported a 100% compliance rate.

In the August CAD audit, one concern was found that could be relevant to the requirements of this Paragraph, and MCSO reported a nearly 100% compliance rate. MCSO provided us with the specific concern, the BIO Action Report, and the follow-up response on this concern. We are satisfied that follow-up was conducted and appropriate action was taken in this instance.

In the September CAD audit, no concerns were identified relative to compliance with this Paragraph. MCSO reported a 100% compliance rate.

In July, August, and September of 2015, MCSO conducted email audits. In each month, 1% of the MCSO email accounts were audited.

In the July email audit, 35 email accounts were audited, and no concerns were identified relevant to compliance with this Paragraph. MCSO reported a 100% compliance rate.

In the August email audit, 34 email accounts were audited, and no concerns were identified relative to compliance with this Paragraph. MCSO reported a 100% compliance rate.

In the September email audit, 34 email accounts were audited, and no concerns were identified relative to compliance with this Paragraph. MCSO reported a 100% compliance rate.

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

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

During the last reporting period, we deferred Phase 2 compliance with this Paragraph due to a concern with the provision of all necessary documentation, without any redaction. We discussed this concern with BIO personnel during our recent site visit; it has been satisfactorily addressed and resolved. MCSO is again in Phase 2 compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

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

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

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

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

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

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

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

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

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

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

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

The tip information received by Major Crimes, Enforcement Support, Civil, and Special Investigations was reviewed for this reporting period. All of the tip information was found to be consistent with the mission of each tip-line. We did not find any information or request for law enforcement action that appeared to be based on race or ethnicity.

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

- District 1 reported, "All calls of this nature would be directed to MCSO Communications to dispatch a Deputy to respond and take a report. Any call regarding drug activity would be directed to MCSO Drug Hotline, which is administrated by MCSO Special Investigations Division. District 1 has no such mechanism outside of these systems that would allow a citizen to call in and report a crime. If by chance the citizen calls the District they are directed to MCSO communications." District 1 did not report any activity relevant to this Paragraph during this reporting period.
- District 2 reported that it does not have any dedicated hotline or tip-line telephone numbers or other such methods specifically to capture or receive complaints from community members regarding potential criminal activity. In general, the district has a main telephone number for any calls incoming to the district. During this reporting period, District 2 did not report any activity relevant to this Paragraph.
- District 3 reported that it accepts complaints from community members regarding potential criminal activity through mail, email, telephone, and walk-up traffic. It does not track actions taken regarding these complaints, but reported that they are generally assigned to the supervisor most able to respond to the complaint. District 3 reported that it had not received any crime tips during this reporting period.
- District 4 reported that it does not currently have a hotline designated to receive complaints from citizens within its jurisdiction. District 4 reported that it receives complaints from community members in the following ways: walk-up traffic; telephone calls; emails; and notifications from complaints through mcs.org (forwarded to the captain from Headquarters). District 4 reported receiving information from community members during this reporting period, but none of the complaints were relevant to compliance with this Paragraph.

- District 6 reported that it serves the town of Queen Creek pursuant to a law enforcement contract. As Queen Creek's primary law enforcement organization, it is responsible to police town ordinances/codes as well as applicable state law. District 6 reported that it has a web-based application that is used to report local issues related to town services. District 6 received concerns from citizens, but did not report any activity relevant to compliance with this Paragraph.
- District 7 reported that it uses a Request for Enforcement Services/Community Service Form, which citizens complete for specific enforcement for patrols such as speed enforcement or extra patrols because of potentially reoccurring problems such as criminal damage or vandalism. These forms are given to the patrol sergeants to assign to deputies. District 7 reported that it does not track or have any documentation as to what follow-up is completed, but it is working on a remedy for that situation. District 7 also reported that it participates in "Text-A-Tip" in Fountain Hills. Tips generated in this program are completely anonymous. District 7 investigates the tips if possible, but report that the tips are not always entered into the website; staff are also working on a solution for this issue. District 7 reported numerous "Text-A-Tips" during this reporting period. We reviewed them, and none are relevant to compliance with the requirements of this Paragraph.
- Lake Patrol reported that it "does not have any established email addresses or hotlines which community members can utilize to report potential criminal activity. All information relating to potential activity comes to us through the MCSO Communications Division. Our division has not conducted any operations in any response to suspected criminal activity because we have not received any information." Lake Patrol also reported that it had not received any information from citizenry regarding criminal activity during this reporting period.

CID made an effort to obtain information from within MCSO regarding hotlines and other ways community members may report potential criminal activity and how MCSO responds to those reports. None of the forms or logs we have reviewed to date has contained any information on any suspected criminal activity that would be perceived as racially biased. In those cases where MCSO has responded to a community concern received, there has been no indication that either the complaint of criminal activity or the response by MCSO has been based on race or ethnicity. MCSO does not employ a consistent methodology or tracking system for its tip-lines or other community complaints of potential criminal activity. Divisions may or may not use a form, forms are different from division to division, and there is no documented follow-up in some cases.

As of this reporting period, MCSO has not developed any policies that would cover hotlines or other methods to receive information so that it can achieve Phase 1 compliance with this Paragraph. MCSO has indicated that it is in the process of developing such policies and protocols.

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

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

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

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

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

During the finalization of the Fourth and Fourteenth Amendment training curricula required by the Order, the Parties agreed to a list and/or description of forms of identification deemed acceptable for drivers and passengers, as required by this Paragraph. The data required for verification to ensure compliance with these policies is captured in Paragraph 54 by the TraCS system. The system documents the requirements of the Order and MCSO policies. MCSO has continued to make technical changes to the TraCS system (19 changes this quarter) to ensure that the mandatory fields on the forms utilized to collect the data are completed and the deputies are capturing the required information. A significant change that began with the September 2015 Vehicle Stop Contact Form (VSCF) was the addition of a field that requires the deputy to include if body camera video is available, or, if not, why the recording device was inactive. TraCS is a robust system that allows the user agency to make technical changes to improve how required information is captured.

In order to capture the information for this Paragraph, we review MCSO's Vehicle Stop Contact Form, Vehicle Stop Contact Form Supplemental Sheet, Incidental Contact Sheet, Written Warning/Repair Form, Arizona Traffic Ticket and Complaint Form, Internet I/Viewer Event Form, Justice Web Interface Form, CAD printout, and any incident report generated by the traffic stop. MCSO created many of these forms to capture the requirements of the Order for Paragraphs 25 and 54. In addition, we met with ASU personnel in October 2015 and reviewed their data analysis of the traffic stop data they presented. Since our July 2015 site visit, there has been significant improvement in the TraCS system that has improved the reliability and validity of the data provided by MCSO. We compare traffic stop data in the sample between Hispanic and non-Hispanic drivers.

Paragraph 25.a. prohibits racial profiling in the enforcement of traffic laws, including the selection of which vehicles to stop based to any degree on race or ethnicity, even where an officer has reasonable suspicion or probable cause to believe a violation is being or has been committed. The selection of the sample size and the sampling methodology employed for drawing the sample is detailed in Section 7: Traffic Stop Documentation and Data Collection. Our review of a sample of 105 traffic stops (out of 9,323 total traffic stops that occurred during this reporting period) indicated that MCSO was following protocol, and that the stops did not violate the Order or internal policies. This review is a sample of the traffic stops that occurred during the quarter. Paragraphs 66 and 67 require an annual comprehensive analysis of all traffic stop data, which will more accurately determine if the requirements of this Paragraph are being met. MCSO is currently compliant with this Subparagraph.

Paragraph 25.b. requires MCSO to provide deputies with guidance on effective traffic enforcement, including the prioritization of traffic enforcement resources to promote public safety. MCSO policy EB-1.A-E addresses these concerns. The policy specifies that driving under the influence and speeding are the main causes of accidents, and should be the focus of traffic enforcement. We found that the majority of violations cited (43%) were for speeding and address the policy requirements. In the remaining cases, the stops were for reasons such as failure to obey official traffic control devices (15%); failure to possess valid registrations, licenses, or tags (23%); or equipment violations (13%). In our review, we break down the specific traffic violation for each stop and utilize each traffic stop form completed by MCSO during the stop to make a determination if the stop is justified and fulfills the requirements of the Paragraph. When we review the 105 sample traffic stops from across all districts during the reporting period, we make note of the locations of the stops contained on the Vehicle Stop

Contact Form, which we review for every stop. Our review of the data indicates MCSO is compliant with this Subparagraph.

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

Paragraph 25.d. requires MCSO to prohibit the selection of which motor vehicle occupants to question or investigate based to any degree on race or ethnicity. During this review of the traffic stop data, we noted two instances where passengers (one white male and one Black female) were contacted; and it does not appear that deputies based their questioning of passengers, to any degree, on race or ethnicity. In the first case, the male voluntarily exited the vehicle and presented his driver's license to the deputy; and in the second case, the deputy asked the passenger if she had a driver's license so the vehicle could be released to her care. In our experience reviewing traffic stop data, questioning or investigating passengers occurs infrequently. We reviewed the demographic data of Maricopa County, and found that the ratio of the ethnicity of the violators and passengers in the population was in range with the ethnicity of the individuals stopped. (See Paragraph 54.e.) MCSO is compliant with this Subparagraph.

Paragraph 25.e. requires MCSO to prohibit the use of particular tactics or procedures on a traffic stop based on race or ethnicity. (See Paragraph 54.e.) We reviewed a sample of 30 CAD audio recordings of traffic stops and 105 CAD printouts where the dispatcher enters the reason for the stop when advised by the deputy in the field. The methodology that we employed to select the samples is described in detail in Section 7. Prior to making the stop, the deputies advised dispatch of the stop with location, tag/state, and reason for the stop. None of the stops in the sample involved the use of traffic checkpoints. All stops appeared to comport with policy. We conducted a ride-along with a deputy during our July 2015 site visit to determine how traffic stops are conducted, and observed a stop where the violation was for speeding and the driver was issued a warning. As in many cases, at the time of the stop, we could not determine the ethnicity or gender of the driver until the vehicle was approached. The stop was routine and the deputy's actions followed policy. Our review of the sample data indicated that traffic stops were not based on race or ethnicity and reflected the general makeup of the population of the County; therefore, MCSO is in compliance with this Subparagraph.

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

Paragraph 25.g. prohibits deputies from extending the duration of any traffic stop longer than the time that is necessary to address the original purpose for the stop and/or to resolve any apparent

criminal violation for which the deputy has or acquires reasonable suspicion or probable cause to believe has been committed or is being committed. In our review of 105 traffic stops, we determined that two stops lasted for a longer duration than necessary with no explanation from the deputy. There were 11 other stops that were extended and justified due to the nature of the circumstances. In four of the extended stops, the vehicle was towed; in three cases, the license plate was seized; in one case, there was a language barrier; one stop involved an elderly driver, and the deputy allowed her to make a phone call; in another case, the deputy indicated the delay was due to a records check; and there was a DUI investigation in the remaining case. Since 99% of the cases complied, MCSO is in compliance with this Subparagraph. (See Paragraph 54.i.)

Paragraph 25.h. requires the duration of each traffic stop to be recorded. In our review, we determined that the duration was recorded accurately in 98 of the 105 traffic stops. In seven cases, there was a difference of five or more minutes in the start or end time of the stop, when comparing the Vehicle Stop Contact Form and the dispatch CAD printout. There were no explanations by the deputies as to why there were disparities between the stop forms. In two of the seven stops where the stop times did not match, the drivers were Hispanic. In one case, the violator failed to stop at a stop sign and received a warning; and in the second case, the driver had an invalid driver's license and was issued a citation. In four of the remaining five cases, citations or warnings were issued. The supervisor is required to review all activity by deputies within 72 hours and should catch any discrepancies and provide appropriate counseling to those subordinates. If supervisors conducted daily review of the TraCS forms, the initiating deputy could make timely corrections. Proper and timely supervision should reduce the number of deficiencies. (See Paragraphs 54.b. and 54.i.) MCSO is compliant with this Subparagraph with a 93% compliance rating, but risks falling out of compliance if their compliance is not greater than 94% during our next review.

Paragraph 25.i. requires that MCSO provide deputies with a list and/or description of forms of identification deemed acceptable for drivers and passengers (in circumstances where identification is required of them) who are unable to present a driver license or other state-issued identification. The Plaintiffs' attorneys and MCSO have agreed on acceptable forms of identification, and this information has been included in the Fourth and Fourteenth Amendment training conducted by outside consultants. Policy EA-11.8.3 (Arrest Procedures), dated September 5, 2014, provides a list of acceptable forms of identification if a valid or invalid driver's license cannot be produced. Only driver licenses, with one exception (driver did not have valid license on his person), were presented to deputies in each of the cases provided in our sample. In this case, the deputy ran a records check on the name and date of birth of the driver, and it came back with the driver having a valid license. 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. In our last report, we reviewed one traffic stop by an MCSO deputy that contained the Social Security number of the driver listed on the Arizona Traffic Complaint. For this reporting period, we did not find in our sample any instances where a deputy asked for – or was provide with – a Social Security number by the driver or passengers. When MCSO begins employing body-worn cameras, we will review a

sample of traffic stops to observe and review the video/audio of the citizen interactions and determine if deputies are abiding by the requirements of the Order. In September 2015, MCSO added fields to the Vehicle Stop Contact Form to include the documentation of on-body camera recordings and we will review a sample of those forms, once the cameras are implemented, for compliance with the requirements of this Subparagraph. MCSO is compliant with this Subparagraph.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

- a. require that Deputies have reasonable suspicion that a person is engaged in, has committed, or is about to commit, a crime before initiating an investigatory seizure;*
- b. require that Deputies have probable cause to believe that a person is engaged in, has committed, or is about to commit, a crime before initiating an arrest;*
- c. provide Deputies with guidance on factors to be considered in deciding whether to cite and release an individual for a criminal violation or whether to make an arrest;*
- d. require Deputies to notify Supervisors before effectuating an arrest following any immigration-related investigation or for an Immigration-Related Crime, or for any crime by a vehicle passenger related to lack of an identity document;*
- e. prohibit the use of a person's race or ethnicity as a factor in establishing reasonable suspicion or probable cause to believe a person has, is, or will commit a crime, except as part of a reliable and specific suspect description; and*
- f. prohibit the use of quotas, whether formal or informal, for stops, citations, detentions, or arrests (though this requirement shall not be construed to prohibit the MCSO from reviewing Deputy activity for the purpose of assessing a Deputy's overall effectiveness or whether the Deputy may be engaging in unconstitutional policing).*

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

During this reporting period, MCSO reports that there were no arrests made for any immigration-related investigation or for any immigration-related crime.

There were no arrests of vehicle passengers for lack of an identity document during this reporting period. There were nine incidents where vehicle drivers had charges pertaining to lack of an identity document. All stops were made with articulated Title 28 violations precipitating the stop. In all but three of the cases, the drivers were cited and released for traffic offenses and failure to have a driver's license. In the three cases where the drivers were booked, the charges included DUIs, or outstanding warrants. In all of the cases, the decisions to cite or book the offenders were consistent with normal law enforcement practices. Copies of the department reports were included with each submission. In all but two cases, the body of the report indicated that a supervisor had been notified of the lack of an identity document while the deputy was still on scene. In one of the remaining cases, the involved deputy was a supervisor, and in the last report, the report was reviewed and signed by a supervisor. A review of the documentation provided by the arresting deputies provided details of each of the contacts. Based on the reports reviewed, the actions of the deputies at each scene appear appropriate and consistent with normal law enforcement practices.

During this reporting period, MCSO Special Investigations Division Anti-Trafficking Unit (ATU) arrested over 70 persons, all for narcotics violations. Many of these were based on transportation of narcotics charges that were originated by the Border Patrol and turned over to MCSO for state charging.

During this reporting period, this unit experienced an increase of MCSO-generated narcotics cases. There were numerous cases investigated and arrests made based on street-level narcotics investigations, some of which were generated from information received on the drug tip-line. In each investigation where information was received from the tip-line, MCSO followed up, utilizing law enforcement techniques including research and surveillance, before acting on the information supplied by the citizen. There was no indication that race or ethnicity was a factor in determining any law enforcement action that was taken.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

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

LEAR policy. MCSO must ensure that its personnel do not mistakenly believe that MCSO has any immigration enforcement authority based on the former draft LEAR policy, and needs to ensure that any future references to policies or procedures of other agencies are clearly defined and explained to MCSO personnel.

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

element, so long as doing so does not unreasonably extend the stop in violation of Paragraph 25(g) of this Order;

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

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

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

e. Policies and Procedures Generally

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

See Paragraph 30.

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

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

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

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

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

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

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

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

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

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

Compliance Status:

Phase 1: Not in compliance

Phase 2: Deferred

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

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

For this reporting period, we received and reviewed 66 completed administrative investigations conducted by MCSO involving sworn personnel. Five of the investigations were conducted by PSB and the remaining 61 were conducted at the district or division level.

While we do see some measure of improvement in the completion of internal investigations, in structure, consistency in format, information on prior discipline, and timeliness, we still have a number of concerns that must be addressed for MCSO to reach Phase 2 compliance with this Paragraph.

Of the 66 cases reviewed, 41 of the investigations were generated based on an external complaint and 25 were generated internally. Of those generated internally, 16 of the investigations were related to traffic accidents or the operation and care of vehicles. The remaining nine internally generated cases included a variety of alleged misconduct including: inappropriate use of the computer system; conduct unbecoming failure to properly handle property items; etc.

Of the 66 investigations reviewed this quarter, 22 were complete and there were no noted deficiencies in either the investigation or the completion of documentation. Forty-four of the investigations had some deficiency noted. Many of these deficiencies were relatively minor in nature, including such things as missing documentation, missing signatures, or improperly categorizing complaints. Other deficiencies were more substantial, including incomplete investigations, failure to interview all parties, and unsupported findings. These are the same types of deficiencies we have seen in previous reviews relevant to this Paragraph.

In 13 of the 66 cases, there was a finding of sustained. The discipline associated with these findings included seven coaching sessions, one counseling, four written reprimands, and one 80-hour suspension. The discipline generally appeared to be consistent with the MCSO IA procedures, progressive discipline, and the Office's discipline matrix. The remaining cases were found to be not sustained, unfounded, exonerated, or in some cases "procedural." We disagree with the findings in seven of the total 66 cases.

One of our specific areas of concern noted this reporting period is the continued number of cases that are classified as "procedural" by the investigator and approved by the chain of command. Of the 12 cases MCSO classified as "procedural," we are in agreement in only two of the cases. In most of the cases, we do not agree that the complaint should have ever been classified as "procedural" based on the content of the complaint and MCSO's definition of a procedural complaint. In one case, the complainant initially alleged that money was missing, the involved deputy had yelled at her, she was not allowed to enter her house, and she was not allowed to remove her children from the vehicle. This complaint occurred after a felony stop involving a relative of the complainant. While the issue of the missing money was quickly resolved after it was determined that the arrestee had not had any money, and the remaining issues were satisfactorily explained based on the circumstances surrounding the felony stop, this complaint did not meet the criteria for a "procedural" complaint. We have discussed the use of "procedural" for categorizing complaints during several meetings with PSB staff. They are in agreement that changes need to be made in the definition and compliance with the use of "procedural" and are working on a solution. We have provided them with information from another law enforcement agency regarding their definition and requirements for the use of "service" type complaints that may be helpful as MCSO reviews their policy.

Another area of concern is MCSO's review process. MCSO continues to make findings and determine sanctions without any documentation or written justification. During our next site visit, we will address our continuing concerns with MCSO's review process and provide specific examples of our concerns to MCSO.

Our other specific concerns include: cases where decisions are made not to interview persons who were or may have been present at the scene where the incident occurred; situations that are essentially a "he said, she said" scenario that are resolved in favor of the MCSO employee without other supporting information; and cases where the findings are not supported by the facts of the investigation.

During our October site visit, we discussed with PSB the concerns we had noted with the previous reporting period's investigations. Each investigation where concerns have been identified for this reporting period will be discussed with PSB personnel during the next on site visit.

While many of the investigations reviewed were adequate, addressed the allegations, contained justified findings, and included all of the necessary documents and reviews, MCSO will not be in Phase 2 compliance with this Paragraph until it more thoroughly addresses the issues we continue to find in our reviews.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

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

MCSO provided two completed internal investigations for this Paragraph during this reporting period.

In the first case, the complainant alleged that she had been denied visitation to an inmate at the MCSO jail because she had her service dog with her. During her interview, she told the investigating supervisor that her canine was a “therapy” dog because she had several different medical conditions. The investigating supervisor determined that the detention officer who had denied the visitation had been instructed to do so after consulting with a supervisor. The definition of a service dog differs from that of a therapy dog, there is some question as to whether this particular canine met the criteria, and the detention officer sought guidance from his supervisor before making a decision. MCSO determined that the detention officer had acted appropriately under the circumstances at the time. We agree with this finding.

In the second case, a deputy was investigated for violation of MCSO Policy CP-8 (Preventing Racial and other Bias-Based Profiling), under section 1.B (consideration of group traits in law enforcement decisions.) In this case, a citizen filed a complaint initially claiming that the deputy had “targeted” him because he rode a moped. The investigating supervisor conducted a thorough investigation; and the citizen acknowledged that he had been confused and wished to rescind his complaint, as he believed the deputy had appropriately explained the laws to him. MCSO not sustained this complaint. In this case, we believe sufficient information likely existed to have exonerated this complaint, based on the statements of the complainant and the deputy involved.

The previous reporting period was the first one in which we received completed investigations under this Paragraph. We reviewed five investigations at that time, and reviewed two additional cases during this reporting period. In all seven cases, we have found the investigations were generally appropriately handled. Given that we have only received and reviewed completed cases for two reporting periods, we will continue to defer a Phase 2 compliance determination until additional case reviews are conducted under this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: Deferred

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

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

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

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

Compliance Status:

Phase 1: Not in compliance

Phase 2: Deferred

Section 5: Pre-Planned Operations

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

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

COURT ORDER VI. PRE-PLANNED OPERATIONS

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

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

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

During previous reporting periods, MCSO provided numerous documents to support its statements that the CEU had been disbanded. These documents included a letter to the Department of Administration for the State of Arizona indicating that MCSO would be returning grant funds as it was ceasing its enforcement of statutes as they relate to identify theft for the purposes of obtaining or continuing employment; a memorandum dated December 15, 2014 indicating that the CEU would be disbanded in January or February after their last case was concluded; an SID organizational chart that does not list the CEU as a unit; and a memorandum dated January 6, 2015 stating that SID had been directed to immediately cease any future and/or active/pending investigations related to the relevant codes that had been enforced by CEU. This

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

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

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

During our review of the arrests made by the Special Investigations Division Anti-Trafficking Unit since March 2015, we did not see any arrests for human smuggling violations. All cases submitted by MCSO and reviewed for the ATU were for narcotics trafficking offenses.

We had previously deferred compliance with this Paragraph until MCSO submitted its revised Operations Manual and the investigation of human smuggling as a function of the ATU was removed from the manual. All references to human smuggling as a function of the ATU have now been removed, and MCSO has provided documentation that division personnel have received the new policy. MCSO is now in Phase 1 and Phase 2 compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

Since achieving Phase 1 compliance, MCSO has reported conducting only one significant operation meeting the requirements of this Paragraph. “Operation Borderline” was conducted from October 20, through October 27, 2014, to interdict the flow of illegal narcotics into Maricopa County. MCSO met all the requirements of this Paragraph during this operation.

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

Since achieving Phase 1 compliance, MCSO has reported conducting only one significant operation meeting the requirements of this Paragraph. “Operation Borderline” was conducted from October 20, through October 27, 2014, to interdict the flow of illegal narcotics into Maricopa County. MCSO met all the requirements of this Paragraph during this operation.

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

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

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

Since achieving Phase 1 compliance, MCSO has reported conducting only one significant operation meeting the requirements of this Paragraph. "Operation Borderline" was conducted from October 20, through October 27, 2014, to interdict the flow of illegal narcotics into Maricopa County. MCSO met all the requirements of this Paragraph during this operation.

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

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

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

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

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

Since achieving Phase 1 compliance, MCSO has reported conducting only one significant operation meeting the requirements of this Paragraph. "Operation Borderline" was conducted from October 20, through October 27, 2014, to interdict the flow of illegal narcotics into Maricopa County. MCSO met all the requirements of this Paragraph during this operation.

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

Based on a concern brought forward by the Plaintiffs' attorneys, and to provide clarification regarding the portion of this Paragraph that addresses the requirement for MCSO to notify the Monitor and Plaintiffs within 24 hours of any immigration-related traffic enforcement activity or significant operations involving "the arrest of 5 or more persons," future submissions for this Paragraph will include an affirmative statement that no qualifying enforcement activity took place in months where such a statement is appropriate.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

Section 6: Training

COURT ORDER VII. TRAINING

a. General Provisions

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

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

MCSO previously developed a single policy, GG-2 (Training Administration, adopted January 24, 2014), that was intended to provide policy guidance for all training programs. In its current form, GG-2 failed to establish any instructor criteria, such as legal requirements for the Order-mandated areas of Bias-Free Policing, Fourth Amendment, and Supervisor and Command Level Training. Prior to our recent site visit, on September 13, 2015, we were provided with a draft version of the proposed new policy, GG-1 (Peace Officer Training Administration). Our Team conducted a review of this policy on September 25, 2015, and provided it to MCSO prior to our site visit. We provided comments and recommendations to develop a solid foundation for instructor selection criteria and to address the specific requirements of each training-related Paragraph of the Order.

Specifically, we recommended that the policy define “major discipline” as it relates to instructor selection, and remove the determination of eligibility by the Director of Training. We proposed that the Director of Training submit a recommendation of instructors to the Professional Standards Bureau (PSB), but that the final decision is elevated to PSB based upon its review. We recommended that any of the following allegations preclude acceptance as an instructor: discrimination; unreasonable use of force; Constitutional violations; failure to follow the requirements of the Order; criminal acts; providing false information in a misconduct investigation; and failing to report observed misconduct of another member. Additional areas of review with a negative impact on selection should include: pending investigations where the probable disposition will be substantiated; a review of how recently the allegations were made; the number of pending allegations; and the similarity of any pending allegations. We recommended that PSB undergo this review process annually for incumbent instructors, and individually for every instructor, to ensure that the instructor base remains unblemished and to provide an avenue to remove an instructor for cause. We further recommended that this review process also be extended to the selection and retention of Field Training Officers (FTO).

We previously provided recommendations, recently reinforced, that instructor selection should include a review of the individual’s educational background, the achievement of any Arizona POST Instructor Certifications, and any specialty certifications that would indicate an enhanced ability to provide specific training. We will review and comment on the proposed changes to policy GG-2 (Training Administration) as they become available, and provide continued recommendations to new policy GG-1 (Peace Officer Training Administration) prior to MCSO’s finalization and implementation. We have not been provided any instructor selection criteria updates or revisions to the Training Division Operations Manual for review of consistency with

the new GG-1 (Peace Officer Training Administration) policy. As newly developed training is delivered, it is critical for all training policies to accurately portray MCSO's training processes. This policy has not received final approval.

For the 2014 Bias-Free Policing and Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws training, MCSO generated a proposed list of instructors utilizing criteria – agreed upon by attorneys for both the Defendants and the Plaintiffs – to determine that the instructors possessed qualifications in accordance with the requirements of this Paragraph.

The final joint selection of qualified instructors was completed in August 2014 and also followed this process. During our October site visit, we reaffirmed our desire for MCSO to continue the process of including the Monitor, Plaintiffs, and Plaintiff-Intervenors in the instructor selection process for the 2015 Annual Combined Training and the Supervisory Responsibilities: Effective Law Enforcement Training. We recognize – and have discussed with the Training Division – the logistical difficulties associated with travel issues, caseloads, flight schedules, and social calendars; and have requested from them an ongoing status of the instructor selection process for these training sessions. The identification and selection of instructors for the 2015 Annual Combined Training (a single, combined lesson plan that includes both the Bias-Free Policing and Fourth Amendment training); and the selection and hiring of instructors to provide the 2015 Supervisor Responsibilities: Effective Law Enforcement Training did not occur during this reporting period.

On August 26, 2015, CID provided a “proposed instructor list for Body-Worn Camera Training, Supervisor Training, and TraCS Training” for our review. We were advised that the Training Division had requested a PSB history check on all of the proposed instructors, and that none had “major discipline” in their past. On August 28, 2015, we received documents titled “BWC Trainers Final and TraCS Trainers List Final” prior to any recommendations or approval by us. On August 29, 2015, we responded to CID and expressed a concern with the information provided and our inability to assess compliance under Paragraph 42 with the limited information. We were familiar with some of the names of the instructors provided, but requested additional information to include their educational backgrounds, and any AZ POST Instructor certifications or any specialty certifications obtained. We did not request the results of the PSB review, but rather what the criteria consisted of and what constituted “passing” this review. We also requested that this information be provided to the Plaintiffs and Plaintiff-Intervenors, as well. We have not received a response to our questions surrounding the PSB review, but received curricula vitae for TraCS trainers and BWC trainers. We were not provided with requested education and certification background, or the PSB review information.

We believe that further discussion of training programs requiring heightened scrutiny of instructor selection with all the Parties would be beneficial. We remind MCSO that the previous utilization of any instructor does not, by itself, provide approval for current use. All appointments and reappointments of instructors for Court-ordered trainings must receive the Parties' review and approval *prior* to the initiation of any Court-ordered training session, in accordance with the requirements of this Paragraph and Paragraphs 46 and 47. MCSO should not assume that previously utilized instructors remain acceptable to all Parties.

Instructor selections for the 2015 Annual Combined Training and the 2015 Supervisor Responsibilities: Effective Law Enforcement training was not conducted during this period.

In conjunction with instructor selection processes, MCSO should consider mandating train-the-trainer sessions for each newly developed lesson plan of Court-ordered training. There is significant value in the use of these sessions for the instructor, the participants, and the organization. During train-the-trainer sessions, instructors are exposed to reasons for the lesson plan content and are given direction on delivery priorities and mandates. The instructors are reminded that personal opinions have no place and should not influence the intended organizational message of the lesson plan content. Consistency in the delivery of lesson plan content by all instructors is strengthened through these sessions. Instructors are afforded the opportunity to discuss potentially troubling areas of the lesson plan topic or content that may promote participant questions that, without assistance, the individual instructor may be incapable of responding to – or worse, responding in a manner not endorsed or promoted by the organization. Finally, these sessions provide an opportunity for lesson plan modification, should that legitimate need be identified and requested by a consensus of the instructor cadre. Train-the-trainer sessions also provide the organization an opportunity to identify an instructor whose use may not ultimately be desired. MCSO should be especially cognizant of this possibility considering the noted the lack of acceptable instructor critique tools currently developed or in use by the Training Division.

During our July 2015 site visit, MCSO advised us that the Training Division was attempting to develop individual instructor folders. During our October site visit, these folders were not available for review. Based upon a review of the provided documents for TraCS and BWC instructors, documents that should be required for inclusion remain absent.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

MCSO previously developed a single policy, GG-2 (Training Administration), adopted January 24, 2014, that was intended to incorporate the requirements of this Paragraph. The existing policy fails to make the distinction between the requirements of a live training delivery and an online training delivery. Additionally, it fails to establish mandated testing criteria and administration. Prior to our recent site visit, on September 13, 2015, we were provided with a draft version of the proposed new policy, GG-1 (Peace Officer Training Administration). Our Team conducted a review of this policy on September 25, 2015, and provided it to MCSO prior to our site visit. We provided specific comments and recommendations to develop a solid foundation for testing criteria and to address the specific requirements of each training-related Paragraph of the Order. We included directions to provide structure for the development of assessment tools, provide immediate testing after a classroom or web-based training, and develop procedures limiting the maximum number of retests allowed for both classroom and web-based

training. The draft policy included the Paragraph 43 requirements of no less than 60% live training and no more than 40% online training. We and the Plaintiffs' attorneys have previously provided recommendations that the passing grade requirement be modified to a more realistic goal of less than 100%, and that testing evaluations be conducted after the first test is completed by each deputy. We will review and comment on the proposed changes to policy GG-2 (Training Administration) as they become available, and provide continued recommendations to new policy GG-1 (Peace Officer Training Administration) prior to MCSO's finalization and implementation. We have not been provided any testing criteria updates or revisions to the Training Division Operations Manual for review of consistency with the new GG-1 (Peace Officer Training Administration) policy. As newly developed training is delivered, it is critical for all training policies to accurately portray MCSO's training processes. This policy has not received final approval.

We reviewed and commented on the first segment of the EIS "Blue Team Entry System for IAPro" training initially delivered during both the last and current reporting periods. Due to its complexity and interrelatedness with several Paragraphs of the Order, our Team has not approved EIS training as a whole. On September 19, 2015, we reviewed and commented on the 2015 Early Identification System (EIS) lesson plan, which was designed for inclusion in the 2015 Supervisor Responsibilities: Effective Law Enforcement Training. We continue to be critical of the testing requirements utilized for EIS training, an online test that is required to receive a 100% passing score, and a test comprised of only three questions asking for identification of three of 14 categories that may initiate a supervisory review. We believe the testing component does not properly assess whether or not supervisors are equipped to initiate interventions and counseling.

We also provided recommendations in several other areas, including Threshold Alert Notification and Intervention, Employee Responsibilities, Supervisor Responsibilities, and Command Staff Responsibilities. The Plaintiffs' attorneys have set forth a number of serious concerns about the foundation for the EIS training – in particular, the draft policy. Plaintiffs' attorneys requested that this policy be updated prior to finalizing the EIS curriculum. They provided recommendations to develop a more motivated and proactive supervisory approach to EIS, improve accountability mechanisms that ensure the proper function of EIS, and address technical capabilities to ensure that issues such as use of force reports and body camera recordings are available to supervisors through the EIS system.

On July 8, 2015, and August 18, 2015, EIU continued to deliver the Order-mandated "Blue Team Entry System for IAPro" training, utilizing a live instructor and the 2014 EIS curriculum. These training classes appeared on the Master Training Calendar that was provided on August 19, and September 29, 2015. During this reporting period, as in the last monitoring period, we did not observe this training because we were not advised of it until *after* the training had occurred; and as a result, we were unable to advise the Plaintiffs' attorneys of the scheduled training. Supervisors and subordinate personnel were self-assigned to the training, and were required to sign in and out of the training sessions. Testing criteria consisted of a three-question test with multiple opportunities to achieve success. Post-training documentation was provided for the "Blue Team Entry System for IAPro." The "Blue Team – Sworn (July)" document indicates that 16 sworn personnel completed the training with successful testing and the Blue Team EIS – Sworn (July) report indicated that 17 sworn personnel completed this training with successful testing. The "Blue Team – Sworn (August)" document indicates that three sworn

personnel completed the training with successful testing, and “Blue Team EIS –Sworn (August) indicates that two personnel completed the training with successful testing. Although no Blue Team training occurred in September, three sworn personnel successfully completed the testing process. MCSO would achieve greater accountability if testing were required immediately following a training program.

We completed a review of the TraCS lesson plan on August 5, 2015. We noted the intended use of a multiple choice exam that required a 75% passing rate and the inclusion of competency-based exercises required for successful completion. We recommended, for building competency with the use of TraCS devices, that the students input scenario data into a beta test section in TraCS and be able to retrieve and view the data to successfully complete competency testing. We also recommend that MCSO use documents to provide proof of attendance; identify specific policies and procedures within the lesson plan; expand discussions related to the seizure of driver’s licenses to include the reinforcement of the property and evidence logging requirements as provided in Briefing Board 15-04, April 17, 2015; and adjust the scenarios. The Plaintiffs’ attorneys also provided their review of this lesson plan, but focused primarily on the need to expand the scenarios to provide trainers an opportunity to discuss key aspects of the traffic stop data collection process that are required by the Order and ensure the input of the data is consistent with what each field means.

The Training Division did not provide a final, approved, TraCS lesson plan, and corresponding PowerPoint presentation to be delivered to a train-the-trainer course that was tentatively scheduled for September 17, 2015; and identified as pending approval on the Master Training Calendar. MCSO had previously indicated that it anticipated that its instructor selection would be consistent with the AZ POST General Instructor certification, in addition to Field Training Officers’ certification, but it failed to provide this documentation with submitted instructor curricula vitae. The live training class was estimated to be approximately six hours in duration, and will be required to follow all current documentation practices of the MCSO for training attended. On September 17, 2015, MCSO delivered a TraCS train-the-trainer class. Students attended four subsequent classes through the remainder of September. Because we had been unaware of the delivery of these classes, we were unable to observe them or to alert the Plaintiffs’ attorneys of the schedule. During our site visit, on October 22, 2015, we were able to observe the afternoon competency session of the TraCS training program. This session required the student to work through different scenarios and enter data into the TraCS system utilizing a beta test component. The instructors engaged with the class, appeared versed in the TraCS system, and provided appropriate direction to the students. Although we did not observe the knowledge test, the competency-testing component appeared to be thorough.

As of September 30, 2015, the final lesson plan and testing criteria for the 2015 Supervisor Responsibilities: Effective Law Enforcement had not been developed. We and the Plaintiffs’ attorneys received what appeared to be a second, revised version of the lesson plan “Supervisor Responsibilities: Effective Law Enforcement Part 2” on September 10, 2015. This new lesson plan was purported to have addressed our concerns and those of the Plaintiffs in regards to a much-needed leadership and ethics section.

On September 17, 2015, we provided comments on the revised curriculum that, in essence, alerted MCSO that the revisions were wholly insufficient. The Plaintiffs echoed this sentiment. Defense counsel requested a conference call with us on October 15, 2015, regarding the draft lesson plan. The second draft continued to lack substantive training on leadership, ethics, and integrity. Defense counsel informed us that a subsequent third draft would include the anticipated leadership component. All other discussions were focused on the comments addressing the administrative components of the lesson plan. There continue to be no components to assist supervisors with interpersonal skills to aid in personnel counseling, coaching, or generational issues. During our site visit, CID advised us that the private contractor who had previously been retained by MCSO to provide the agency with "raw leadership data" was no longer contracted to do so and that a member of the Training Division had been tasked with creating the leadership component utilizing information from "Blue Courage," also a private contractor. Plaintiff-Intervenors requested that prior to drafting this critical component, MCSO initiate a conference call with the Parties in an effort to expedite its development. We have not yet approved this training program.

On July 22, August 14, and September 23, 2015, we provided recommendations for the Body Worn Camera Lesson Plan and PowerPoint presentation. Our recommendations included the inclusion of competency-based testing that will allow for demonstration of proper placement, wearing, activation, malfunction identification, and downloading, required modifications to GC-17 (Employee Disciplinary Procedures) for failure to activate, and required modifications to the vehicle stop contact form to document the use of BWC on traffic stops. As of September 30, 2015, the issue of how many reviews supervisors will be required to conduct on a monthly basis on each assigned deputy continues to be unresolved. In response to our recommendations, on October 2, 2015, we received from the Training Division the lesson plan that included our comments, as well as response comments from Training Division personnel. There were no actual changes to the lesson plan. We did not receive a revised final lesson plan, PowerPoint presentation, and testing component for approval during the compliance period.

During the last reporting period, MCAO indicated that it was developing a protocol for the security of its body-worn cameras, but discussions on significant content were ongoing and had not been resolved. According to MCSO, the "Body-Worn Camera Operational Manual" had not been completed and reviewed as of September 30, 2015, and it would not receive a review until October 9, 2015. However, this did not deter MCSO from the delivery of a September 16, 2015 train-the-trainer session, and 15 additional classes that were delivered through the remainder of September. On October 19, 2015, during our site visit, BIO command staff advised us that all deputies and supervisors had been trained in the use of the body-worn cameras. We believe that the decision to deliver this training was premature. We had not yet approved this training program. The Master Training calendar indicated merely "proposed training dates pending approval" of only two dates, September 21 and 29, 2015. On November 11, 2015, we were apprised of the 15 additional delivery dates in September.

During our site visit, on October 22, 2015, we were able to observe a BWC training class. The MCSO instructor was knowledgeable and maintained the interest of the small class of eight personnel. We noted, however, a lack of competency-based tasks and testing. None of our suggestions to include competency testing had been implemented. Students were required to push the activation button for the camera one single time to demonstrate competency. These deficiencies may lead to failures to appropriately capture and document incidents in the field.

On July 7, 2015, MCSO delivered the 2014 Detention Arrests and Immigration Related Laws, and Bias Free Policing training to a class of 16 sworn personnel. Testing results and course assessments were provided, though the course assessments did not include an area where participants could write in specific comments. Previously, this area provided significant information regarding the instructor and the curriculum as perceived by the student. We recommend that this section be returned to the assessment tool. We also recommend that curriculum, testing, and documentation for previously approved training programs should not be altered in any manner. Consistency in these areas must remain intact. When any curriculum is revised or updated, the associated testing and documentation should also be revised. At that time, the previous curriculum version and documentation should be archived.

Both TraCS training and BWC training were delivered during this monitoring period absent our Team's final approval. We recognize a desire by MCSO to move forward on training initiatives. Training, in general, greatly assists the reform effort when the final curriculum product incorporates best practice, current knowledge, and both officer and public safety issues. But the delivery of training should not be viewed as a mundane check-the-box effort. The complete review of developed instructional products – including lesson plans, scenarios, PowerPoint presentations, handouts, and assessments – when done properly, provides a solid foundation for organizational change. MCSO must refrain from unilaterally delivering training that has not been subject to all of the review and approval processes required by the Order.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

MCSO has developed a single policy, GG-2 (Training Administration), adopted January 24, 2014, that was intended to incorporate the requirements of this Paragraph. The policy, in its current form, fails to identify the establishment and adherence to the development and maintenance of the Order-mandated Master Training Calendar. Prior to our recent site visit, on September 13, 2015, we were provided with a draft version of the proposed new policy, GG-1 (Peace Officer Training Administration). Our Team conducted a review of this policy on September 25, 2015, and provided it to MCSO prior to our site visit. We provided specific comments recommending that all training be identified on the Master Training Calendar, and recommendations that addressed the requirements of each training-related Paragraph of the Order. On July 22, 2015, during our previous site visit, MCSO stated that a Master Court-Ordered Training Calendar and the use of standardized sign-in sheets will be included in a new training policy, GG-1 (Law Enforcement Training at that time, currently Peace Officer Training

Administration). Within the draft policy, section Procedures: 6. A. B., the use of a Master Training Calendar is addressed. This section adequately addresses the requirements of this Paragraph.

On August 19, 2015, we received a Master Training Calendar covering the period of January 1, through December 15, 2015 that included only “Court Ordered Training.” The classes identified – Supervisory Training, Annual Training, TraCS Training, and Body Worn Camera Training – were marked as “TENTATIVE PENDING APPROVAL” and scheduled between September 22, and December 15, 2015. This document was not provided, as requested by the Monitor, for review *prior* to the start of the reporting period. The document also did not indicate approved, scheduled delivery dates for 2015 TraCS Training and 2015 BWC Training. BIO Command personnel informed us during our most recent site visit that these training programs had already occurred, and that all deputies and supervisors had received the training. Blue Team Entry System for IAPro was scheduled for July 8, 2015; and an additional 2014 Detention Arrests and Immigration-Related Laws and Bias-Free Policing training session was scheduled for July 7, 2015. A tentative TraCS (train-the-trainer) course was scheduled for September 16, 2015.

On August 28, 2015, the Plaintiffs and we were provided with a “tentative Required Training schedule.” After review of the proposed schedule, it became apparent to us that the schedule was very aggressive and raised questions concerning the ability of the agency to meet the proposed schedule. Additionally, the curriculum had not been subject to all of the review and approval processes required by the Order. We advised Defense counsel that based upon the status of the lesson plan review and the instructor selection process, a start date of September 21, 2015 was not feasible. We did not allow the training to move forward.

The Sworn Master Roster – August 2015 indicates that MCSO has a total of 714 sworn personnel.

The 2014 Required Training Passed Sworn (July 2015) Report indicates that 16 sworn personnel were required to receive the Order-mandated 2014 Training on Bias-Free Policing, and Fourth Amendment, Detentions, Arrests, the Enforcement of Immigration-Related Laws, Blue Team Entry System for IAPro ELS, and Blue Team Entry System for IAPro. The report indicates that 16 had completed it.

Blue Team Entry System for IAPro was delivered July 8, 2015 and August 18, 2015. Blue Team training was not provided in September 2015.

The Blue Team – Sworn July Report indicates that 16 sworn personnel completed the training with successful testing.

The Blue Team – Sworn August Report indicates that three sworn personnel completed the training with successful testing.

The Blue Team EIS – Sworn July Report indicates that 18 (two Reserve personnel) sworn personnel completed the training with successful testing.

The Reserve Master Roster – August Report indicates that as of August 31, 2015, a total of 38 Reserve personnel will be required to receive the Order-mandated 2015 Annual Combined Training.

The Retired Reserve Master Roster – August Report indicates that as of August 31, 2015, a total of 40 retired Reserve personnel will be required to receive the Order-mandated 2015 Annual Combined Training.

The Posse Roster – August Report indicates that as of August 31, 2015, a total of 984 Posse personnel will be required to receive the Order-mandated 2015 Annual Combined Training.

Mandatory 2105 Annual Combined Training and 2015 Supervisory Responsibilities: Effective Law Enforcement Training has yet to be scheduled.

Body-Worn Camera Train-the-Trainer class was held on September 16, 2015.

TraCS Train-the-Trainer was held on September 17, 2015.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

Prior to our site visit, on September 13, 2015, we were provided with a draft version of a proposed new policy, GG-1 (Peace Officer Training Administration). Our Team conducted a review of this policy on September 25, 2015, and provided it to MCSO prior to our site visit. Very specific comments were provided recommending the inclusion of all language of this Paragraph in the draft document in section Procedures: 4. B. 3.

We are involved in a collaborative review with attorneys for the Plaintiffs, the Plaintiff-Intervenors, and the Defendants on the 2015 Supervisor Responsibilities: Effective Law Enforcement curricula. It is anticipated that the final approved curriculum will incorporate adult-learning methods and include PowerPoint presentations, interactive learning exercises, and lecture. The lesson plan for Supervisory Responsibilities: Effective Law Enforcement was reviewed several times during this reporting period in response to submissions from MCSO. The review process is ongoing; we have not yet approved this lesson plan.

On September 1, 2015, we and the Plaintiffs' attorneys received a new version of an administrative systems lesson plan for the 2015 "Supervisor Responsibilities: Effective Law Enforcement, Part 2." This new version contained only a 30-minute addition of "An Overview on the Ethics of Leadership." On September 17, 2015, we provided MCSO with our comments on the draft lesson plan. Our impression of this document was that it lacked any substantive training on leadership, ethics, or integrity; and continued to be insufficient. There were no additional components to assist supervisors with interpersonal skills to aid in personnel counseling, coaching, or generational issues. The Plaintiffs' attorneys and Plaintiff-Intervenors echoed our concerns in their comments, as well. The lesson plan must include roleplaying scenarios, interactive exercises, and traditional lecture formats in order to comply with the requirements of the Order. Defense counsel had previously advised us that there would be a secondary leadership component, a more robust section on the EIS, as well as PowerPoint

presentations. Yet these were not included in what was provided. We advised Defense counsel and MCSO that this version of the lesson plan was deficient.

During our October 2015 site visit, CID advised us that the private contractor previously retained by MCSO to provide the agency with “raw leadership data” to be compiled and formulated into the lesson plan by the Training Division had been terminated; and that Training Division personnel had now been tasked with development of the leadership components.

On October 15, 2015, Defense counsel initiated a conference call to us to discuss our comments on the revised lesson plan. Most of our comments were accepted. Additional discussions were focused on the use of BIO audit forms for supervisory reviews, training specific to policy requirements, analysis of supervisory reviews of subordinates, and supervisory reviews of supervisors. MCSO advised us that we would receive a future draft that would include the leadership components. No date for this draft was provided.

We have not approved this training program.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not applicable

Phase 2: Not in compliance

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

Prior to our site visit, on September 13, 2015, MCSO provided us with a draft version of a proposed new policy, GG-1 (Peace Officer Training Administration). Our Team conducted a review of this policy on September 25, 2015, and provided it to MCSO prior to our October site visit. We recommended that MCSO apply the proposed adoption of seven training cycle steps to all training developed; and to include all lesson plans in the proposed Training Division, as a central repository.

As of September 30, 2015, MCSO had not completed the lesson plan for the Order-mandated 2015 Training on Bias-Free Policing, and Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws (currently titled 2015 Annual Combined Training), in accordance with Paragraphs 48 and 50. On June 26, 2015, we received the initial 2015 Annual Combined Training Lesson Plan, which was a single, combined lesson plan that included both the Bias-Free Policing and Fourth Amendment training. We returned our review comments to MCSO on August 16, 2015. In general terms, our review identified *Melendres* litigation inaccuracies; scenario deficiencies; assessment tool deficiencies; and an absence of important policy discussions of Use of Force, Workplace Professionalism, Property Management, Search and Seizure, and Evidence Control. A revised curriculum was provided on October 15, 2015. The Defendants’ attorneys have been receptive to the input from the Plaintiffs’ attorneys and the Monitoring Team.

During our October site visit, we reaffirmed MCSO's requirement of including the Monitor, Plaintiffs, and Plaintiff-Intervenors in the instructor selection for the 2015 Annual Combined Training. We recognize the logistical difficulties associated with travel issues, caseloads, flight schedules and social calendars and have requested from the Training Division an ongoing status of the instructor selection process for these training sessions. The identification and selection of instructors for the 2015 Annual Combined Training did not occur during this reporting period.

During this reporting period, MCSO advised us via The Blue Team EIS - Sworn (July) Report that 17 sworn personnel completed the training with successful testing. The delivery of this training did not appear on the Court-Ordered Master Training Calendar in accordance with Paragraph 44 until July 22, 2015; and as a result, once again, we were not afforded the ability to observe this training segment or advise the Plaintiffs' attorneys of this training program. Due to the complexity of the EIS training, and a need for segmented training, which has not been developed, we have not approved all EIS training.

Previously, the EIU lieutenant had indicated that EIS training development and delivery to date has not been coordinated with the Training Division. During our July 2015 site visit, both the EIU lieutenant and the Training Division advised us that all future lesson plans and scheduling of classes will be coordinated through the Training Division. On September 1, 2015, we received a revised EIS lesson plan, "EIS2," which is included in the 2015 Supervisory Responsibilities: Effective Law Enforcement, Part 2 lesson plan. This lesson plan followed the format adopted by the Training Division. On September 19, 2015, we provided our comments to MCSO on the draft lesson plan. There also was consensus that one hour would be insufficient to provide direction on EIS as a leadership tool. The testing assessment also requires further work. On September 17, 2015, the Plaintiffs' representatives provided review comments, primarily focused on the provision of additional guidance for supervisors on the substance of interventions and counseling; the inclusion of accountability mechanisms to ensure the proper functioning of EIS; additional clarity on whether or not EIS will provide supervisors with ready access to body camera recordings; attaching use of force and other reports; and the inclusion of critical feedback from all EIS users.

On July 23, 2015, we received the initial TraCS lesson plan and scenarios; and on August 10, 2015, we received a revised lesson plan and scenarios. We provided MCSO with our comments on August 19, 2015. In general, we were satisfied with the lesson plan and scenario development. Most, if not all, of our recommendations had been embraced for the development and format of the lesson plan. The lesson plan provided a distinct format for the instructors to follow. We noted, however, that the lesson plan did not incorporate actual changes to the scenario contents. As of September 30, 2015, we have not received the final TraCS lesson plan. We had not yet approved the lesson plan when on September 17, 2015 a TraCS train-the-trainer session was conducted for 19 personnel, according to the Class Response analysis: TraCS (Traffic and Criminal Software) Report.

During our most recent site visit, on October 22, 2015, we observed the afternoon competency session of the TraCS training program, but were unable to attend the lecture portion. This session required the student to work through different scenarios and enter data into the TraCS system. The instructors were engaged with the class, appeared well versed in the TraCS system, and provided excellent oversight and direction to the students.

Despite progress during this reporting period in the development of Supervisory Training, it has not resulted in speeding up the delivery of this training to the agency's supervisors.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not applicable

Phase 2: Not in compliance

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

Prior to our site visit, on September 13, 2015, we were provided with a draft version of a proposed new policy, GG-1 (Peace Officer Training Administration). Our Team conducted a review of this policy on September 25, 2015, and we provided it to MCSO prior to our October site visit. We provided specific comments reflecting a recommendation to include the language of Paragraph 47 within the document. We continue our recommendation that during annual reviews, each lesson plan should be updated by new developments in law, participant feedback and comments, and training evaluations. We will review and comment on the proposed changes to policy GG-2 (Training Administration), and new policy GG-1 (Peace Officer Training Administration) prior to MCSO's finalization and implementation. Compliance will be determined based upon whether or not MCSO's new policy GG-1 (Peace Officer Training Administration) and revised policy GG-2 (Training Administration) comport with the requirements of this Paragraph and are followed in practice. The intended purpose of these policies should be to delineate the procedures and clearly establish the duties and responsibilities of all contributors to the MCSO training process. Adequate development and adoption of policy oversight will enable the Training Division to oversee and ensure the quality of *all* training provided by, or under the direction of, the MCSO.

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

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

b. Bias-Free Policing Training

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

Previously, we conducted a curriculum review over several weeks with all Parties that included a line-by-line scrutiny of the entire 2014 Bias-Free Policing; Detentions lesson plan until consensus was reached among the attorneys for the Plaintiffs and the attorneys for the Defendants, with the approval of the Monitoring Team, that the content and wording were factual, legally accurate, and fully compliant with the requirements set forth in Paragraph 49 of the Order.

On June 26, 2015, the Plaintiffs and we received the first version of the 2015 Annual Combined Training, which was a single, combined lesson plan that included both the Bias-Free Policing and Fourth Amendment training. Our review comments were returned to MCSO on July 22 and August 16, 2015. In general terms, our review identified *Melendres* litigation inaccuracies; scenario deficiencies; assessment tool deficiencies; and an absence of important policy discussions of Use of Force, Workplace Professionalism, Property Management, Search and Seizure and Evidence Control. The Plaintiffs reaffirmed our concerns of the litigation inaccuracies. As of September 30, 2015, MCSO had not completed the lesson plan for the Order-mandated 2015 Annual Combined Training, in accordance with Paragraphs 48 and 50. A revised curriculum was provided on October 15, 2015. This version continues to be under review by the Parties. The Defendants' attorneys have been receptive to the input from the Plaintiffs' attorneys, the Plaintiff-Intervenors, and the Monitoring Team. At the close of the reporting period, we had not yet approved this curriculum.

During our most recent site visit, we reaffirmed MCSO's obligation to include the Monitor, Plaintiffs, and Plaintiff-Intervenors in the instructor selection process for the 2015 Annual Combined Training. We recognize the logistical difficulties associated with travel issues, caseloads, flight schedules, and social calendars; and have requested from the Training Division an ongoing status of the instructor selection process for these training sessions. The identification and selection of instructors for the 2015 Annual Combined Training did not occur during this reporting period.

We will continue to review any additional associated training materials as they are developed, and also observe training when it is delivered to verify that the instructors are adhering to the approved lesson plans.

Training with the 2014 Bias-Free Policing lesson plan was conducted on July 7-8, 2015, and September 18-19, 2015. During August 2015, there was no Order-mandated 2014 Training on Bias-Free Policing.

The 2015 Required Training Passed Sworn (July 2015) Report indicated that 16 personnel completed the Order-mandated 2014 Training on Bias-Free Policing during this reporting period. These individuals were newly hired deputies and were required to receive this training upon their graduation.

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

The Sworn Roster for August (the last roster received) indicates that 714 sworn personnel will be required to receive the 2015 Annual Combined Training.

The Reserve Master Roster – August report indicates that as of August 31, 2015, a total of 38 Reserve personnel will be required to receive the Order-mandated 2015 Annual Combined Training.

The Retired Reserve Master Roster – August report indicates that as of August 31, 2015, a total of 40 retired Reserve personnel will be required to receive the Order-mandated 2015 Annual Combined Training.

The Posse Roster – (August) report indicates that as of August 31, 2015, a total of 984 Posse personnel will be required to receive the Order-mandated 2015 Annual Combined Training.

The 2015 Required Training Fail Posse (September 2015) report indicates that one Posse member failed the class for the Order-mandated 2014 Training on Bias-Free Policing and required remediation.

The 2015 Required Training Passed Posse (September 2015) Report indicates that eight personnel completed the Order-mandated 2014 Training on Bias-Free Policing during this reporting period.

As noted above, the 2015 Annual Combined Training continued to be developed during the reporting period.

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

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

- a. definitions of racial profiling and Discriminatory Policing;*
- b. examples of the type of conduct that would constitute Discriminatory Policing as well as examples of the types of indicators Deputies may properly rely upon;*
- c. the protection of civil rights as a central part of the police mission and as essential to effective policing;*
- d. an emphasis on ethics, professionalism and the protection of civil rights as a central part of the police mission and as essential to effective policing;*

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

Through the end of this reporting period, the Parties continued to review the curriculum for the 2015 Annual Combined Training. We, along with the Plaintiffs' attorneys and Plaintiff-Intervenors, provided written comments, met together during our most recent site visit, and participated by teleconference for the 2015 Annual Combined Training review process. We will continue to review any additional associated training materials as they are developed, and observe training as it progresses to verify that the instructors are adhering to the approved lesson plans. MCSO remains in compliance because of the initial training offered commencing in September 2014. Compliance with MCSO's requirement to conduct annual refresher training will be discussed in our next quarterly report, which will cover the remaining months of 2015.

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

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

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

Training of the 2014 Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws was conducted on July 7-8, and September 18-19, 2015 for newly graduated deputies. During August 2015, there was no Order-mandated 2014 Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws training.

The 2015 Required Training Passed Sworn (July 2015) Report indicated that 16 personnel completed the Order-mandated 2014 Training on Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws.

The 2015 Required Training Passed Sworn (September 2015) Report indicated that two personnel completed the Order-mandated 2014 Training on Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws.

The Sworn Roster for August (the last roster received) indicates that 714 sworn personnel will be required to receive the 2015 Annual Combined Training.

The Reserve Master Roster – August Report indicates that as of August 31, 2015, a total of 38 Reserve personnel will be required to receive the Order-mandated 2015 Annual Combined Training.

The Retired Reserve Master Roster – August Report indicates that as of August 31, 2015, a total of 40 retired Reserve personnel will be required to receive the Order-mandated 2015 Annual Combined Training.

The Posse Roster – August Report indicates that as of August 31, 2015, a total of 984 Posse personnel will be required to receive the Order-mandated 2015 Annual Combined Training.

The 2015 Required Training Fail Posse (September 2015) Report indicates that one Posse member failed the class for the Order-mandated 2014 Training on Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws and required remediation.

The 2015 Required Training Passed Posse (September 2015) Report indicates that eight personnel completed the Order-mandated 2014 Training on Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws.

Curriculum review with all Parties participating for the 2015 Annual Combined Training continued through the end of this monitoring period. We have not yet approved this training.

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

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

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

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

Curriculum review with all Parties participating for the 2015 Annual Combined Training continued through the end of this monitoring period. The Plaintiffs' attorneys and we have provided written comments, met together during our most recent site visit, and participated by teleconference for the 2015 Annual Combined Training review process. We will continue to review any additional associated training materials as they are developed, and observe training as it progresses to verify that the instructors are adhering to the approved lesson plans. We have not yet approved this training.

MCSO remains in compliance because of the initial training offered commencing in September 2014. Compliance with MCSO's requirement to conduct annual refresher training will be discussed in our next quarterly report, which will cover the remaining months of 2015.

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

e. *Supervisor and Command Level Training*

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

MCSO previously developed a single policy, GG-2 (Training Administration), adopted January 24, 2014, that was intended to incorporate the requirements of this Task. During our July 2015 site visit, MCAO advised us that policy GG-2 (Training Administration) was under revision, and that new policy GG-1 (Law Enforcement Training Policy) was under development. The new policy is intended to reference the requirements of Paragraph 52 and to include a standardized process for the development of training in general to include adult-learning methodology. The requirements of Paragraph 52 are very specific in regards to minimum topics that must be included in the curriculum for the Supervisory Training.

Prior to our site visit, on September 13, 2015, we were provided with a draft version of a proposed new policy, GG-1 (Peace Officer Training Administration). Our Team conducted a review of this policy on September 25, 2015, and provided it to MCSO prior to our site visit. We recommended that MCSO include the language of Paragraph 52 within the document. We will review and comment on the proposed changes to policy GG-2 (Training Administration), and new policy GG-1 (Peace Officer Training Administration) prior to MCSO's finalization and implementation. We will determine compliance based upon whether or not MCSO's new policy GG-1 (Peace Officer Training Administration) and revised policy GG-2 (Training Administration) comport with the requirements of this Paragraph and are followed in practice.

As of July 1, 2015, the lesson plan, testing criteria, and PowerPoint presentation for the 2015 Supervisor Responsibilities-Effective Law Enforcement had not been developed. The Plaintiffs' attorneys and we received our first version of the 2015 "Supervisor Responsibilities: Effective Law Enforcement" training on July 9, 2015.

On July 13, 2015, the Parties held a conference call regarding the draft lesson plan. Our general impression of this document was that it completely lacked any substantive training on leadership, ethics, and integrity. It did not include any components to assist supervisors with interpersonal skills to aid in personnel counseling, coaching, or generational issues. The Plaintiffs' attorneys echoed our concerns in their comments. In conformance with the requirements of the Order, the lesson plan must include roleplaying scenarios, interactive exercises and traditional lecture formats.

On July 21, 2015, during our previous site visit, Defense counsel advised us that there is a secondary leadership component for this training that has not been developed, a more robust section on the EIS, as well as a PowerPoint presentation that also has not been developed. The inclusion of these sections was previously unknown to us. Defense counsel also advised us that a private contractor was retained by MCSO to provide them with "raw leadership data" that will be compiled and formulated into the lesson plan by the Training Division. Defense counsel anticipated that this second component will receive a legal review by July 31, 2015 and be disseminated to the Parties no later than August 7, 2015. The dissemination of the complete lesson plan occurred on September 1, 2015, when we, the Plaintiffs' attorneys, and the Plaintiff-Intervenors received a new version of what continued to appear to be an administrative systems lesson plan titled "Supervisor Responsibilities: Effective Law Enforcement Part 2." This new version contained only a 30-minute addition of "An Overview on the Ethics of Leadership."

On September 17, 2015, we provided MCSO with our comments on the new draft lesson plan. Our impression of this document was that it completely lacked any substantive training on leadership, ethics, and integrity; and continued to be insufficient. There were no additional components to assist supervisors with interpersonal skills to aid in personnel counseling, coaching, or generational issues. The Plaintiffs' attorneys and Plaintiff-Intervenors echoed our concerns in their new comments, as well. The lesson plan continued to need the inclusion of roleplaying scenarios, interactive exercises, and traditional lecture formats in order to comply with the requirements of the Order. Defense counsel had previously advised us that there would be a secondary leadership component, a more robust section on the EIS, as well as PowerPoint presentations. These requirements were also not included. We advised Defense counsel and MCSO that the new information included with this version continued to be insufficient.

During our October 2015 site visit, CID advised us that the private contractor previously retained by MCSO to provide the agency with "raw leadership data" for the lesson plan had been terminated; and that Training Division personnel had now been tasked with development of the leadership components. They intended to utilize information gleaned from "Blue Courage", an outside contractor that provides law enforcement training. On October 15, 2015, Defense counsel initiated a conference call with us to discuss our comments on the revised lesson plan. Most of the previously provided recommendations we had made were accepted at that time. Additional discussions were focused on the use of BIO audit forms for supervisory reviews, training specific to policy requirements, analysis of supervisory reviews of subordinates and supervisory reviews of supervisors. At this time, MCSO advised us that we would be receiving a future draft that would include the much sought after leadership components. No date for this draft was provided.

We remain engaged in a collaborative review with attorneys for the Plaintiffs and attorneys for the Defendants on the 2015 Supervisor Responsibilities: Effective Law Enforcement curriculum. It is anticipated that the final approved curriculum will incorporate adult-learning methods and include PowerPoint presentations, interactive learning exercises, and lecture. The lesson plan for Supervisory Responsibilities: Effective Law Enforcement has received several reviews during this compliance period in response to several submissions from MCSO. The review process is ongoing. We have not yet approved this lesson plan.

Although there continues to be delay in the development and delivery of an acceptable curriculum, all Parties are working collaboratively to make this training program meet the requirements of the Order.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not applicable

Phase 2: Not in compliance

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

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

Between July 1, and September 30, 2015, our sixth reporting period, MCSO has been making incremental progress on the 2015 “Supervisor Responsibilities: Effective Law Enforcement” Training program. A multi-day training schedule has been proposed for this training session.

We continue to recognize a consistent theme in the misconduct investigations we are reviewing as part of our other Court-assigned responsibilities, and that is a lack of supervisory training for anyone with supervisory authority, regardless of rank.

Compliance Status:

Phase 1: Not applicable

Phase 2: Not in compliance

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

Section 7: Traffic Stop Documentation and Data Collection

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

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

The monthly sample of traffic stop cases continues to be pulled from the six districts (Districts 1, 2, 3, 4, 6, and 7) and the Lake Patrol (the “areas”). By way of background, MCSO reported a total of 9,323 cases of traffic stop events for these areas between July 1, and September 30, 2015 (averaging 3,108 per month). This is an 11% more stops over the prior quarter and 44% more traffic stops reported for the same time period one year ago. We are exploring the reason(s) for the increase during this quarter, and will continue to monitor the trend to see if it remains or is transitory. We individually interviewed three commanding officers about the significant increase in the citation rate and their answers were similar. They indicated that the anxiety with the Order’s additional requirements and the implementation of the new TraCS system were major contributors to the initial reduction in traffic stops. When TraCS came on line, we were advised that there was initial training; however, it was not documented. As deputies, with time, became more proficient with the system, their stop rates increased. As it now stands, however, even with this increase in the number of traffic stops, the current sample size is quite sufficient to provide us with a 95% confidence level. We will continue to monitor the trend in traffic stops to determine if changes in the sample size are warranted at some future date.

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

for these two samples were relayed back to MCSO personnel, who produced documentation for the selected sample (including the CAD documentation for the subsample).

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

a. Collection of Traffic Stop Data

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

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

- l. whether any contraband or evidence was seized from any individual, and nature of the contraband or evidence; and*
- m. The final disposition of the stop, including whether a citation was issued or an arrest was made or a release was made without citation.*

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

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

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

Paragraph 54.a. requires MCSO to document the name, badge/serial number, and unit of each deputy and Posse member involved. Our review indicated that in the 105 vehicle traffic stops, there were 39 cases where the deputy's unit had another deputy assigned to the vehicle or another deputy unit or Posse member was on the scene. There were two instances where the same primary deputy failed to document the additional deputy or Posse members who were with him in the same unit. In these instances, the deputy placed his own name as the primary and as the second person in the primary unit. There were 13 cases where a backup or secondary unit was on the scene and six of these were not documented on the VSCF. For this reporting period, the primary deputies indicated their own unit and serial numbers for every stop they initiated. We review the Vehicle Stop Contact Form, I/Viewer Event document, the Justice Web Interface, and the CAD printout to determine which units are on the scene. We should note that if back-up units arrive on a scene and do not announce their presence to dispatch, CAD does not capture

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

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

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

The identity of personnel on such scenes is a core issue in this case, and we shall consistently evaluate the agency's measure of compliance with this requirement. We found that the deputies' names, and serial and unit numbers, were listed, with few exceptions, on all required forms and identified on the Vehicle Stop Contact Form. Progress increased this quarter from the previous reporting period's 91% compliance rate to 93%. MCSO was in compliance with this Subparagraph for the first quarter of 2015, however, this is the second consecutive quarter of non-compliance. Two consecutive quarters of non-compliance after initial compliance has removed MCSO from compliance with this Subparagraph.

Paragraph 54.b. requires MCSO to document the date, time, and location of the stop, recorded in a format that can be subject to geocoding. Our reviews of the CAD printout for all 105 traffic stops in the sample indicate that the date, time and location is captured with the time the stop is initiated and the time the stop is cleared. There were 23 instances where the GPS coordinates could not be located on the documentation received (CAD printout/I/Viewer). We contacted MCSO, who provided us with additional information that indicated the GPS coordinates for 17 of the 23 instances. In the remaining six cases, GPS coordinates could not be located in four; and in two instances, the traffic stops could not be located in the TraCS system.

We note that occasionally the CAD time of stop and end of stop times may not be exactly the same time as those listed on the Vehicle Stop Contact Form, due to extenuating circumstances the deputy may encounter. We found three instances where the start or end time on the Vehicle Stop Contact Form differed by five minutes or more from the CAD printout. MCSO uses GPS to determine location for the CAD system. GPS collects coordinates from three or more satellites to enhance the accuracy of location approximation. The data from the satellites can be decoded to determine the longitude and latitude of traffic stop locations should that be necessary. We have recommended that BIO conduct an inspection of GPS coordinates during its monthly audits of the traffic stop data. The CAD data system was upgraded in 2014 to include the geocoding of traffic stops. MCSO is in compliance (95%) with this Subparagraph.

Paragraph 54.c. requires MCSO to document the license plate and state of the subject vehicle. In our last three quarterly reports, we noted improvement in deputies' ability to capture this

information. During this reporting period, we found that deputies properly recorded the vehicle tag number and state of issuance in 104 cases. In the one exception, the deputy stopped an individual on a bicycle for a violation and a tag was not available. We found that many of the stops made by deputies were for speeding, invalid license plates or expired vehicle registrations. MCSO is in compliance with this Subparagraph with a rating of 100%.

Paragraph 54.d. requires MCSO to document the total number of occupants in the vehicle when a stop is conducted. There were a total of 105 traffic stops; and in 51 of these stops, more than one occupant occupied the vehicle (79 total passengers). The Vehicle Stop Contact Form, completed by the deputy on every traffic stop, is utilized to capture the total number of occupants and contains a separate box on the form for that purpose. There was one traffic stop where the deputy listed two occupants (one passenger) but failed to list the ethnicity or gender of the occupant. MCSO's compliance rate is 99% for this Subparagraph (see Para. 54f). MCSO is in compliance with this Subparagraph.

Paragraph 54.e. requires MCSO to document the perceived race, ethnicity, and gender of the driver and any passengers, based on the officer's subjective impression (no inquiry into the occupant's ethnicity or gender is required or permitted). In 51 of the 105 stops, there was more than one occupant in the vehicle. In our review of the traffic stops, we identified one stop where the deputy failed to identify the ethnicity of the driver on the Vehicle Stop Contact Form or the Warning/Repair form. The compliance rate for identifying the race/ethnicity and gender of the driver is 99%.

Our review indicated that there were 51 stops where 79 passengers were identified as occupants of the vehicles. In eight cases, the deputy failed to identify the race/ethnicity or gender of one or more passengers although the drop-down box for passenger information was clearly visible on the VSCF. When a deputy indicates two or more passengers in the vehicle on the Vehicle Stop Contact Form, a drop-down box automatically displays additional boxes for the deputy to document the passengers' information. MCSO has advised us that it has instructed deputies not to indicate the word "unknown" when describing the race/ethnicity of drivers or passengers. The compliance rate for identifying the race/ethnicity and gender of the passengers is 92%.

The persons stopped included 40 white male drivers, 22 white females, 16 Hispanic males, 10 Hispanic females, three Black males, six Black females, one Indian/Alaskan male, one Indian/Alaskan female, two Asian/Pacific Islander females, and three Asian/Pacific Islander male. (The ethnicity of one driver was unknown.) We could not find any indications of apparent bias in the sample of traffic stops we reviewed. In addition, when the BIO conducts audits of the traffic stop data, it issues memorandums to the individual districts so they can learn of any deficiencies and provide corrective action. Most of the deficiencies to date have been for failure to complete all the requested information on Warning/Repair forms or not requiring traffic violators' signatures on required forms to validate that a receipt has been issued. We have observed continued improvement in deputy's abilities to complete Warning/Repair forms. The District captains are required to respond to BIO with comments on violations or with corrective action if required. We review the internal audits and associated matrices conducted by MCSO and occasionally we will disagree with their findings.

There were 51 instances where deputies chose to issue warnings to drivers instead of issuing a citation. Forty-eight percent of the 105 traffic stops we reviewed resulted in a written warning. The ethnic breakdown of those receiving warnings reflected the numbers indicated in the number of total stops. The breakdown of those motorists issued warnings is as follows: 20 white males; 11 white females; six Hispanic males; six Hispanic females; one Black male; three Black females; one Indian/Alaskan female; one Asian/Pacific Islander male; and one Asian/Pacific Islander female. In one stop where a warning was issued, the deputy failed to indicate the ethnicity of the driver.

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

MCSO had previously achieved compliance with this Subparagraph. There were a total of 185 occupants (105 drivers and 79 occupants), with nine of those not being identified by race, ethnicity, or gender, for a compliance rate of 95%. MCSO will remain in compliance with this Subparagraph.

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

For this review, we found that in the 105 traffic stops conducted all had license checks run, and there were 68 stops where the driver or a passenger had a warrant check run. One of these warrant checks (passenger) was listed on the Vehicle Stop Contact Form and included the name of the passenger and thus is not in violation of the policy. The percentages of warrant checks run by deputies by ethnicity of drivers stopped for traffic violations is as follows: white males 78%; white females 50%; Hispanic males 56%; Hispanic females 80%; Black males 33%; and Black females 66%. We reviewed one license check run by a deputy that was not listed on the VSCF, and we could not determine its origin. MCSO's compliance rate is 99%, and it is compliant with this Subparagraph.

Paragraph 54.g. requires the deputy to document whether contact was made with any passengers, the nature of the contact, and the reasons for the contact. There were two instances where deputies made contact with passengers. In all cases, the deputy had a valid reason for the contact. In one case, the deputy conducted a DUI investigation and the vehicle was released to a sober passenger. In the second case, a passenger voluntarily stepped out of the vehicle, initiated the contact, and presented his identification to the deputy. In both instances, the deputy on the scene properly recorded the name and ethnicity/gender of the passenger on the VSCF. MCSO continues to make changes to the Vehicle Stop Contact Form to make the forms easier for the deputies to complete and capture the information required by the Order.

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

Deputies must ensure that they explain why they made contact with any passengers. Indicating moving, non-moving violation, or contact during a traffic stop as a reason for the stop describes why they stopped the driver, but not why they *made contact* with any passengers. Of the two cases where passengers were contacted, the deputies listed the name of both of the contacted passengers for the stop. In each case, the reason for the contact was indicated.

In our experience, the vast majority of traffic stops do not require contact with a passenger unless the driver is arrested, the vehicle will be towed, or there are minor children in the vehicle that will need care. If contact with a passenger is made, deputies should indicate the name of the person contacted. Due to the infrequent contact of passengers during traffic stops, deputies must be diligent in documenting passenger contacts as one or two violations have a direct impact on compliance. During meetings with MCSO staff, we have explored the possibility of developing a mechanism to increase the number of samples we review for compliance with the requirements of this Paragraph. MCSO advised us that the TraCS system had the ability to segregate all stops where passengers were contacted. In the future, we will pull additional samples of these cases for a more complete review. MCSO's compliance rate for this Subparagraph is 100%.

Paragraph 54.h. requires deputies to record, prior to the stop, the reason for the vehicle stop, including a description of the traffic or equipment violation observed and any indicators of criminal activity developed before or during the stop. For this review, we took a random sample of 10 cases from the 35 cases we initially requested each month for a CAD audio review. We listened to 30 CAD dispatch audio recordings from the sample of 105 used for this review and found that the deputies advised Communications of the location and license plate and state for 30 stops. The audio recordings we reviewed were clear, and the deputy advised of the reason for the stop in all cases.

There were 75 instances in the sample where we did not listen to the CAD audio tapes, but reviewed the CAD printout where the reason for the stop, if advised by the deputy, is documented by the dispatcher. The CAD printout documents the time the stop begins and when it is concluded either by arrest, citation, or warning. During previous reviews, we found numerous instances where the deputy advised dispatch of the reason for the traffic stop but indicated moving violation or "M" as the reason for the stop on the Vehicle Stop Contact Form. These comments by the deputies do not meet the requirements of the Order. The issues were identified during MCSO's internal audit, and our reviews of the previous four reporting periods discovered the same deficiencies. For this reporting period, there was one instance where the deputy failed to indicate on the VSCF the reason for the stop; however, this traffic stop was part of the 30 CAD audio reviews we conduct and the deputy did advise dispatch that the stop was for speeding.

MCSO's compliance rating for this Subparagraph remains at 99%. MCSO remains compliant with the requirement of this Subparagraph.

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

Some stops vary in time for any number of reasons that may, or may not, be justified. We looked at all stops in our sample, and found two traffic stops where the duration of the stop *was* excessive. In one of these two cases, the stop was extended due to the primary deputy in the unit advising he was providing training to his partner (potentially inconveniencing the motorist). The second stop involved a motorist who was speeding and was issued a warning for the violation. The deputy did not indicate a reason for the delay in releasing the driver. In both of these stops, the drivers were white males. There were 11 other extended stops that were justified due to the circumstances of the stops. When we review the extended stops, we examine issues such as whether or not a crime was involved, whether the vehicle was towed, or whether there were other extenuating circumstances that caused the delay. In four of the extended stops, the vehicle was towed; in three cases, the license plate was seized; in one case, there was a language barrier; one stop involved an elderly driver, and the deputy allowed her to make a phone call; in another case, the deputy indicated the delay was due to a records check; and there was a DUI investigation in the remaining case.

When we compared the traffic stop beginning and ending times for all cases reviewed during the quarter, we found seven stops (or 93%) where the times indicated on the CAD printout and Vehicle Stop Contact Form differed by more than five minutes. Two deputies in the same unit issued traffic citations to different motorists on the same day and their starting/ending times differed by more than five minutes. Supervisors, during their review of their subordinate's traffic stops, should correct these deficiencies or ensure additional training is provided.

All traffic stops resulting in citations contained the time of issuance. We found one case where the time of issuance on the citation was four minutes prior to the deputy advising dispatch of the stop and another case where the deputy indicated the citation was issued 13 minutes after the motorist left the scene. In this instance, the deputy indicated on the VSCF that the time listed on the citation was entered incorrectly, which satisfies the intent of the Order.

MCSO will remain in compliance with this Subparagraph due to the previous quarter's compliance.

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

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

Paragraph 54.k. requires MCSO to document whether any individual was asked to consent to a search (and the response), whether a probable-cause search was performed on any individual, or whether a pat-and frisk search was performed on any individual. In our review, we did not find any indications where an individual was asked for a consent search or of any individual who was frisked during the stop. We found instances (six cases) where an arrest was made for a criminal traffic offense. In the majority of cases where MCSO charges violators for a criminal traffic violation, the violator is cited and released. For this review, all such cases were handled in this manner. MCSO's compliance rate for this Subparagraph is 100%.

Paragraph 54.l. requires MCSO to document whether any contraband or evidence was seized from any individual, and the nature of the contraband or evidence. During our review of the collected traffic stop data during this reporting period, there was one case where the deputy made a criminal traffic arrest and seized the offending driver's license plate and placed it in evidence. There were no other stops where contraband or evidence was seized. MCSO is in compliance with this Subparagraph.

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

In order to be compliant with Paragraph 54 of the Order, all Subparagraphs must be in compliance. MCSO is in compliance for this reporting period, but risks falling out of compliance during the next reporting period if all Subparagraphs are not in compliance for two successive quarters.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

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

on traffic stops, we requested clarification. Communications provided us with a code sheet for all numerical codes listed on the CAD printout.

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

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

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

In order to determine compliance, we reviewed 105 traffic stop cases and reviewed the CAD printouts and the Vehicle Stop Contact Forms for all stops. We reviewed the Warning/Repair Forms, when applicable, for those stops where a warning was issued or the vehicle had defective equipment. The unique identification number assigned to each event was listed on all CAD printouts for every stop. We found four instances where the original event numbers (MC numbers) listed on the CAD printout did not match the event numbers listed on the VSCF, citation, or Warning Repair Form. In some cases, this deficiency can be attributed to the deputy inputting incorrect data. MCSO is compliant with this Subparagraph with a rating of 96%.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

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

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

When we conducted inspections of Districts 2 and 3 during our April 2015 site visit, we discovered the paper records of traffic stops generated prior to TraCS implementation and located at the districts was not secure. We spoke with CID personnel on how to remedy this situation while we were on site. The paper records are maintained at the districts and follow assigned personnel when they are transferred. MCSO did have a protocol that requires written traffic stop data to be located at the districts, but it did not include maintaining the integrity and accuracy of the paper records. We advised MCSO during our April 2015 site visit that these issues must be addressed by a written protocol or modification of the policy. During our July 2015 site visit, we visited four districts and inspected the security of the written traffic stop data in three; two of the districts' data was secure, and one was not secure and in violation. On September 8, 2015, MCSO issued Administrative Broadcast 15-96, which addressed the security of paper traffic stop forms. The new procedure requires that paper forms (prior to April 1, 2014) be kept in a locked cabinet box at the district. Any personnel who require access to those files must contact the division commander or his designee who will unlock the cabinet. Once the deputy accesses his file a TraCS file log must be completed and signed by the deputy. During our October 2015 site visit, we visited Districts 1, 3, 7, and Lake; and inspected the written (paper) files and the TraCS file log. All records were locked and secure. We conducted a random review of written traffic stop data in three of the above-mentioned districts to ensure the written (paper) traffic stop data was maintained for five years. Staff was able to provide the appropriate documentation.

MCSO advised us that it conducted an audit of traffic stop data in January 2014 and again beginning in April 2014. After the January 2014 audit, new handwritten forms were created to collect the data required by policy until full electronic data entry began on April 1, 2014. CID advises that they have conducted spot audits that were directed at portions of data or the actions of individual deputies. CID provided us with an audit during our September 2014 site visit, and continues to provide us monthly audits of a sample of traffic stops that we select. We reviewed BIO's monthly audits of the traffic samples from July through September 2015, and found them to be satisfactory. To achieve compliance with this Paragraph, MCSO provided the protocol specifically addressing the requirements for maintaining the integrity and accuracy of the written traffic stop data. MCSO advised us that it was in the process of amending policy EB-2 (Traffic

Stop Data Collection) to include the requirements set forth in Administrative Broadcast 15-96. The approved policy also requires regularly scheduled audits on a monthly, quarterly, and annual basis. MCSO is now in compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

Every person contacted on a traffic stop will be provided with an Arizona Traffic Ticket or Complaint (Citation), a Written Warning/Repair Order (Warning), or an MCSO Incidental Contact Receipt. During this reporting period, there were 51 incidents where the deputy gave a warning to the motorist for a traffic violation and in one of these cases, the deputy failed to have the violator sign the warning/repair form. In 13 other cases where warnings were issued, the involved deputies documented that their scanners were not working and they were unable to document a signature indicating a receipt. The deputies wrote “SERVED” in the box requiring a signature for the warning. In order to verify compliance that the violator received the required “receipt” from the deputy, a signature is required, or, if the violator refuses to sign the deputy may note the refusal on the form. We cannot verify that motorists have been given a receipt without a signature on the form or the deputy advising of the refusal of the receipt from the driver. Placing “SERVED” in the signature box without any explanation does not comply with the requirement. We acknowledge that deputies made the effort to document why a receipt was not obtained. The percentage of scanners that would not scan driver’s signatures is not acceptable. During our October site visit, MCSO personnel advised us that there are alternatives that deputies can use to capture the required signatures, such as photographing the signature and adding it as an attachment. There were no Incidental Contact Forms provided by MCSO during this reporting period. MCSO’s previous compliance for this portion of the Subparagraph was 81%. We would note that deputies have made progress completing the VSCF, Arizona Traffic Complaint and the Warning/Repair Form. MCSO is aware of the technical deficiencies with the scanners and we have observed progress in this area.

In the 54 cases where drivers were issued citations, we found three instances where the driver did not sign the Arizona Traffic Citation; and in five cases, the deputy indicated on the form that the driver's signature would not scan. Combining the number of warnings and citations issued where signatures or receipts could not be scanned and verified accounted for 17% of the total stops.

The approved policy dictates that the CAD system will be used for verification of the recording of the initiation of the stop. The deputy verbally announces the stop's termination on the radio. CAD then permanently records this information. Once MCSO implements body-worn recording equipment, policies have been developed and approved that will account for its use in verifying stop duration. We will review the video recordings once the body camera system is operational to verify whether deputies are accurately reporting stop length. During our October 2015 site visit, we learned in meetings with two Deputy Chiefs that 95% of the deputies have been trained on the body cameras; and that implementation of the body cameras will begin in one district the first week of November 2015 and be completed in all districts by the end of the year.

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

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

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

The policies go further to include that the dissemination of Criminal History Record Information (CHRI) is based on federal guidelines, Arizona Statutes, the Department of Public Safety, and the Arizona Criminal Justice Information System; and that any violation is subject to fine. No secondary dissemination is allowed. We reviewed an internal MCSO memorandum of April 12, 2014 that required all TOC (Terminal Operator Certification) personnel in these positions to be re-certified on a new testing procedure developed by the Training Division and the Systems

Security Officer. During our October site visit, we met with a Deputy Chief who indicated that MCSO had been vigilant in security of the data systems and had previously prosecuted violators. We were advised of one outstanding case in the system that was resolved by Court action this year.

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

b. Electronic Data Entry

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

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

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

We reviewed a printout of all vehicles assigned to Patrol that was completed on July 31, 2015. There were a total of 247 vehicles assigned to the Districts. There were 180 marked vehicles equipped with the TraCS e-citation system. (All marked cars are TraCS-equipped.) The remaining 66 vehicles are unmarked, and 50 of those vehicles are equipped with TraCS. Note: there was one vehicle in the Lake area that was taken out of service according to an update. We also inspected marked vehicles to verify that MCSO vehicles that conduct traffic stops on a routine basis are equipped with the ability to input traffic stop data from the field.

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

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

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

c. Audio-Video Recording of Traffic Stops

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

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

During our April 2015 site visit, we met with the Deputy Chief of the Bureau of Internal Oversight and staff from CID, and were advised that MCSO personnel had selected a vendor (TASER International) to provide the body-worn cameras. The Maricopa County Board of Supervisors approved the request for purchase on January 29, 2015. MCSO advised us that its request included the purchase of 700 body cameras, 150 docking stations, and 50 individual docking stations for those deputies who do not regularly report to district offices. We reviewed MCSO's contract with TASER, and note that it is for five years, with service intervals included, and that TASER will provide data storage and security through Evidence.com Data Security. We reviewed an internal memorandum from the Deputy Chief of BIO from February 19, 2015 that described an implementation plan for issuance of the cameras beginning with Districts 1, 2, and 3; to be followed by Districts 4, 6, 7, and Lake. During our July 2015 site visit, we met with two Deputy Chiefs, along with Technology Bureau technical staff, and Plaintiffs' attorneys, and we were advised that District 6 will now be the beta site for the initial implementation and testing of the system prior to the implementation for the remaining Districts; this will occur during December 2015 after the infrastructure has been completed. A vendor for building the infrastructure requirements of the system had previously been secured. During our October 2015 site visit, MCSO informed us that the infrastructure for the system had been completed and tested, and is operational. MCSO developed a lesson plan for the body-worn cameras and advised that 95% of the deputies had trained on its use.

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

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

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

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

Policy EB-2 (Traffic Stop Data Collection) includes the requirement that MCSO retain written traffic stop data completed on the Vehicle Stop Contact Form for a minimum of five years after it is created, unless a case involving a traffic stop remains under investigation by the Office or is subject of a Notice of Claim, civil litigation or criminal investigation, in which case MCSO shall maintain such data or recordings for at least one year after the final disposition of the matter, including appeals. MCSO has developed and issued a protocol and policy that requires the original hard copy form to be kept at the district level and filed separately for each deputy. When a deputy is transferred, his written traffic stop information will follow him to his new assignment. The Technology Bureau maintains electronic traffic stop data, and we reviewed the bureau's protocol for maintaining the integrity of the data. MCSO has developed a protocol for reviewing the on-body camera recordings and for responding to public records requests in accordance with the Order. During our July 2015 site visit, MCAO advised us and the Plaintiffs' attorneys that MCAO would develop the manual for the release of body camera recordings, and that the draft would be completed by September 30, 2015. MCAO subsequently provided a draft of the operational manual, described below.

MCSO developed and submitted a draft policy Body-Worn Cameras, EA-4, which did not meet the requirements of the Paragraph. We, along with the Plaintiffs, provided MCSO with suggestions to correct the deficiencies in the initial draft. MCSO advised us that it incorporated our concerns into the new draft (EA-4 was renumbered to GJ-35) that was submitted and approved on June 24, 2015. The new policy governing the use of on-person cameras considers accountability measures to ensure compliance and activation of video cameras for traffic stops. A draft of MCSO's Body-Worn Camera Operational Manual was completed in September 2015 and presented for our review. The manual requires two supervisory reviews of on-body camera recordings per deputy per month and how responses to public records requests relating to the recordings will be administered. MCSO will be in Phase 1 compliance with this Paragraph when the Body-Worn Camera Operational Manual is finalized, approved and issued. They will not be in compliance with Phase 2 until the retention requirements of the written traffic stop data and body camera recordings can be verified.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

d. Review of Traffic Stop Data

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

MCSO policies and procedures pertinent to this Paragraph include EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) dated September 22, 2014; EB-2 (Traffic Stop Data Collection), dated September 22, 2014; GJ-33 (Significant Operations), dated September 5, 2014; the draft Early Identification System (EIS) policy; and GH-4 (Bureau of Internal Oversight Policy and Procedures), dated May 29, 2015.

In addition to these policies and procedures, we reviewed a document prepared by Arizona State University delineating proposed benchmarks based on a review of the scientific literature that they intend to test for applicability with MCSO traffic stop data for use in the monthly, quarterly, and annual evaluations of traffic stop data. (This document was presented to us during our July 2015 site visit.) Revisions to this document will occur once Arizona State University is able to test its proposed benchmarks against MCSO traffic stop data for the July 2014-June 2015 period.

We also reviewed EIU monthly analyses of traffic stop data reported to us as part of the ongoing monthly production request to review benchmarks that EIU uses to set alerts at the deputy-, beat, ZIP code-, and MCSO-level to look for warning signs or possible indicia of racial profiling or other biased-based policing.

During our October site visit, we met with the new EIU leadership to discuss, among other issues, if they had made changes to or were considering revising the procedures and thresholds for benchmarks they use to conduct monthly analyses of traffic stop data. We also inquired about any technical changes by EIU to the thresholds during the quarter. We were informed that EIU is developing a new format for the monthly report on alerts that will be sent to us for review when finished. EIU noted that two changes to thresholds had occurred during the quarter. One benchmark pertains to searches: It was adjusted to include a minimum of four searches where no items were seized for a race/ethnicity group per deputy. The other change pertains to passenger contacts: The new threshold now requires three or more passenger contacts at a rate of at least 30% for a deputy compared to his/her peers.

With regard to the transition to new EIU leadership, MCSO informed us that documentation about existing thresholds did not exist. The new EIU leadership was unaware of the process or procedures used to establish existing thresholds. We are concerned about the lack of documentation, as it indicates that MCSO does not have the means to explain how current thresholds were established. We noted that the protocol required by this Paragraph must include documentation of how thresholds were set, as well as the recording of any changes to them over time.

We also discussed Arizona State University's work for EIU on establishing benchmarks required by the Order and also cited in the literature, and the thresholds that would be set for each one. In a meeting with EIU and Arizona State University staff, we were told that the scientific literature is not definitive on how to set precise threshold levels. Ultimately, the literature says that the thresholds should be site-specific; in other words, the levels should reflect local-area characteristics of the driving population. Arizona State University will be testing categories and values for thresholds recommended by the literature once it obtains cleaned traffic stop data for the July 2014-June 2015 period. On the question of statistical validity of any threshold, Arizona State University staff agreed with our assessment that the setting of any individual threshold at some point involves some degree of professional judgment.

One area of concern about the thresholds is the finding during our site visit that EIU does not share its monthly analyses of alerts with Arizona State University staff. We recommended that these analyses be shared to foster a mutually beneficial learning environment. EIU staff agreed to this recommendation.

Another area of concern arose regarding problems with the TraCS data Arizona State University will be using to test benchmarks and thresholds. From an earlier site visit (in July 2015), we were told that the testing of alert thresholds by Arizona State University would begin using 12 months of traffic stops from July 1, 2014 through June 30, 2015. However, audits of the data for this time period conducted by Arizona State University revealed serious shortcomings. The audits found an extensive number of duplicate traffic stop events, missing data, data entry errors, and cases where TraCS entries actually represented practice cases from TraCS training. They also found that about 70 deputies had missing data representing at least 10% of the data in TraCS. In response to the problems with the data, the Deputy Chief of the Bureau of Oversight drafted a memorandum dated October 13, 2015 that informed us that the July 2014-June 2015 data file would be discarded and replaced with a new data file once Arizona State University completed its audit. The new data file was not available during this period.

In an effort to refine thresholds to minimize the problem of false alerts, EIU is working to improve the threshold set for various benchmarks. False alerts occur in about half of the alerts set each month. According to EIU, the most prominent cause of false alerts is unexcused absences. EIU is working to refine thresholds to eliminate this problem and will keep us apprised of their progress.

Our document reviews and meetings during our most recent site visit lead us to conclude that the transition to new leadership could have been facilitated by documentation of internal EIU procedures in setting initial thresholds. While the new EIU leadership is working diligently to continue the monthly analyses to identify possible cases of racial profiling and other biased-based policing, work has not progressed since our last review in establishing a protocol for periodic analyses of traffic stop data. To achieve Phase 1 compliance with this Paragraph, MCSO must develop a protocol for periodic analyses that is based on transparent, documented analyses used to set and track thresholds. To achieve Phase 2 compliance, MCSO must then utilize the methodology established in the protocol established for Phase 1 compliance in the monthly, quarterly, and annual analyses used to identify racial profiling or other biased-based problems in the monthly, quarterly, and annual analyses required by the Order.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

The draft Early Identification System Policy (EIS) states that the EIU is part of the Bureau of Internal Oversight (BIO). It further states that a supervisor of the rank of lieutenant or above shall lead the EIU. It also states that one of the responsibilities of the EIU is to analyze traffic stop data on a monthly, quarterly, and annual basis to look for possible individual-level, unit-level, or systemic problems. The draft EIS policy is missing only one requirement of this Paragraph: it does not state that the review group – in this case, EIU staff – shall not review data related to its own activities. Once this change is made to the EIS policy, MCSO will achieve Phase 1 compliance with Paragraph 65. Phase 2 compliance will only occur after successful implementation of the policy and sustained organization of EIU.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

MCSO policy EB-2 (Traffic Stop Data Collection, dated September 22, 2014) references periodic analyses of traffic stop data to occur on a monthly, quarterly, and annual basis in order to check for possible individual-level, unit-level, or systemic problems. MCSO policy GH-4 (Bureau of Internal Oversight Policy and Procedures), dated May 29, 2015, includes a discussion of non-audit services that shall be performed that include the monthly evaluation of traffic stop data and monthly, quarterly, and annual analyses of traffic stop data to look for possible individual-level, unit-level, or systemic problems related to racial profiling or biased-based policing. In addition, the draft EIS policy identifies the EIU as the unit within the Bureau of Internal Oversight responsible for conducting the annual agency-wide comprehensive analysis of traffic stop data and specifies thresholds in IAPro approved by us in EB-2 dated September 22, 2014. These categories of thresholds listed in the draft policy are consistent with the requirements of Paragraph 67 below. Work on the annual comprehensive study will be facilitated by Arizona State University. MCSO contracted with Arizona State University (on April 8, 2015) to collaborate with MCSO so MCSO can analyze and report on traffic stop data pursuant to this Paragraph, among others. The contract with Arizona State University cites end products to include completed monthly, quarterly, and annual reports. Once the EIS policy is approved, MCSO will achieve Phase 1 compliance with this Paragraph.

Phase 2 compliance with this Paragraph requires the successful completion of annual comprehensive studies. During our October site visit, Arizona State University reported findings based on audits of traffic stop data for the July 2014-June 2015 period. The findings from those audits are discussed in Paragraph 64. These data were to serve as the basis of the first agency-wide, comprehensive analysis of traffic stop data. They were to be used to test the methodologies proposed by Arizona State University during our July site visit, as well as review the efficacy of alert thresholds that were also proposed during our July site visit. Arizona State University presented a draft analysis of the July 2014-June 2015 data during our October site visit, but noted that any findings reported were to be considered preliminary. Due to the numerous data problems they had encountered that have been previously described, Arizona State University staff requested that the copies of the preliminary analysis be returned to them after the meeting. Therefore, results from that preliminary analysis cannot be considered as addressing the requirements of this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

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

Pertinent MCSO policies and procedures reviewed include EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), dated September 22, 2014; EB-2 (Traffic Stop Data Collection), dated September 22, 2014; and GJ-33 (Significant Operations), dated September 5, 2014). We note that EB-2 (Traffic Stop Data Collection), dated September 22, 2014, uses the language of Paragraph 67 as part of its policy for periodic analyses of traffic stop data collection and therefore is in Phase 1 compliance.

The draft Early Identification System (EIS) Policy and Procedures given to us during our October site visit also references the language of Paragraph 67.

Regarding Phase 2 compliance with this Paragraph, the EIU provides monthly analyses and documents describing the benchmarks used to set alerts for possible cases of racial profiling or other misconduct using traffic stop. These analyses and documents are informative in showing how benchmarks and thresholds are being used to conduct weekly, monthly, and quarterly analyses looking for individual, unit, or systemic problems. These analyses have expanded to include ZIP codes and police beats as alternative units of analysis beyond individual-level and district-level analyses. Inclusion of these other geographic areas is encouraging, as it adds other dimensions for analysis of racial profiling or other biased-based policing. However, we remained concerned that the analyses conducted by EIU continue to use thresholds that are based on expert opinion. Furthermore, Arizona State University has yet to conduct analyses of thresholds. To achieve Phase 2 compliance with this Paragraph, MCSO must test these thresholds in monthly, quarterly, and annual analyses and then use them continuously in successive analyses. Therefore, MCSO is not in Phase 2 compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

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

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

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

During our October 2015 site visit MCSO provided a new draft EIS policy. During the site visit meetings, several outstanding issues were found to remain problematic. These include, but are not limited to:

- 1) Thresholds, as noted above, were not statistically grounded.
- 2) MCSO was testing a process that would allow line supervisors access to descriptions of internal and external complaints without the assistance of PSB personnel. However, this remains under evaluation.
- 3) The inclusion of incident reports in the relational database had been halted, and MCSO questioned whether it would continue to work toward an electronic solution that would give immediate access to supervisors through the EIS system.
- 4) Issues related to training of supervisory personnel were still in the planning stages.

We, along with Plaintiffs' attorneys and Plaintiff-Intervenors, outlined our ongoing concerns regarding the EIS system and policy throughout our October 2015 site visit. MCSO staff indicated that they would take measures to address the outstanding issues listed above. According to MCSO command staff, the introduction of a more complete set of Supervisory Training materials and processes is awaiting final approval of the EIS policy. As a result of the above issues, MCSO is not in Phase 1 compliance with this Paragraph.

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

The draft EIS policy describes an EIPRO screen allowing supervisors to review all information, except the details of internal and external complaints (this remains in testing stages, as noted above), regarding persons under their command. In addition, supervisors are able to use a drop-down menu that would trigger concerns the supervisor has about deputies' "workplace professionalism," "preventing Racial and Other Bias- Based Profiling," and the like as enumerated in this memorandum and outlined above. During the site visit, the EIS lieutenant, and supervisors from districts visited, showed us the drop-down menus and how supervisors can remain updated on the activity of their assigned personnel. The district supervisors also demonstrated how additional features incorporated into TraCS – one field signifying review of traffic stops of subordinates and a second in which the supervisor can make comments regarding the stop itself – improved the ability of first-line supervisors to assess the work of their subordinates and also allowed lieutenants and commanders of the districts to ensure that these reviews are taking place. There remained some confusion during our meetings with CID

personnel whether these two fields, or the notations by supervisors in Blue Team, would be the preferred mechanism for the routine and monthly evaluations required by supervisory personnel. We, the Plaintiffs' attorneys, and the Plaintiff-Intervenors offered several suggestions on this issue, and MCSO committed to evaluate the best practice for discussion during the next site visit.

In addition, even though MCSO is creating a mechanism for line supervisors to view some details of completed internal and external complaints involving their subordinates, line supervisors must still contact PSB staff to have access to a fuller set of documents relating to internal and external complaints involving their subordinates. This deficiency was noted in our on-site meetings with MCSO personnel and included in our site visit exit meeting discussion.

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

The inspection reports from April and June 2015 showed significant improvements across all categories of review. For example, the inspections show that the rate of the average compliance scores for patrol supervisory notes peaked in April at 100%; dipped slightly in May and June; and then fell dramatically to 78%, 53%, and 74% respectively for the months of July, August, and September. As noted in both the August and September BIO reports, the fluctuations, both positive and negative, occurred across all categories of supervisory notes: Documentation; Discussion of Traffic Stops; Traffic Data Review; Anti-Racial Profiling Discussions; and Policy Implementation. Such remarkable fluctuations suggest that MCSO must institute a wider training and reminder practice to ensure that supervisors are carrying out their required functions. We anticipate that the supervisory training still under development will impact the consistency of these findings. However, as noted in our previous reviews of the EIS policy, there appear to be no processes in place that require additional training or discipline for supervisors who fail to employ EIS as prescribed. MCSO must address these deficiencies in order to meet the requirements of the Order.

In addition, EIU personnel review supervisory notes on a weekly basis for indications of problems with deputy behavior. The EIU examinations provide another level of review that occurs routinely to examine how supervisors are supervising their subordinates' activity. Included in these supervisory notes are descriptions of the type of traffic stops deputies are involved in as well as the race and ethnicity of the persons they come into contact with. The majority of these notes indicate deputies are meeting the requirements of their position. However, as noted by the EIU summaries provided through our monthly document request, there are also clear examples of deputy behavior that caused the supervisor to include a negative appraisal, counseling, and additional training for their subordinate. With the addition of EIPro

and Blue Team, deputies and their supervisors can view these positive or negative appraisals. This additional interaction between supervisors and deputies should eventually result in more consistent and professional services being delivered to the community.

EIU personnel have also developed a set of self-populating supervisory tables that provide supervisors throughout the agency with the ability to pull up all traffic stops for a single deputy for review; as well as the ability to compare significant traffic stop details such as length of traffic stop, citation rates, arrest rates, and the like across their entire squad of deputies or any subset therein. These are significant advancements for supervisory personnel. We anticipate that as supervisors become more familiar with these tools, and the requirements of their position, that the compliance rate for supervisor activities will improve over time. However, this will occur more expeditiously if MCSO creates both incentives and consequences directly in the EIS policy so that there is no confusion about the priority of these important supervisory tasks.

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

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

As noted in response to Paragraphs 64 and 65, we reviewed EB-1 (Traffic Enforcement, Violator Contacts and Citation Issuance), as well as EB-2 (Traffic Stop Data Collection). In addition, since September 2014, MCSO provided several drafts of the EIS policy to us and Plaintiffs' attorneys. Each subsequent draft included more refined definitions and clarifications. The majority of problematic issues have been resolved with the latest EIS draft in June 2015. However, during both our April and July 2015 site visits, we also met with several CID and EIU staff regarding issues related to EIS and this Paragraph. Several concerns were raised with MCSO about definitions and protocols included in earlier drafts of the EIS policy. During our October 2015 site visit, we revisited these outstanding issues impacting the ability of supervisors to review their subordinates' work. These include, but are not limited to:

- 1) Thresholds were not statistically grounded and therefore may not capture biased activity.
- 2) MCSO was still testing a process that would allow line supervisors access to descriptions of internal and external complaints but this remains under evaluation.
- 3) Incident reports are not in the relational database, and are therefore not easily accessible to supervisory personnel for review.
- 4) Training of supervisory personnel was still in the planning stages.

While the presentation of a new draft policy during our October site visit is encouraging, the EIS policy remains under development and review. MCSO is not in Phase 1 compliance with Paragraph 70.

In addition, we have noted in the past that the documentation describing the “alert” of problematic behavior is not sufficient to judge whether any particular alert may have been “cleared” prematurely. As a result, in response to the last two documentation requests MCSO has produced a synopsis of alerts on a monthly basis as well as a more complete description of how those alerts have been handled or assigned. MCSO is also working on documentation to clarify all of the agency’s activities surrounding the handling and disposition of alerts, including definitions of key terms.

EIU staff provided information on the methodology used to analyze traffic stop data on a weekly and monthly basis. These documents, and communication during the latest site visit with ASU personnel, have clarified how EIU tries to identify “outliers,” “racial profiling,” and “improper conduct.” We will continue working with EIU staff and their contractor to fine-tune these analyses. However, as we have noted in earlier reports, MCSO should develop a statistically defensible process that excludes as much as possible the arbitrary and artificial setting of “alert” thresholds. Up to this point, the alerts outlined in the EIS Supervisory Manual are based upon the experience of EIU personnel and may, therefore, not uncover all aspects of biased policing not captured by these definitions and protocols. We recommend that MCSO and its contractor develop a statistical test that can identify those officers that appear to be outliers. We will continue to evaluate alternatives and work with MCSO during future site visits. The refinement of the threshold limits will eventually decrease the “false” alerts currently included in the monthly EIU reports.

The EIU has now produced several reports and spreadsheets pertaining to alerts during this and prior reporting periods. The reports summarize the alerts and how they were handled; while the spreadsheets add additional details regarding the investigations by EIU staff or the assignment of these alerts to district supervisors for a more thorough review, including an interview with the deputy whose behavior triggered the alert. The spreadsheet analysis provides context to the activity of EIU staff investigations.

In addition, BIO conducts monthly inspections on a variety of issues relevant to the activity of officers and supervisors alike. For instance, in the case of “County Attorney Furthers and Turndowns” of prosecution, the BIO reports for July and August note that “there were no deficiencies for 100% of the cases reviewed.” In the September BIO report, there were three of 38 cases reviewed by BIO that BIO believes lacked the probable cause to sustain a prosecution, while the remaining 35 cases were found to have no deficiencies. As a result of the September findings, BIO sent out BIO Action Forms to the appropriate command personnel detailing its findings. The Action Forms require these commanders to review the cases and return the Action Forms to BIO, outlining the actions they took regarding the cases. BIO and EIU personnel are working collaboratively to include portions of the auditing process in Blue Note. We will address any progress made in future reports.

During our October site visit, we requested a further refinement in the BIO reports to include exactly why the County Attorney was turning down prosecutions beyond noting a lack of likelihood for conviction. From these reports, we will be requesting a random sample of cases to review the conclusions of BIO personnel. We will elaborate on these in future reports. In addition, when MCSO incorporates an electronic version of incident reports into the EIS, the ability of supervisors and commanders to identify these problems early will be dramatically improved.

EIU personnel developed a synopsis of all alerts documented during particular reporting periods. For instance, in July 2015, there were a total of 303 alerts. In August, there were 298 alerts. In September, there were 347 alerts. As a result of the initial investigation of these alerts, EIU personnel designated 161, 195, and 216 alerts, respectively, as “false.” This represents well over half of all alerts each month. During our July and October site visits, the term “false alert” was defined by MCSO to mean that through an investigation by EIU staff they had been able to show why an alert should not have been triggered. For example, EIU personnel found that dissimilar behaviors, such as rudeness by an employee and unsafe driving, had been misidentified under the same alert category. Therefore, when categorized properly, these behaviors did not yet rise to the level of a “red” alert that required action. In other cases, the alerts were triggered because the same incident had been entered multiple times. In instances such as these, either EIU personnel, or the immediate supervisor, can clarify the numbers generated by the EIS system. EIU personnel clarified that even though these alerts were downgraded, it does not mean they are discounted because they can still afford first-line supervisors an opportunity to communicate with their subordinates about trends observed through the EIS system. Additionally, MCSO staff indicated that behavior that triggers an alert is always maintained in the system thereafter. While we do not want to lose that valuable prior information, MCSO notes that with each new analysis these past behaviors trigger new alerts. It was suggested to MCSO that it should build into its EIS system a way to ensure that those alerts that have been adequately handled do not re-occur in future analytic runs. MCSO staff agreed that this would streamline the process for EIS staff, and they are working to address such issues.

In addition, EIU personnel explained that a second group of alerts are routinely rolled over into existing alerts for the same behavior so that supervisors can be made aware that the behavior is ongoing. However, this means that approximately 75% of alerts each month are either repetitive or deemed false by EIU. Findings such as these are important to the continued refinement of EIS. We have suggested to MCSO and its contractor that they need to develop a statistical means to dispense with the high number of alerts deemed false. The majority of the false alerts

arise as a result of “unexplained absences.” EIU personnel are working to refine the definitions captured under this category to minimize false alerts in the future. We will continue to evaluate the changes that are made and suggest alternatives in upcoming site visits. Moreover, duplicate records of the same event can be ameliorated with better coordination between databases that are brought into the EIS.

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

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

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

We have been provided access to all existing data. In particular, the additional spreadsheet analysis tracking the alert status of cases of concern has improved our view of the supervisory process. Moreover, the addition of two specific TraCS fields that allow supervisors to acknowledge review of traffic stops and add comments pertinent to those traffic stops would appear to alleviate concerns that we have raised in the past. In addition, the Patrol and Supervisory Note inspections and County Attorney Disposition inspections conducted by BIO personnel have been informative and raised interesting issues that will be investigated in future document requests and site visits. In particular, we have already noted that the prior method of reporting the County Attorney Disposition Report on “turndowns” had provided limited detail about the reason for the County Attorney turning down prosecution for these cases. While we acknowledge the improvement in these reports, we still require more information from MCSO to ensure that “turndowns” are not indicative of more systemic problems that may pertain to issues involved in the Court Order. Moreover, we want to ensure that supervisors are adequately reviewing deputy reports to minimize the problems of “turn downs” at the outset. This becomes a significant issue if MCSO does not follow through with its original plan of incorporating incident reports into the EIS database. We will continue to work with both BIO and EIU to ensure that the two additional fields for supervisors in TraCS are used effectively in concert with the ability of supervisors to describe their monthly review of activity in Blue Team.

We also will continue to observe and evaluate the introduction of new software systems that impact the ability of supervisors to effectively supervise their subordinates. In that vein, we were informed during our July 2015 site visit that EIU personnel had developed a new set of self-populating supervisory tables that will provide supervisors throughout the agency with the ability to pull up all traffic stops for a single deputy for review; as well as the ability to compare significant traffic stop details such as length of traffic stop, citation rates, arrest rates, and the like

across their entire squad of deputies. These are significant advancements for supervisory personnel. During our October 2015 site visit, we met with supervisors of two districts who stated that the self-populating tables were at first daunting; but after some discussion with EIU personnel, they had routinely employed them in their monthly evaluation of subordinates. One lieutenant also trained his sergeants on their use. We will continue to meet with line supervisors to gauge how they are using these new tools, keeping in mind that they may not be employed across the agency until such time as the new Supervisory Training curriculum is approved and finalized.

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

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

Section 8: Early Identification System (EIS)

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

a. Development and Implementation of the EIS

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

In September 2014, MCSO provided a draft EIS policy to us and the Plaintiffs’ attorneys. We suggested several changes and modifications, and returned it to MCSO in October 2014. We received a subsequent revision of the EIS policy from MCSO in February 2015, and returned it with comments and suggestions in March 2015. We received a third draft from MCSO in June 2015, and returned it in the same month with additional comments and clarification. During our July 2015 site visit, several Plaintiffs’ representatives noted that they had not received the second or third drafts of the EIS policy, and that they had several concerns that were raised during these meetings covering the EIS system. MCSO provided the Plaintiffs’ attorneys with the latest EIS draft policy; the Plaintiffs’ attorneys submitted their comments in a letter dated August 4, 2015. During our October 2015 site visit, we, Plaintiffs’ and Plaintiff-Intervenors were provided another draft of the EIS policy and noted, during these meetings, several issues that remained problematic. MCSO personnel stated they would evaluate these issues and address them accordingly. MCSO is not in Phase 1 compliance with this Paragraph at this time.

The Early Intervention Unit (EIU) staff continues to do a noteworthy job of providing data, conducting audits, and developing an EIS system that incorporates pieces of information from across the organization. Moreover, BIO personnel have shown through the Supervisory Note Inspections how quickly MCSO has responded to the finding that less than 70% of supervisors were effectively using many of the EIS tools available for supervision during the early months of 2015. BIO staff noted these deficiencies, and recommended supervisory training and instruction to facilitate the use of the tools that were being made available for supervisory functions. As a result, there was over 96% compliance among supervisors using the tools available to them during the months from April to June; however, the average compliance rate dipped below 80% in the months of July to September, with a drop to 54% in August. This suggests that we have not yet witnessed a wholesale adoption of the tools available to supervisors, which may be partly due to the fact that MCSO is still operating without the benefit of an overarching EIS policy to guide them.

In addition, we have noted several additions to the data incorporated into the EIS system. First, within the TraCS data system, MCSO has added one field that allows supervisors to note their review of subordinates' traffic stops, and a second field that allows supervisors to make specific comments on those stops when deemed necessary. Second, MCSO informed us of the implementation of EIPro in February 2015. EIPro is designed to facilitate a supervisor's review of their subordinates' agency history. While an improvement, this software still does not allow supervisors access to internal and external complaint information. EIPro was also introduced through a Briefing Board process that did not involve online or in-person training documentation. Both we and the Plaintiffs' attorneys have commented that more training on EIS is required as additional features are added to the system. Moreover, MCSO must be able to memorialize who has received the training and how effective this training has been.

Finally, MCSO must become more transparent in the way that it develops options for the EIS policy and database. For example, during the April and July 2015 site visits, MCSO informed us that it was purchasing a software program (Makenotes) to enhance supervisory functions, but upon further evaluation of the software, MCSO found that it would not meet its needs. Neither the Plaintiffs nor we were ever advised of these evaluation processes until the site visit meetings.

In addition, during our October 2015 site visit, we learned that MCSO was no longer working to incorporate incident reports into the EIS database as had been planned since December of 2014. MCSO must advise us and the Plaintiffs/Plaintiff-Intervenors of significant acquisitions and deployment of software related to the EIS, as well as significant changes in direction, before they are acquired or implemented.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

During our October 2015 site visit, MCSO provided us with a fourth draft of the EIS policy. During these meetings, we and the Plaintiffs' representatives noted several ongoing problems with the current draft of the policy which MCSO staff stated they would address. As a result, MCSO is not in Phase 1 compliance with this Paragraph at this time.

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

As noted above, MCSO introduced EIPro, a supervisory software tool, into the EIS in February 2015. However, the only material distributed about EIPro came from a Briefing Board posted by MCSO to its employees. Training on EIPro and other aspects of the EIS is being planned as part of supervisory training. Several issues remain from past site visits or reports pertaining to the sufficiency of data entry and inclusion, even though EIU has been organized as outlined above. Some of these issues are technological in nature, and others result from inadequate training or personnel unable to enter or access data into/from the electronic system. The substance of these issues is detailed in response to other Paragraphs of the Order and therefore will not be repeated here.

Finally, the leadership of the EIU has changed from July to October 2015. It is clear from our meetings that although the institutional memory of the unit may be lacking (see Paragraph 64), the current leadership is enthusiastically moving forward and embraces the development of statistical tools to deal with the current problems involving “false” alerts, among other issues. We look forward to supporting a smooth transition. Although full compliance with this Paragraph requires an approved EIS policy, it is clear that the EIU unit is functioning as expected. Therefore, compliance for Phase 2 of this Paragraph is deferred.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Deferred

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

As noted above, a draft EIS policy has undergone several revisions. During our October 2015 site visit, we and the Plaintiffs’ attorneys were provided another draft of the EIS policy. During these meetings, we noted several ongoing problems with the latest draft, which MCSO personnel stated they would address. Therefore, MCSO is not in Phase 1 compliance with this Paragraph at this time.

At our site visits since September of 2014, EIU personnel have provided insight into the ways that they used the data to conduct weekly and monthly analysis looking for “outliers,” “potential questionable behavior,” and “racial profiling.” As a result of these discussions, we requested more documentation to support the analysis conducted. Similar to our observations in Paragraphs 64 and 65, the documentation provided since January 2015 provides insight into what EIU personnel are doing; however, the process remains largely “qualitative” since it relies heavily on judgments of EIU personnel. MCSO has contracted with an outside vendor to

develop a quantitative protocol for these alerts and investigations. While MCSO appears to be capturing most of the necessary information through the alert settings, the way in which the agency arrived at these alert thresholds remains unclear, and will have to be further developed in consultation with MCSO's contractor. While the additional spreadsheet analysis of alerts described earlier provides some insight into how EIU personnel handle alerts, the contractor will need to work with MCSO to address the qualitative aspects of the alert process and attempt to develop a quantitative one. During our April, July, and October 2015 site visits, we met for extended periods of time with the contractor, and found that the contractor possessed the expertise necessary to convert the qualitative alert process to a quantitative one. We have suggested that rather than using static alert thresholds that the contractor develops a statistical model/method of finding "outliers." We will work with both the contractor and MCSO to evaluate the methods they develop, the outcomes they produce, and the policy statements upon which these are founded. We cannot make determinations about whether their methods actually get us closer to a statistically valid examination of discriminatory/biased policing until such time as we are able to evaluate the conclusions they come to and the method they use to arrive at these conclusions.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

- a. *all misconduct Complaints or allegations (and their dispositions), excluding those made by inmates relating to conditions of confinement or conduct of detention officers (i.e., any complaint or allegation relating to a traffic stop shall be collected and subject to this Paragraph even if made by an inmate);*
- b. *all internal investigations of alleged or suspected misconduct;*
- c. *data compiled under the traffic stop data collection and the patrol data collection mechanisms;*
- d. *all criminal proceedings initiated, as well as all civil or administrative claims filed with, and all civil lawsuits served upon, the County and/or its Deputies or agents, resulting from MCSO Patrol Operations or the actions of MCSO Patrol Operation Personnel;*
- e. *all arrests;*
- f. *all arrests in which the arresting Deputy fails to articulate probable cause in the arrest report, or where an MCSO Supervisor, court or prosecutor later determines the arrest was not supported by probable cause to believe a crime had been committed, as required by law;*
- g. *all arrests in which the individual was released from custody without formal charges being sought;*

- h. all Investigatory Stops, detentions, and/or searches, including those found by the Monitor, an MCSO supervisor, court or prosecutor to be unsupported by reasonable suspicion of or probable cause to believe a crime had been committed, as required by law;*
- i. all instances in which MCSO is informed by a prosecuting authority or a court that a decision to decline prosecution or to dismiss charges, and if available, the reason for such decision;*
- j. all disciplinary action taken against employees;*
- k. all non-disciplinary corrective action required of employees;*
- l. all awards and commendations received by employees;*
- m. Training history for each employee; and*
- n. bi-monthly Supervisory observations of each employee.*

The EIS policy outlining the data elements and processes remains under development and review. During our October 2015 site visit, we were provided a fourth draft of the EIS policy. During these meetings we, and Plaintiffs' representatives, raised several ongoing concerns with the policy, which MCSO staff stated they would evaluate and address as necessary. Therefore, until such time as we have an approved policy, MCSO is not in Phase 1 compliance with this Paragraph.

MCSO added the EIPro software to the EIS system and is working on the development of additional software options to improve the ability of supervisors to evaluate the activity of their subordinates. However, at this time, we have incomplete or missing descriptions and documentation regarding these software changes and how they will be incorporated into the EIS process. Some of the issues raised in past evaluations of the draft EIS policy are definitional and have been subsequently addressed through clarifying documents or minor changes in the wording of policy.

Other issues involve access to details about internal and external complaints involving subordinates (Subparts 75.a. and 75.b. of this Paragraph) for supervisory personnel. All previous versions of the draft policy, through July 2015, did not allow supervisors to review this particular information for deputies under their command without the assistance of EIU or PSB personnel. The purported introduction of EIPro in a more recent formulation of the EIS software appeared to afford such access for supervisors. However, during our April and July 2015 site visits, there continued to be resistance to allowing supervisors independent and immediate access to internal and external complaints against subordinates in a timely fashion that did not require the involvement of EIU or PSB personnel. During our October 2015 site visit, the EIU personnel showed the pilot testing of a software modification that would allow supervisors to view some details of completed internal and external complaint investigations. However, the modification had not operated as planned, and continued investigation is necessary. We will confirm the inclusion of these elements through document review and examination during future site visits. However, the investigation of such an option shows positive movement on the part of MCSO toward compliance.

Finally, as noted in Paragraph 73, the Technology Bureau Chief advised that the bureau had been working to ensure that incident reports (Subparts 75.e. through 75.h. may be impacted) would be included in the relational database that combines to make the entirety of the EIS data system more complete. We had repeatedly heard that such changes were being investigated since December 2014. However, during our October 2015 site visit, MCSO informed the Plaintiffs' representatives, Plaintiff-Intervenors, and us that MCSO was no longer pursuing such an electronic inclusion and that the current process would have to suffice. Absent some solution that provides similar functionality to what MCSO indicated they were pursuing since the inception of the EIS, MCSO is not in compliance with this Paragraph. In particular, at least some of those incident reports, as noted in the BIO reports, involve arrests and investigatory stops, which are covered under this Paragraph. Realistically, it would be much more difficult to parse out those incident reports that require inclusion in the database from those that do not. We will continue to work with MCSO to resolve such issues and will evaluate these during future site visits. MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

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

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

In addition, the Deputy Chief of the Technology Management Bureau provided a letter in response to Paragraph 77 that is also pertinent to Paragraph 78. On the second page of this memorandum, dated October 17, 2014, there is a description of the security of the database and server. This information is reiterated in the draft EIS policy. MCSO has also included specific statements in the draft policy that limits access to individual deputy information to appropriate supervisory/administrative personnel. In addition, the policy states that personal information will be maintained in the database for at least five years following an employee's separation from the agency. These appear to meet the requirements of the Order. However, until such time as the policy is finalized, MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

In the absence of a finalized EIS policy, or a fully integrated database (as noted previously), MCSO personnel in the EIU have done a notable job pulling together data to conduct analyses looking for behavior that may appear to be outside the norm. However, at present, MCSO is not in Phase 1 compliance with this Paragraph. In previous Paragraphs, we have noted several concerns that impact the operation of the EIS. Cumulatively, they preclude the EIS from being “fully implemented.”

EIU personnel have developed a set of self-populating supervisory tables that will provide supervisors throughout the agency with the ability to pull up all traffic stops for a single deputy for review, as well as the ability to compare significant traffic stop details such as length of traffic stop, citation rates, arrest rates, and the like across their entire squad of deputies. These are significant advancements for supervisory personnel. During our October site visit, we talked to two district supervisors who were already employing these tables in the review processes of their subordinates. Both supervisors remarked on the efficiency of these tables in comparison to what they were required to do in the past to adequately evaluate the performance of their subordinates.

While EIU personnel are doing well during this pre-EIS stage, they need to be more comprehensive and detailed in the process and production of their reports. We have provided them with some suggestions for these changes in our monthly request for data and through the meetings during our site visits. The EIU has always responded to our requests and we continue to work effectively with them.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

b. Training on the EIS

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

MCSO provided a fourth draft of the EIS policy during our October 2015 site visit. We and the Plaintiffs' representatives noted several ongoing problems with this latest draft which MCSO personnel stated they would address. Two of those issues pertain directly to supervisory personnel and their ability to carry out their assigned functions. First, MCSO was testing a new process that would allow line supervisors access to descriptions of internal and external complaints regarding their subordinates without the assistance of PSB personnel. At present, this remains at the stage of beta testing and has not been released to supervisors. Second, the training of supervisory personnel was still in the planning stage pending the approval of the EIS policy. At this point, therefore, since the policy has not yet been approved, MCSO is not in Phase 1 compliance with this Paragraph.

In response to our request for documentation, MCSO provided a training schedule for TraCS. The scheduled training for TraCS has been carried out routinely, and the Training Calendar and curriculum were provided in documents dated November 18, 2015. More importantly, MCSO has now put into practice a mechanism to memorialize who has received this training and when. However, the Supervisory Training required under Paragraphs 52 and 53, which has a significant EIS component, remains under development in consultation with us and the Parties. We have made extensive comments on prior draft training curricula. We also agree with the decision of MCSO to postpone the Supervisory Training until such time as the EIS policy can be finalized, in order to minimize retraining due to any potential changes in the language of the policy.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

c. Protocol for Agency and Supervisory Use of the EIS

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

- a. *comparative data analysis, including peer group analysis, to identify patterns of activity by individual Deputies and groups of Deputies;*
- b. *identification of warning signs or other indicia of possible misconduct, including, but not necessarily limited, to:*
 - i. *failure to follow any of the documentation requirements mandated pursuant to this Order;*
 - ii. *racial and ethnic disparities in the Deputy's traffic stop patterns, including disparities or increases in stops for minor traffic violations, arrests following a traffic stop, and immigration status inquiries, that cannot be explained by statistical modeling of race neutral factors or characteristics of Deputies' specific duties, or racial or ethnic disparities in traffic stop patterns when compared with data of a Deputy's peers;*
 - iii. *evidence of extended traffic stops or increased inquiries/investigations where investigations involve a Latino driver or passengers;*
 - iv. *a citation rate for traffic stops that is an outlier when compared to data of a Deputy's peers, or a low rate of seizure of contraband or arrests following searches and investigations;*
 - v. *complaints by members of the public or other officers; and vi. other indications of racial or ethnic bias in the exercise of official duties;*
- c. *MCSO commander and Supervisor review, on a regular basis, but not less than bimonthly, of EIS reports regarding each officer under the commander or Supervisor's direct command and, at least quarterly, broader, pattern-based reports;*
- d. *a requirement that MCSO commanders and Supervisors initiate, implement, and assess the effectiveness of interventions for individual Deputies, Supervisors, and units, based on assessment of the information contained in the EIS;*
- e. *identification of a range of intervention options to facilitate an effective response to suspected or identified problems. In any cases where a Supervisor believes a Deputy may be engaging in racial profiling, unlawful detentions or arrests, or improper enforcement of Immigration-Related Laws or the early warning protocol is triggered, the MCSO shall notify the Monitor and Plaintiffs and take reasonable steps to investigate and closely monitor the situation, and take corrective action to remedy the issue. Interventions may include but are not limited to counseling, Training, Supervisor ride-alongs, ordering changes in practice or procedure, changing duty assignments, Discipline, or other supervised, monitored, and documented action plans and strategies designed to modify*

activity. All interventions will be documented in writing and entered into the automated system;

- f. a statement that the decision to order an intervention for an employee or group using EIS data shall include peer group analysis, including consideration of the nature of the employee's assignment, and not solely on the number or percentages of incidents in any category of information recorded in the EIS;*
- g. a process for prompt review by MCSO commanders and Supervisors of the EIS records of all Deputies upon transfer to their supervision or command;*
- h. an evaluation of whether MCSO commanders and Supervisors are appropriately using the EIS to enhance effective and ethical policing and reduce risk; and*
- i. mechanisms to ensure monitored and secure access to the EIS to ensure the integrity, proper use, and appropriate confidentiality of the data.*

The EIS policy and the protocols to be used by supervisory personnel remain under development and revision. MCSO presented the fourth draft of the policy to us and Plaintiffs' representatives during our October 2015 site visit. During these meetings, we discussed several significant issues that remain, and MCSO personnel stated they would address them accordingly. For purposes of this Paragraph, we met with the new EIU leadership during the site visit to discuss data analysis, protocol development, and alerts for behavior deemed inappropriate by the Order. We were informed of technical changes to alert thresholds that were described under Paragraph 64. However, during our discussion of alert thresholds, referred to in the draft EIS policy, MCSO advised us that no documentation about how these thresholds were created exists. This remains a concern since the protocol referenced in this Paragraph requires that MCSO be able to document how thresholds are set and modified over time. MCSO personnel stated that they would conduct the necessary historical investigation and provide it to us in the near future. Additionally, we discussed the option of creating a more statistically grounded set of alert thresholds. We will continue to pursue these alternatives with MCSO and the agency's data consultant. Since the EIS policy is not yet finalized, and there are outstanding issues that need to be addressed, MCSO is not in Phase 1 compliance with this Paragraph.

However, MCSO is making progress regarding the ability of supervisors to review completed citizen or internal complaints pertaining to the deputies under their command (Paragraph 81.b.v.). During our October site visit, EIU personnel described the test of a software solution that would give line supervisors access to some details of internal and external complaints that were completed. Although this test continued to show problems with the software, an inability to ensure privacy, MCSO was returning to the software developer to explore alternate strategies to arrive at the same result. We will evaluate each modification to the data and policy as they are proposed and introduced. However, we note that MCSO should provide information about planned changes to policy and the EIS database *before* they enter the testing phase to both solicit feedback that may be helpful and ensure that we and the Plaintiffs' attorneys agree that such modifications align with the requirements of the Order.

In addition, EIU personnel have developed a new set of self-populating supervisory tables that will provide supervisors throughout the agency with the ability to pull up all traffic stops for a single deputy for review. These tables also allow supervisors the ability to compare significant traffic stop details such as length of traffic stop, citation rates, arrest rates, and the like across their entire squad of deputies. These are significant advancements for supervisory personnel. This new tool will also have to be included in the Supervisory Training that is currently under development. We were able to speak to two district supervisors who had used these tables in their monthly evaluation of subordinates. Both expressed how useful these tools were in communicating with their deputies about their activity over the last month. It remains unclear how effectively supervisors across the agency are using these tools. The familiarity of one of these supervisors, who subsequently trained the other, was due to the prior position this person held in CID. During future site visits, we will address how effectively supervisory personnel have employed these tools.

However, according to the latest inspection reports from BIO, less than 80% of supervisory personnel were using Blue Team and Supervisory Notes to the full potential. There is no independent measure of the self-populating tables discussed above. We suspect that this level of compliance is due largely to the lack of training of supervisory personnel, which has been put on hold until the EIS policy is finalized.

What we have seen historically is that when supervisors are regularly queried or prompted to complete these supervisory functions, they tend to do so in great numbers. The inspection reports from April and June 2015 showed significant improvements across all categories of review. For example, the inspections show that the rate of the average compliance scores for patrol supervisory notes peaked in April at 100%; dipped slightly in May and June; and then fell dramatically to 78%, 53%, and 74% respectively for the months of July, August, and September. As noted in both the August and September BIO reports, the fluctuations, both positive and negative, occurred across all categories of supervisory notes: Documentation; Discussion of Traffic Stops; Traffic Data Review; Anti-Racial Profiling Discussions; and Policy Implementation. Such remarkable fluctuations suggest that MCSO must institute a wider training and reminder practice to ensure that supervisors are carrying out their required functions. However, as noted in our previous reviews of the EIS policy, there appear to be no processes in place that require additional training or discipline for supervisors who fail to employ EIS as prescribed. MCSO must address these deficiencies in order to meet the requirements of the Order.

Finally, audits of the TraCS data conducted by Arizona State University contractors noted several significant data issues that would impact any analysis performed pursuant to this Paragraph. There were a large number of duplicate entries, missing data, and errors in data entry that could impact the results one receives from any data query. Some of these issues were easily addressed with a new data coordination protocol and others will be handled through training or retraining of personnel as the issues become apparent. Once a complete report of the contractor's findings becomes available, we will be able to evaluate the relevant issues for this Paragraph. We will continue to work with MCSO to resolve such issues during future site visits.

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

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

Section 9: Supervision and Evaluation of Officer Performance

COURT ORDER X. SUPERVISION AND EVALUATIONS OF OFFICER PERFORMANCE

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

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

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

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

We conducted interviews with a District 3 lieutenant and the District 3 Commanding Officer. MCSO has not yet established which type of arrests supervisors are required to respond to. Supervisors respond to incidents based on their own discretion, but they generally respond to any arrest involving use of force. Deputies in District 3 continue to complete Field Interview (FI) cards on the Justice Web Interface (JWI). MCSO Command Staff advised us during our October site visit that MCSO would discontinue the procedure of completing Field Interview cards on JWI. MCSO informed us that deputies would be directed to complete incident reports in situations where they previously would have filled out FI cards. We do not anticipate a problem with the new procedure. The only caveat is that MCSO will need to capture the data from these types of incident reports in order to provide us with copies for review, as well as link the data from incidents related to stops and detentions to the Early Identification System (EIS). We advised MCSO of these requirements during our October site visit. In a memorandum provided by MCSO, dated November 10, 2015, the Deputy Chief of Patrol stated that deputies can complete "FI cards" while on any type of call. The field interview information will be documented on incident reports, which will follow the normal supervisory review process. These field interview incident reports will have a disposition code that is searchable through the CAD system.

In our recent visit to District 3, we observed that citizen complaint forms were readily accessible to the public, in English and Spanish, in the lobby or areas generally open to the public on a 24/7 basis. An inspection of the facility revealed no collection boxes for identification documents or license plates. Incident reports are generated for any identification documents and license plates seized, and the items are placed in a secure location until transferred to the Property Unit. District 3 has been scanning copies of all incident reports, after review and memorialization by supervisors, into a locally accessible network drive. This procedure has been in place since June 2015. The original hard copy is transferred to Central Records. We were advised that all supervisors have access to these network-archived incident reports. Previously, District 3 archived hard copies of incident reports. We were advised that archived copies of incident reports are available from January 2013 to May 2015.

During our October site visit, we visited Lake Patrol, and met with a district commander and a district supervisor. As previously noted, supervisory response to arrests is left up to the discretion of the supervisor; there is no written directive as to which type of arrests require a supervisory response. FI cards continue to be completed on the Justice Web Interface (JWI), but there are not many FI cards completed by deputies. Supervisors check reports for accuracy and completeness. An inspection of the facility confirmed that the boxes previously used to collect identification documents and license plates are no longer in use. As with District 3, identification documents and license plates are documented with an incident report, and the evidence is secured until transferred to the Property Unit. Citizen complaint forms were available in English and Spanish in a waterproof container located at the entrance to the Lake Patrol office. Lake Patrol administrative personnel make hardcopies of all incident reports and archive them in the office. The original incident reports, which are reviewed and signed by a supervisor, are forwarded to Central Records.

During our October site visit, the Deputy Chief of Enforcement advised us that MCSO is working to fulfill the requirement for a daily activity report by capturing the necessary data on the Computer Aided Dispatch (CAD) system. We understand the efficiency of electronic reporting; and support this endeavor with the understanding that MCSO will capture the details of deputies' daily activities needed by supervisors to evaluate performance, and capture the daily activities of supervisors in order to evaluate the consistency and effectiveness of supervision. MCSO advised us that the timeline for the establishment of daily activity reports in CAD is December 31, 2015. MCSO advised us during our recent site visit that supervisors will be directed to report to the scene of arrests involving use of force, any officer-involved shooting, any felony pursuit, and any critical incident. This directive will be disseminated through a Briefing Board, and subsequently incorporated into GB-2 (Command Responsibility). We have not had an opportunity to review and comment on the Briefing Board directive. MCSO also recently advised us that it has not found an application for daily activity reports that will work with its Computer Aided Dispatch (CAD) system. MCSO advised us that it would have a progress report ready by the end of the first quarter.

We reviewed a representative sample of 121 incident reports for July 2015, for the randomly selected dates of July 1, and July 4, 2015. On two incident reports, we could not ascertain if the reports had been turned in before the end of the shift. One-hundred-and-fifteen of the 121 incident reports, or 95%, were memorialized within seven days. All but one incident report had been reviewed and signed by a supervisor; two reports were signed but not dated. All of the arrest reports we reviewed were memorialized by a supervisor within the required 72 hours. In 22 vehicle crash reports, we could not ascertain the supervisory date of review since vehicle crash reports are completed using an electronic format that does not include a field for a supervisor's signature or date of review. We understand that MCSO is required to use a State of Arizona vehicle crash form, and MCSO does not have the authority to alter or modify its contents. In the past, as well as in this reporting period, we reviewed vehicle crash reports that were hand-signed and dated by a supervisor. This may be an alternative method to ensure supervisory review until a better option is found.

We reviewed a representative sample of 158 incident reports for August 2015, for the randomly selected dates of August 1, and August 7, 2015. In four of the reports, we could not determine the date of submission by the deputy. A total of 153 of the 158 incident reports, or 97%, were reviewed and memorialized within seven days as required by Paragraph 83. All except one of the 48 arrest reports were memorialized by a supervisor within 72 hours. Several crash reports included the supervisor's name, but no signature or date, on the report.

We reviewed a representative sample of 137 incident reports for September 2015, for the randomly selected dates of September 3, and September 13, 2015. One-hundred-and-thirty-four of the 137 incident reports, or 98%, were reviewed and memorialized by a supervisor within seven days as required by Paragraph 83. Thirteen of 14 arrests submitted, or 99%, were memorialized by a supervisor within the required 72 hours. Fifteen vehicle crash reports included the supervisor's name or signature on the report, but not the date of review.

MCSO has improved significantly in this area of supervisory review, and supervisors memorialized most incidents reports on the same date the report was submitted. Most arrest reports are reviewed and memorialized well within the 72-hour requirement.

We conducted a review of a 10% random sampling of general incident reports for each month and found them to be of satisfactory quality. For the next reporting period, MCSO advised us that it would provide a list of all arrests on a monthly basis so that we may select a random sample for a detailed review.

We reviewed eight Field Interview (FI) cards that were completed during the reporting period. The FI cards were completed in the Justice Web Interface (JWI). There is no evidence of supervisory review in any of the completed FI cards; the FI format on JWI does not have a field to capture or memorialize supervisory reviews. We have been advised by MCSO that deputies will no longer complete FI cards on JWI. Instead, deputies will be directed to complete incident reports to capture the information.

During our October 2015 site visit, we met with MCSO command staff and discussed the issues associated with the lack of a daily activity reports for deputies and supervisors, as well as the need to identify which type of arrests supervisors should be required to respond to. MCSO advised us that they are working to address these concerns by the end of the year.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

To verify Phase 2 compliance with this Paragraph, we reviewed monthly rosters and shift rosters for the third quarter of 2015. We also reviewed the July, August, and September 2015 "Patrol Bureau Shift Roster Inspection Summaries," which describe BIO's examination of every MCSO shift roster during those months to verify that shifts did not exceed the 1:12 supervisor-to-deputies ratio.

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

During our October 2015 site visit, we interviewed supervisors and commanders from District 1, District 3, and Lake Patrol. In our discussions, we learned that supervisors have no more than 12 deputies reporting to them, and that supervisors work the same days and hours as the deputies that report to them.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Deferred

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

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

We reviewed MCSO's submission as proof of compliance with Paragraph 85. A document request was made for MCSO to provide copies of reports documenting that supervisors are meeting with and discussing individually the stops made by each deputy, at least once per month. We requested documentation for one randomly selected supervisor from each district, for each month of the reporting period, and the squad of deputies that reports to that supervisor.

For the month of July, MCSO submitted 31 supervisory notes. Of the 31 supervisory notes reviewed, two contained all the necessary information in order to meet the requirements of Paragraph 85. For the month of August, MCSO submitted 21 supervisory notes. Of the 21 supervisory notes submitted, none contained all the necessary information in order to meet the requirements of Paragraph 85. For the month of August, 19 deputies lacked a Blue Team entry regarding the monthly supervisor-deputy discussion. For the month of September, MCSO submitted 47 supervisory notes. Six supervisory notes contained all the necessary information to meet the requirements of this Paragraph. Ten of the deputies requested did not have a Blue Team entry for September.

Supervisors continue to make comments and notations in a section of the Blue Team Notes titled "Allegations Linked to this Officer." We inquired as to why this section was included in Blue Team Notes and if supervisors were using this field correctly. MCSO advised us that this field is used to link information related to the deputy. The term "allegations" is a misnomer, and is not necessarily associated with deputy misconduct. This field was part of the original software package, and MCSO has not modified it. From the comments on Blue Team Notes that we reviewed, it appears that there are still some supervisors that are simply reviewing the information in the data tracking system and rendering a conclusion as to whether or not the deputy conducted the stops and detentions in accordance with this Paragraph. This Paragraph requires a conference or meeting to discuss each stop, and the reason for the stop or detention, with the deputy. In our review of this period's submissions, we noticed that some notes made by supervisors under "allegations linked to this officer" sometimes conflict with the narrative of the supervisory notes. For example, some supervisors wrote that they had the monthly discussion with the deputy regarding traffic stops in the "allegations" field, while in the narrative they stated that the deputy made no traffic stops.

During our October 2015 site visit, we again addressed with MCSO command staff the deficiencies with supervisory reviews of stops and detentions, and the documentation of monthly discussions between supervisors and subordinates. In addition, we observed a supervisor-deputy discussion of monthly stops and detentions to ensure that the requirements of this Paragraph were being addressed. In this instance, both the supervisor and deputy were veteran officers, and the discussion covered the necessary points. MCSO needs to continue to work with supervisors, especially newly promoted sergeants, to improve the quality of these monthly supervisory reviews. We recommended that MCSO conduct training to ensure that supervisors are aware of the intent of the requirements of this Paragraph. MCSO must ensure that supervisors are actually meeting with subordinates to discuss traffic stops, and properly documenting these discussions.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

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

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

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

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

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

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

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

We requested the performance appraisals for all deputies and supervisors who were evaluated during the reporting period. We received and reviewed performance evaluations submitted for 10 deputies and 14 supervisors who received evaluations in July 2015. The majority of deputies' appraisals reviewed were acceptable, while some appraisals lacked details and included vague general comments. Eight of the 14 supervisors were rated for the quality and effectiveness of supervision, four supervisors were not rated in this dimension, and two supervisors had no direct reports. Only two of the 14 supervisors had comments on their ability to identify and respond to misconduct, and only three of the 14 supervisors were rated on the quality of their supervisory reviews.

We received and reviewed performance evaluations submitted for 10 deputies and 11 supervisors who received evaluations in August 2015. Some performance evaluations were sufficiently detailed and well written, and others lacked substance and sufficient detail. Of the 11 supervisors' performance evaluations, 10 contained comments or rated the supervisor for the quality and effectiveness of his/her supervision; none of the 11 appraisals rated the supervisor on his/her ability to identify and respond to misconduct. Only one of the 11 supervisors was rated on the quality of his/her supervisory reviews.

We received and reviewed performance evaluations submitted for six deputies and 13 supervisors who received evaluations in September 2015. As has been noted previously, some supervisors submitted very detailed and well-written appraisals, while others were clearly not adequate. Eight of the 13 supervisors were rated for the quality and effectiveness of supervision. Four of the 13 supervisors were rated on the quality of their personnel reviews. Only two of the 14 supervisors had comments on their ability to identify and respond to misconduct. One supervisor had no direct reports.

We addressed the issue of employee performance appraisals with MCSO command staff during our October site visit. MCSO revised its draft of GC-4 (Employee Performance Appraisals) to incorporate our suggestions. At the time of our October site visit, the Plaintiffs' attorneys had not had an opportunity to review and comment on GC-4. MCSO also showed us a preliminary draft of the revised Employee Performance Appraisal (EPA) form. We made several suggestions and requested that the completed revised draft be submitted through normal channels for review. The consistency and quality of employee performance appraisals is an important issue that MCSO needs to address. Proper training and sufficiently detailed instructions to ensure consistency in reviews must accompany the revised EPA form.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

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

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

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

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

MCSO also submitted a memorandum dated January 6, 2015, from Executive Chief Trombi to Chief Deputy Sheridan which states, "As a direct result of US District Judge David G. Campbell's January 5, 2015 Order in *Puente Arizona v. Joseph Arpaio*, which was previously distributed via the Court Compliance Division, I have directed Deputy Chief Lopez to immediately cease any future and/or active/pending investigations related to ARS 13-2009(A)(3) and the portion of ARS 13-2008(A) that addresses actions committed 'with the intent to obtain or continue employment.' Additionally, I have directed Chief Lopez to immediately disband and reassign deputies currently assigned to that investigative branch known as the Criminal Employment Unit and remove any such identifiers with our agency that indicate the existence of such a unit. These deputies shall be assigned to various other divisions/districts as deemed appropriate by office needs for resources."

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

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

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

During our October site visit, we met with MCSO staff and attorneys. MCSO provided us with a copy of the Special Investigations Division's Operations Manual. The Operations Manual now states, "The mission of the Maricopa County Sheriff's Office Anti-Trafficking Unit is to identify, investigate, and apprehend individuals involved in the Transnational Criminal Organizations (TCO) that engage in the following crimes: the smuggling of narcotics, money laundering, home invasions, kidnapping, extortion, trafficking of weapons, and gang related crimes."

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

We reviewed the following documents submitted by MCSO as policy documentation relative to Paragraph 89 requirements: EA-11 (Arrest Procedures), which was revised on September 5, 2014; GC-17 (Employee Disciplinary Procedure), which was revised on September 5, 2014; and proposed EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), which was revised on September 22, 2014. The requirements of the Paragraph are covered as a result of the combination of these policies.

We requested to inspect all reports related to immigration status investigations, any immigration-related crime, or incidents or arrests involving lack of identity. The incident reports submitted covered the period from July 1, to September 30, 2015. The MCSO submission consisted of a total of nine incidents that occurred during the time period requested. Two incidents involved individuals driving under the influence of alcohol, four incidents involved individuals driving with suspended licenses, and three incidents involved individuals who had no valid driver's licenses. We reviewed all nine incidents submitted for this reporting period, and found that in one incident the deputy had not documented his notification of the supervisor. We identified two additional incidents that occurred in August, during our incident report audit, which should have

been submitted as part of our document request for this Paragraph. One incident involved identity theft, and the other involved identity fraud. We reviewed these incidents, as well, and found no issues of concern, other than the fact that they were not submitted as part of our document request. During our October site visit, MCSO advised us that it is working on a solution to enable the agency to segregate all arrests reports from the rest of the incident report population. This will facilitate the auditing of arrests as an additional measure in determining compliance with this Paragraph. The expected completion date for this project is December 31, 2015.

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

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

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

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

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

During our October site visit, we again addressed this concern with MCSO staff. MCSO advised us that it is working on a solution that will capture the date the Vehicle Stop Contact Forms are submitted, as well as the memorialization by the reviewing supervisor.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

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

We reviewed traffic stop data reported by MCSO for its **July 2015** inspection. Thirty-five reports for traffic-related events were selected and reviewed by the Bureau of Internal Oversight. Of the 35 reports, 21 traffic-related events, or 60%, had no deficiencies noted. Twenty-seven potential issues were discovered. MCSO reported the following:

- Two of the 35 stops, or 6%, did not have all matching information on the traffic stop data forms compared to CAD.
- Two of the 35 stops, or 6%, did not document all license and or warrant checks.
- Three of the 35 stops, or 9%, did not document the serial number and unit of all units involved in the stop.
- Three of the 35 stops, or 9%, did not document the post stop race/ethnicity.
- Four of the 35 stops, or 11%, did not document the time the stop began, the time the citation was issued, the time the individual was released without a citation, and/or the time the stop/detention was concluded.
- Six of the 35 stops, or 17%, did not document the city location of the stop on the traffic stop data form.
- One of the 35 stops, or 3%, did not have a receipt containing a signature or acknowledgement that the subject was served, and the reason for no signature was not documented.

During this inspection, MCSO determined the following:

- All of the stops reviewed included the traffic stop data matching on all TraCS forms.
- All of the stops reviewed included the license plate state and number documented.
- All of the stops reviewed included the total number of occupants documented.
- All of the stops reviewed included where contact was made with passengers, the nature of the contact, and the reason for the contact were documented.
- All of the stops reviewed included the reason for the stop recorded with a description of the traffic or equipment violation observed prior to the contact with occupants, and any indicators of criminal activity developed before or during the stop.
- None of the stops reviewed involved any inquiry as to immigration status.
- None of the stops reviewed involved a consent to search request.
- All the stops reviewed documented contraband and evidence seized from the occupant of the vehicle, in incidents where it was applicable.
- All the stops reviewed documented the final disposition of the stop, including whether a citation was issued, an arrest was made, or the individual was cited and released.

The Bureau of Internal Oversight recommended that supervisors continue to provide onsite mentoring on the importance of accurately documenting all required traffic stop data, and any mentoring provided should be documented in supervisory notes. BIO continues to recommend that policy EB-2 be revised to mandate a signature from a violator or a checked “served” box with an explanation as to why the form was served. This applies to the Arizona Traffic Ticket and Complaint, MCSO Written Warning, and MCSO Incidental Contact Form.

We reviewed traffic stop data reported by MCSO for its **August 2015** inspection. Thirty-five reports for traffic-related events were reviewed by the Bureau of Internal Oversight. Of the 35 reports, 21 traffic-related events, or 71%, had no deficiencies noted.

MCSO reported the following:

- One of the 35, or 3%, did not have all matching information on the traffic stop data forms compared to CAD.
- Two of the 35 stops, or 6%, did not document the serial number and unit of all units involved in the stop.
- Three of the 35 stops, or 9%, did not document the post stop race/ethnicity.
- Five of the 35 stops, or 14%, did not document the time the stop began, the time the citation was issued, the time the individual was released without a citation, and/or the time the stop/detention was concluded.
- Three of the 35 stops, or 9%, did not document the city location of the stop on the traffic stop data form.

- One of the 35 stops, or 3%, did not have a receipt containing a signature or acknowledgement that the subject was served, and the reason for no signature was not documented.

During this inspection, MCSO determined the following:

- All of the stops reviewed included the traffic stop data matching on all TraCS forms.
- All of the stops reviewed included the license plate state and number documented.
- All of the stops reviewed included the total number of occupants documented.
- All of the stops reviewed included where contact was made with passengers, the nature of the contact, and the reason for the contact were documented.
- All of the stops reviewed included the reason for the stop recorded with a description of the traffic or equipment violation observed prior to the contact with occupants, and any indicators of criminal activity developed before or during the stop.
- None of the stops reviewed involved any inquiry as to immigration status.
- None of the stops reviewed involved a consent to search request.
- All the stops reviewed documented contraband and evidence seized from the occupant of the vehicle in incidents where it was applicable.
- All the stops reviewed documented the final disposition of the stop, including whether a citation was issued, or an arrest was made, or the individual was cited and released.

The Bureau of Internal Oversight again recommended that supervisors continue to provide onsite mentoring on the importance of accurately documenting all required traffic stop data, and any mentoring provided should be documented in supervisory notes. BIO continues to recommend that policy EB-2 be revised to mandate a signature from a violator or a checked “served” box with an explanation as to why the form was served. This applies to the Arizona Traffic Ticket and Complaint, MCSO Written Warning, and MCSO Incidental Contact Form.

We reviewed traffic stop data reported by MCSO for its **September 2015** inspection. The Bureau of Internal Oversight reviewed 35 reports for traffic-related events. Of the 35 reports, 28 traffic-related events, or 80%, had no deficiencies noted.

MCSO reported the following:

- Two of the 35 stops, or 6%, did not have all matching information on the traffic stop data forms compared to CAD.
- Three of the 35 stops, or 9%, did not document the serial number and unit of all units involved in the stop.
- One of the 35 stops, or 3%, did not document the post stop race/ethnicity.
- One of the 35 stops, or 3%, did not document the city location of the stop on the traffic stop data form.

- One of the 35 stops, or 3%, did not have a receipt containing a signature or acknowledgement that the subject was served and the reason for no signature was not documented.

During this inspection, MCSO determined the following:

- All of the stops reviewed included the traffic stop data matching on all TraCS forms.
- All of the stops reviewed included the license plate state and number documented.
- All of the stops reviewed included the total number of occupants documented.
- All of the stops reviewed included where contact was made with passengers, the nature of the contact, and the reason for the contact were documented.
- All of the stops reviewed included the reason for the stop recorded with a description of the traffic or equipment violation observed prior to the contact with occupants, and any indicators of criminal activity developed before or during the stop.
- None of the stops reviewed involved any inquiry as to immigration status.
- None of the stops reviewed involved a consent to search request.
- All the stops reviewed documented contraband and evidence seized from any occupant of the vehicle in incidents where it was applicable.
- All the stops reviewed documented the final disposition of the stop, including whether a citation was issued, or an arrest was made, or the individual was cited and released.

MCSO also discovered during their inspection that there were 17 open, non-validated forms for the month of September in the TraCS system. Each form is required to be validated. The Bureau of Internal Oversight determined that there was an 80% compliance rate for September, a 9% increase from the August compliance rate.

The Bureau of Internal Oversight again recommended that supervisors continue to provide onsite mentoring on the importance of accurately documenting all required traffic stop data, and any mentoring provided should be documented in supervisory notes. BIO continues to recommend that policy EB-2 be revised to mandate a signature from a violator or a checked "served" box with an explanation as to why the form was served. This applies to the Arizona Traffic Ticket and Complaint, MCSO Written Warning, and MCSO Incidental Contact Form.

Traffic stops selected for audit are reviewed in detail for quality and compliance with Paragraphs 25 and 54. The reviews conducted pursuant to the requirements of this paragraph are focused on the quality of supervisory reviews. MCSO presently does not have an auditable way to memorialize supervisory reviews of traffic stops. Until MCSO can submit Vehicle Stop Contact Forms with the reviewing supervisor's identity and date of review, we cannot conduct an audit to assess the quality reviews. MCSO has recently advised us that it has found a solution to memorialize supervisory reviews, which will be implemented in the first quarter of 2016.

We reviewed 30 supervisory notes for the month of July 2015, 17 supervisory notes for the month of August 2015, and 47 supervisory notes for the month of September 2015. For the period in review, there were 72 corrective actions taken for incidents in which supervisors reviewed collected traffic data and identified issues of concern. Most of the deficiencies noted in

traffic stops were associated with missing or erroneous information on the Vehicle Stop Contact Forms. Examples of deficiencies noted as a result of traffic stop data review are: inconsistency in documenting the voiced reason for stops, inconsistency in noting incident locations and actual traffic stops, missing information in citations, too much time on a traffic stop, failing to list the post-stop race or ethnicity on passengers, not listing the number of occupants in a vehicle, missing signatures on a warning, missing Vehicle Stop Contact Forms, missing ARS violations on citations, not listing the issuer's name or serial number on citations or warnings, improperly documenting a search incident to arrest on a VSCF, and not documenting vehicle color on a written warning. These issues were addressed through counseling and training.

Other deficiencies noted in supervisory notes, not specifically associated with traffic stop documentation, were: lack of proper documentation regarding seized property, not turning reports in on time, and forgetting to check into service after traffic stops. We are encouraged by the increased role supervisors are taking in the identification of issues of concern, more specifically as it relates to traffic stops. It should be noted that deputies continue to experience problems with connectivity in outlying areas of the County, and there are still issues with capturing signatures on citations and warnings on TraCS. MCSO is aware of these technical problems.

We believe that first-line supervisors are the cornerstones for ensuring compliance with this Paragraph, and that commanders are an integral part of the checks-and-balances system that needs to be in place for effective supervision. We commend BIO for its efforts to identify deficiencies and make recommendations for solutions. MCSO has shown improvement in addressing deficiencies, but we still have concerns with its lack of consistency in supervision and documentation.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

EA-11 (Arrest Procedures) was revised on September 5, 2014; and EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) was revised on September 22, 2104. EB-1 is compliant, in that it states that supervisors shall track each deputy's deficiencies or violations and the corrective action taken, in order to identify deputies who need repeated corrective action. EB-1 also states that supervisors shall take appropriate corrective or disciplinary action against supervisors who fail to conduct complete, thorough, and accurate reviews of deputies' investigatory detentions and stops. EB-1 states that supervisors shall track, through the Early

Intervention System (EIS), each deputy's deficiencies or violations and the corrective action taken in order to identify deputies who need repeated corrective action. EB-1 also states supervisors shall notify the Professional Standards Bureau to ensure that each violation is documented in the deputy's performance evaluations and that the supervisory review shall be taken into account in the supervisor's own performance evaluations. EB-1 also states that MCSO shall take appropriate corrective or disciplinary action against supervisors who fail to conduct complete thorough and accurate reviews of deputies' investigatory detention and stops. EB-1 meets the requirements of Paragraph 92.

Policy GC-4 (Employee Performance Appraisals) is currently under revision and will contain the requirements of this Paragraph. We reviewed a draft of this policy and returned it to MCSO with comments. At the time of our October site visit, MCSO had not submitted GC-4 to the Plaintiffs for review and comments. For the period under review, and until such time as GC-4 is completed and published, MCSO is not in Phase 1 compliance with this Paragraph. In response to our request for proof of compliance, MCSO submitted the following response:

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

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

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

MCSO also submitted a draft policy on the Early Identification System (EIS) in August 2015. We reviewed and returned the policy with comments and suggestions. During our October site visit, we met with MCSO staff and attorneys regarding the EIS policy. The final draft of the policy has been completed and is currently awaiting approval. Until such time as EIS is established throughout MCSO and supervisors are able to track each subordinate's violations and deficiencies in investigatory stops and detentions, as well as the corrective actions taken, MCSO is not in compliance with Paragraph 92.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

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

We reviewed a representative sample of 121 incident reports for July 2015, for the randomly selected dates of July 1, and July 4, 2015. A total of 120 of the 121 incident reports, or 99%, were reviewed and memorialized within seven days as required. Supervisors memorialized all 17 arrest reports within 72 hours. Several crash reports included the supervisor's name, but there was no signature or date on the report.

We reviewed a representative sample of 158 incident reports for August 2015, for the randomly selected dates of August 1, and August 7, 2015. One hundred fifty-seven of the 158 incident reports, or 99% were reviewed and memorialized by a supervisor within seven days, as required. Forty-three of 44 arrests submitted, or 99%, were memorialized by a supervisor within the required 72 hours. Several vehicle crash reports included the supervisor's name, but there was no signature or date of review on the report.

We reviewed a representative sample of 137 incident reports for September 2015, for the randomly selected dates of September 3 and September 13, 2015. One hundred and thirty-four of the 137 incident reports, or 98%, were reviewed and memorialized by a supervisor within seven days, as required. Thirteen of 14 arrests submitted, or 99%, were memorialized by a supervisor within the required 72 hours. Fifteen vehicle crash reports included the supervisor's name or signature on the report, but not the date of review.

MCSO continues to show improvement in this area by requiring that deputies document the date when incident reports are turned in, and requiring that supervisors sign and date the review. We have noticed an increased number of vehicle crash reports with supervisor signatures and dates of review, which is a positive step. However, there are still many vehicle crash reports with only a printed supervisor's name and no date of supervisory review. MCSO needs to ensure that all vehicle crash reports are reviewed, signed, and dated by supervisors.

We presently do not have the latitude to select specific cases of arrests for review due to the fact that MCSO does not have a mechanism to distinguish arrests reports from the total population of incident reports. MCSO advised us, during our October site visit, that it is working on a coding solution that will enable the agency to provide us with arrest reports in the near future. Until we have access to all arrest reports and can audit selected reports for compliance, we will not be able to verify Phase 2 compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

Our process for verification consists of reviewing supervisors' documentation of any arrests that are unsupported by probable cause or are otherwise in violation of MCSO policy; or that indicate a need for corrective action or review of agency policy, strategy, tactics, or training. MCSO submitted policies EA-11 that was revised on September 5, 2014 (Arrest Procedures). EA-11 states that supervisors shall document any arrests that appear unsupported by probable cause or are otherwise in violation of MCSO policy; or indicate a need for corrective action or review of MCSO policy, strategy, tactics, or training. Supervisors shall take appropriate action to address violations or deficiencies in making arrests, including notification of prosecuting authorities, recommending non-disciplinary corrective action for the involved deputy, and/or referring the incident for administrative or criminal investigation. EA-11 is in compliance with the requirements of Paragraph 94.

We requested all Incident Memorialization Forms for the period in review. MCSO's submission consisted of eight Incident Memorialization Forms, provided as proof of compliance with Paragraph 94, for the period of review from July 1, to September 30, 2015. Two incidents occurred in July 2015, three occurred in September 2015, but the other three incidents actually occurred outside the period of review. Both incidents in July involved arrests for lack of identity documents wherein the deputy failed to notify the supervisor and obtain approval for the investigation. The incidents in September were related to lack of probable cause for a DUI arrest, failure to obtain supervisory review of a DUI arrest within 72 hours, and failure to obtain supervisory approval of an investigation involving identity theft. MCSO submitted one Incident Memorialization Form for July, for an incident that received final review in July 2015, but the incident had actually occurred in November 2014. Two Incident Memorialization Forms submitted for August 2015 were actually for one incident that occurred in April 2015, but the review process was not finalized until August 2015. The deficiencies identified in the two Incident Memorialization Forms related to lack of documentation pertaining to a narcotics arrest, and noting an improper name of a unit in an incident report. The timeliness of the review process is an issue that we have previously identified, and one that MCSO needs to improve.

We previously recognized the increased involvement of supervisors in the review of traffic stops, and their diligence in identifying deficiencies with documentation and recordkeeping. The same diligence should be employed in identifying issues in arrests that appear unsupported by probable cause or are otherwise in violation of MCSO policy, as required by this Paragraph. For the last reporting period, MCSO submitted five Incident Memorialization Forms. For this quarter, there were five Incident Memorialization Forms generated for incidents that occurred during the reporting period. MCSO has taken the position that the low number of Incident Memorialization Forms is indicative of improved performance. We are hopefully optimistic that this is the case; however, we need verifiable data. During our October site visit, MCSO staff advised us that they would be instituting a coding system to identify arrest reports. Once arrest reports are identified by code, MCSO can query the CAD system, extract the reports, and

provide copies for our review. When this coding system is implemented, we will request a representative sample of arrests based on total population and include this review process as an additional tool to help us corroborate MCSO's statements regarding improved performance.

We recommend that commanders be actively engaged in overseeing the supervision of field personnel. BIO should continue its efforts to identify deficiencies and make recommendations for solutions, but the ultimate responsibility is on supervisors in the field to be actively involved and engaged with their deputies, especially as it relates to arrests and detentions. MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

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

We reviewed performance appraisals for 48 sergeants who received performance appraisals during this reporting period. Twenty-six of the 48 appraisals contained comments related to the quality and effectiveness of supervision. Two of the 48 appraisals contained comments regarding the supervisor's demonstrated ability to identify and effectively respond to misconduct. Eight of the 48 appraisals rated the supervisors on the quality of their reviews. MCSO needs to address the consistency of ratings on these dimensions.

During our October site visit, we met with MCSO staff and they showed us a draft of the revised Employee Performance Appraisal form. We noted that, as we had previously suggested, there was no mandatory field requiring commanders to assess a supervisor's ability to identify and respond to misconduct. MCSO advised us that they will continue to work on the draft to ensure that this dimension is included in the new EPA form. MCSO must also ensure that all the required dimensions are covered in each performance appraisal completed by commanders. As stated in our review of Paragraph 87, we strongly recommend that MCSO implement training on the new EPA form and Paragraph requirements as it relates to the review of employee performance.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

We reviewed EA-11 (Arrest Procedures), which was revised on September 5, 2014; and the policy meets the requirements of Paragraph 96. EA-11 requires that command-level personnel review, in writing, all supervisory reviews related to arrests that are unsupported by probable cause or are otherwise in violation of MCSO policy; or that indicate a need for corrective action or review of MCSO policy, strategy, tactics, or training. The commander's review shall be completed within 14 days of receiving the document reporting the event. The commander shall evaluate the corrective action and make recommendations in the supervisor's written report and ensure that all appropriate corrective action is taken.

We requested all Incident Memorialization Forms for the period in review. MCSO's submission consisted of eight Incident Memorialization Forms, provided as proof of compliance with Paragraph 94, for the period of review from July 1, to September 30, 2015. Two incidents occurred in July 2015, three occurred in September 2015, and three occurred outside the reporting period. Both incidents in July involved arrests for lack of identity documents wherein the deputy failed to notify the supervisor and obtain approval for the investigation. The three incidents in September were related to lack of probable cause for a DUI arrest, failure to obtain supervisory review of a DUI arrest within 72 hours, and failure to obtain supervisory approval of an investigation involving identity theft. MCSO submitted one Incident Memorialization Form

for July, for an incident that received final review in July 2015, but the incident had actually occurred in November of 2014. Two Incident Memorialization Forms submitted for August 2015 were actually for one incident that occurred in April 2015 but the review process was not finalized until August 2015. The deficiencies identified in the two Incident Memorialization Forms related to lack of documentation pertaining to a narcotics arrest, and writing an improper name of a unit in an incident report. The timeliness of the review process is an issue that we have previously identified, and one that MCSO needs to improve.

We have previously commented that the number of Incident Memorialization Forms seemed somewhat low. For the last reporting period, five Incident Memorialization Forms were submitted. For this period in review, there were only five Incident Memorialization Forms that were generated for incidents that actually occurred during the reporting period. The other three Incident Memorialization Forms were for incidents that occurred in previous reporting periods. We have yet to discern if MCSO's performance is actually improving or if supervisors are failing to identify issues related to their subordinates' work product. MCSO has asserted that training and policies have resulted in improvement in this area, resulting in the low number of Incident Memorialization Forms. We have asked MCSO for verifiable data in order to corroborate this. MCSO had previously stated that it could not segregate arrests reports for review from the overall population of incident reports. During our October site visit, MCSO staff advised us that they are currently developing a coding system for arrest reports that will give them the ability to extract these and provide copies for our review. When this coding system is implemented, we will request a representative sample of arrests based on total population and include this review process as an additional tool to help us corroborate MCSO's statements regarding improved performance.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

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

“The Maricopa County Sheriff's Office has purchased from the IAPro vendor, CI Technologies, a new program called EI Pro. The Sheriff's Office is beta testing

the original version of EI Pro. This program does record when a supervisor looks at a specific incident in a Deputy's profile. In the actual user log for the specific IAPro incident, the following information is recorded:

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

MCSO submitted a draft policy on the Early Identification System (EIS) in August 2015. We reviewed and returned the policy with comments and suggestions. During our October site visit, we met with the MCSO staff and attorneys regarding the EIS policy. The policy has been finalized and awaiting final approval. Until such time as EIS is established throughout MCSO and supervisors are able to review reports and information pertaining to their subordinates in order to implement corrective measures, and until supervisors have the ability to review the effectiveness of these interventions, MCSO is not in compliance with Paragraph 97.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

d. Regular Employee Performance Review and Evaluations

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

MCSO noted that policy GC-4 (Employee Performance Appraisals) is in the process of revision. MCSO submitted a draft of policy GC-4 in August 2015. The draft policy was reviewed and returned to MCSO with comments and suggestions. During our October site visit, MCSO advised us that they would be submitting the draft of GC-4 to the plaintiffs for review and comments. The policy is pending final review and approval.

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

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

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

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

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

MCSO submitted a draft of policy GC-4 (Employee Performance Appraisals) in August 2015. The draft policy was reviewed and returned to MCSO with comments and suggestions. MCSO advised us that it would be submitting the draft of GC-4 to the Plaintiffs for review and comments. The policy is pending final review and approval.

We reviewed employee performance appraisals for 48 sergeants who received performance appraisals in the reporting period. Twenty-six of 48 appraisals contained comments related to the quality and effectiveness of supervision. Two of the 48 evaluations contained comments regarding the supervisor's demonstrated ability to identify and effectively respond to misconduct. Eight of the 48 appraisals rated the supervisors on the quality of their reviews

As noted previously with deputy performance evaluations, the thoroughness and detail of supervisory performance evaluations vary widely. In addition, most of the Employee Performance Appraisals we reviewed for supervisors did not meet the requirements, as several dimensions that require evaluation were not addressed. MCSO showed us a draft of the revised Employee Performance Appraisal form during our October site visit. We recommended several changes that should be incorporated in the revised EPA form. We also recommend that MCSO conduct training on the new EPA form to ensure consistency in documentation and ratings.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

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

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

During our October site visit, we met with MCSO staff and attorneys. We received a copy of the Special Investigations Division's Operations Manual. The Operations Manual now states, "The mission of the Maricopa County Sheriff's Office Anti-Trafficking Unit is to identify, investigate, and apprehend individuals involved in the Transnational Criminal Organizations (TCO) that engage in the following crimes: the smuggling of narcotics, money laundering, home invasions, kidnapping, extortion, trafficking of weapons, and gang related crimes."

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

Section 10: Misconduct and Complaints

COURT ORDER XI. MISCONDUCT AND COMPLAINTS

a. Internally-Discovered Violations

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

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

During our previous site visits, we determined that there had been a number of changes in staff assignments in the districts, personnel were only vaguely aware of responsibilities outlined in GH-2 (Internal Investigations), and inconsistent methods were being used to conduct internal administrative investigations. We were also aware that there was no checklist or investigative document protocols in place that would assist supervisory personnel charged with conducting administrative investigations.

During this reporting period, PSB added additional staff and ultimately replaced most of the existing administrative and criminal investigators assigned to the unit. The Unit Commander was replaced as well. There continue to be two lieutenants assigned to liaison with district supervisors who conduct internal investigations and another lieutenant who will liaison with the detention side. Despite our concern over yet another change in PSB management and staff personnel, this new team has so far provided a fresh perspective and a focus on accomplishing needed changes in the PSB. We have had numerous personal meetings and telephonic discussions with them regarding our concerns; and in some cases, our need for information. To date, they have been responsive to our requests and needs.

We have consistently noted our concerns regarding the internal investigative process, including: lack of clarity of the violation; allegations that are overly broad; lack of justification for outcome/discipline; and lack of appropriate documentation. PSB personnel have agreed that modifications may be needed in their policies, and they have contacted several other agencies to receive copies of their policies. PSB personnel are also continuing to work on a supervisory training module and are actively addressing our concerns regarding “procedural” complaints.

During previous reporting periods, we have reviewed numerous administrative investigations. Some were investigated by PSB, and others by district supervisors. Some of the investigations reviewed were initiated internally after MCSO personnel brought forward concerns, indicating that there is recognition of the responsibility by at least some employees to bring forward potential misconduct. We continued to see this reporting period that some MCSO supervisors are noting and appropriately addressing employee misconduct through the investigative process. Of the 66 administrative investigations reviewed this reporting period, 25 were initiated internally. While many of those were related to deputy-involved traffic accidents or vehicle operations, others were obvious examples of supervisors noting and taking action on observed employee conduct.

Current PSB personnel have been made aware of the concerns we have brought forward, and we shall closely assess the steps they take to improve their internal investigation process. They have worked on finalizing the draft checklist for investigations and an investigative format to be used for conducting internal investigations. PSB has pursued outside investigative training for its staff and once staff completes the training, they will share the training with other MCSO supervisors. We will continue to work with PSB personnel as they revise any policies and develop appropriate supervisory training.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

b. Audit Checks

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

MCSO has not submitted any policies in support of this Paragraph.

In our last report, we noted that PSB had set up an IIU, or Internal Investigations Unit, to specifically address Paragraph 103 in its oversight of integrity audits. Though it had no guiding policy or operational guidelines for testing in place, IIU had conducted one integrity test to determine if marijuana had been properly verified and documented prior to turning it over to the Drug Enforcement Administration (DEA) for destruction. During our most recent site visit, we learned that PSB has temporarily suspended the IIU. PSB's new commander has set priorities for the bureau that include developing clear investigative responsibilities and an investigative checklist, completing policies, and sending personnel to relevant training; she has shuffled personnel to different assignments within PSB accordingly.

We have provided PSB with model integrity testing policies from a few law enforcement agencies with robust testing units, and we will continue to make ourselves available to assist PSB in the development of the IIU and its related policies.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

c. Complaint Tracking and Investigations

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

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

During the previous reporting period, MCSO provided a list of supervisors who were notified when personnel under their supervision were summoned for an investigation. MCSO provided the same type of list for this reporting period. Up to this point, there is still no method to document all of the areas regarding employee cooperation with investigations that are necessary to comply with this Paragraph. The Plaintiffs' attorneys have also noted concerns with compliance with this Paragraph. MCSO informed us during the previous reporting period that the checklist it was developing that would include all the information that needed to be documented regarding employees cooperating with investigations and notification of supervisors was still in draft form.

During this reporting period, PSB staff advised us that the draft checklist was complete as was the investigative format document that would be used by all supervisors conducting administrative investigations. PSB was in the process of obtaining a legal review before forwarding it for our review and comment. Once completed, the checklist and investigative format will also be used to assess compliance with Paragraph 105.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

During the last reporting period, we reviewed numerous completed internal investigations. We continued to find problems with the investigations, the findings in the investigations, and the discipline assigned; as well as issues with compliance with MCSO policies and procedures.

During this reporting period, we had several meetings and discussions with PSB personnel, and they acknowledged the lack of consistency in the agency's internal investigations and the need to provide training to all supervisors. PSB personnel are currently working on possible revisions of Internal Affairs policies, and they have committed to providing training to all supervisors on how to conduct administrative investigations. We will continue to monitor their progress in these areas and provide input to the process as requested.

The investigative checklist that has been discussed for some time, along with an investigative format, have been finalized and forwarded for legal review prior to forwarding to us for our comments and suggestions. This checklist, and investigative format, once finalized, should assist in ensuring that critical data required is obtained, utilized, and reviewed during the investigative process.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

MCSO has two obligations under this Paragraph: to maintain and make records available. At this time, we have no reason to believe that MCSO has withheld any data requested by the Monitoring Team. However, the Paragraph also covers the requirement that MCSO make un-redacted records of such investigations available to the Plaintiffs' attorneys as well. The Plaintiffs' attorneys have advised us in during past reporting periods that MCSO had not produced certain information that they had requested on multiple occasions. Plaintiffs' attorneys did not make that assertion during their review and comments on our most recent report.

MCSO Professional Standards Bureau now has a tracking system that was purchased for its use. PSB is inputting both criminal IA investigations and administrative IA investigations into its tracking system, and are now able to provide us with a complete list of all criminal and administrative IA investigations, along with their status upon request. PSB is also able to use different search criteria to obtain information; and it has been able to demonstrate this process to us. On a number of occasions, we have contacted PSB for specific case information, and PSB staff have responded quickly to our requests.

MCSO has been responsive to our requests, and it appears that the Plaintiffs' concerns have been addressed, as there is no longer a statement from Plaintiffs' attorneys to the contrary. MCSO has also instituted a new system by which our document requests are now provided to us, the Plaintiffs, and the Plaintiff-Intervenors simultaneously. This process was implemented in the reporting period covered in our next report, and will be described in detail in that document.

Phase 1 is not applicable for this Paragraph.

Compliance Status:

Phase 1: Not applicable

Phase 2: Not in compliance

Section 11: Community Engagement

COURT ORDER XII. COMMUNITY ENGAGEMENT

a. Community Outreach Program

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

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

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

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

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

On April 4, 2014 an amended Order (Document 670) gave us the requirement to hold public meetings. We scheduled two community meetings during this reporting period. The first community meeting was held on July 22, 2015 at the Peoria Community Center, located at 8335 West Jefferson Street, Peoria, AZ 85345. Peoria is located in MCSO Patrol District 3. The meeting was held from 6:30 p.m. until 9:00 p.m. Approximately 60 community members attended this meeting, the majority of whom were Latino. The meeting was conducted in English and Spanish.

A representative of the ACLU of Arizona offered remarks, focusing on the history of the *Melendres* case. Remarks also included mention of the Court requirement for MCSO deputies to wear body cameras, delivery of supervisor training, and implementation of an early warning system.

Community Advisory Board (CAB) members were in attendance and offered remarks to the audience in Spanish and English. CAB members encouraged the community members to be involved in the communication between the community and the Monitoring Team, citing our Court-directed responsibility for oversight of the MCSO reform process. CAB members informed the attendees that the CAB meets with community members and solicits their input regarding MCSO progress in the reform process. A CAB member explained that this input is provided to the Monitoring Team and pointed out that there were survey sheets available at the meeting for documenting any input that attendees wanted to share with the Monitoring Team.

We explained to the meeting attendees our role and responsibilities to the community, the progress being made, as well as challenges ahead in implementing the Order. As part of the initial presentation, and during questions and answers, we made it clear that MCSO did not have the authority to enforce immigration laws except to the extent that it is enforcing Arizona and federal criminal laws. It was also explained to those in attendance that we would have a regular presence in Maricopa County and we provided our contact information to all parties. We advised the attendees that the Monitor has the authority to take complaints or compliments about MCSO, and to ensure that complaints are investigated completely. Further, we explained that new policies, procedures, training, and equipment are being developed for MCSO deputies and supervisors to ensure that they are working within the law and toward the best interests of the people of Maricopa County.

The MCSO representative thanked the community members for attending the meeting, and stated that MCSO wanted to hear the community members' comments and complaints. Members of the MCSO Professional Standards Bureau (PSB) attended the meeting to receive any complaints from attendees. The community meeting was held in MCSO Patrol District 3, and the MCSO representative advised the audience that the Commander of District 3 was also in attendance to receive any complaints or feedback from the attendees.

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

The second community meeting scheduled during this reporting period was to be held in Buckeye at Rainbow Valley Elementary School, located at 19716 West Narramore Road, Buckeye, AZ 85326 on September 23, 2015. Buckeye is a rural locale in MCSO Patrol District 2. No community members attended the meeting; even though it was widely advertised using area-focused radio, print media, and social media in both English and Spanish. Some of our community meetings are held in less densely populated locales in order to facilitate meeting attendance by members of those communities who receive law enforcement services from MCSO. We have previously experienced low community member attendance in the more remote, less densely populated areas such as Buckeye. We will be evaluating the community meeting process this year to capitalize on what is working and identify areas in need of improvement. We will make our recommendations to the Court if we believe adjustments to the Order are required.

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

While approximately 60 community members were in attendance at the meeting in Peoria, no community members came to the meeting that was scheduled in Buckeye. The meeting in Peoria allowed ample opportunity for attendees to ask questions or offer comments. Participants could either use the roving microphone we provided, or write their comments or questions on note cards that were provided for us to read aloud and provide answers. Questions were successfully fielded, and attendees politely waited their turn at the microphone. Monitoring Team personnel moved throughout the meeting location, providing microphones where needed or note cards for those who wished to ask their questions in writing. Community members asked questions and offered comments, many of which were critical of MCSO. Attendees cited examples of how they felt intimidated or thought they were mistreated by MCSO. One attendee stated that the class of people impacted by MCSO is not limited to Latinos, but also includes Native Americans, Asians, and other groups. The ACLU of Arizona representative addressed this comment, pointing out that the manner in which data is now being collected reflects whether Latinos, Asians, Native Americans and other groups are being discriminated against. Another attendee made the point that bias-free policing does not just have a racial or ethnic component, but can also include gender and sexual orientation.

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

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

Selected members of the Monitoring Team in Maricopa County, some of whom are bilingual, attended the meeting in Peoria. Spanish translation was provided to ensure that all remarks, questions, and answers were understood by the Spanish-speaking attendees.

In addition, representatives of ACLU of Arizona and MCSO offered remarks at the meeting. MCSO was well represented and were recognized for their attendance. Several of the MCSO personnel in attendance at both meetings play instrumental roles in the implementation of the Court's Order.

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

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

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

b. ~~Community Liaison Officer~~ Monitor

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

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

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

At the community meeting in Peoria, we and the Plaintiffs' representatives explained the breadth of the Order to the community members in attendance. The MCSO representative thanked the community members for attending the meeting and stated that MCSO wanted to hear the community members' comments and complaints. Members of the PSB attended the meeting to receive any complaints from attendees. The community meeting was held in MCSO Patrol District 3, and the MCSO representative advised the audience that the Commander of District 3 was also in attendance to receive any complaints or feedback from the attendees.

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

c. Community Advisory Board

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

We have worked closely with the Plaintiffs' counsel to support and provide guidance to the three-member CAB. CAB members attended our July 22, 2015 community meeting in Peoria and offered remarks to the audience in Spanish and English. CAB members encouraged the community members to be involved in the communication between the community and the Monitoring Team, citing our Court-directed responsibility for oversight of the MCSO reform process. Cab members informed the attendees that the CAB meets with community members and solicits their input regarding MCSO progress in the reform process. They routinely report community feedback and concerns to the Monitor. A CAB member also explained that survey sheets were available for providing input to the Monitoring Team.

On July 23, 2015, a member of the CAB accompanied members of the Monitoring Team and representatives of the ACLU of Arizona to an MCSO meeting on supervisory response to scenes and documentation. We hosted a meeting on September 23, 2015 with the CAB and ACLU of Arizona to discuss a number of items, including CAB members' recent interaction with community members, the process for handling civilian complaints, the monitoring process, MCSO training, planning future community meetings and planning future CAB meetings with community members.

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

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

Paragraph 117. ~~*The CAB shall hold public meetings at regular intervals of no more than four months. The meetings may be either public or private as the purpose of the meeting dictates, at the election of the Board. The Defendants shall either provide a suitable place for such meetings*~~

that is acceptable to the Monitor, or pay the Monitor the necessary expenses incurred in arranging for such a meeting place. The Defendants shall also pay to the Monitor the additional reasonable expenses that he will incur as a result of performing his obligations with respect to the CAB including providing the CAB with reasonably necessary administrative support. ~~The meeting space shall be provided by the MCSO. The CLO Monitor shall coordinate the meetings and communicate with Board members, and provide administrative support for the CAB.~~

During this reporting period, the CAB interacted with community members and participated in meetings with various members of the Monitoring Team and Plaintiffs' representatives. On September 23, 2015, the CAB met with the ACLU of Arizona and the Monitoring Team. Among the topics discussed was the creation of a flyer to enhance the existing advertising strategy for announcing our community meetings. We decided that we would lead a collaborative effort with the CAB and ACLU of Arizona in the creation and distribution of the flyers to advertise future community meetings. We also discussed the civilian complaint process, the monitoring process, MCSO training, planning our future community meetings, and planning future CAB meetings with community members.

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

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

Section 12: Concluding Remarks

While we have noted improvement in MCSO's progress toward compliance, the pace remains unacceptably slow. We assess compliance with 89 Paragraphs of the Order. MCSO is in Phase 1 compliance with 43 of those Paragraphs, or 57%. In 14 Paragraphs, Phase 1 compliance is not applicable – that is, a policy is not required. MCSO is in Phase 2 compliance with 33 Paragraphs, or 37%. While MCSO published several Briefing Boards and Administrative Broadcasts that touched on Order-related topics during the reporting period, it did not publish any new Order-related General Orders during this reporting period. My Team and the Plaintiffs' attorneys reviewed several drafts of policies over the past several months, and we anticipate their issuance in the near future. However, some are tied to the mandated Supervisor and Command Level Training, which remains mired in the development stage.

In response to concerns raised by the Parties regarding full and unfettered access to documents, MCSO, via its Defense counsel, instituted a new process in which all of the Monitoring Team's document requests would be provided at the same time to the Monitoring Team, the Plaintiffs, the Plaintiff-Intervenors, and other interested parties involved in the contempt proceedings. While we commend the transparency of this process, we expressed concerns that it would add delays to providing the files we need for our quarterly and other reviews. The process was used to provide all of the documents reviewed for this report, and we noted that many of our requests arrived much later than we had previously been accustomed to, and in several cases, after this report was drafted. We realize that there can be challenges when any new process is implemented, and we are willing to work with MCSO to make this process work because we recognize the access it provides to the other Parties, but the timeliness issues must be addressed. Failure to receive documentation we need to make our compliance determinations will have a negative effect on compliance status. We simply cannot review what we do not have in our possession when we need it.

Further, our concerns regarding the quality of internal affairs investigations persist. While we are hopeful that the new leadership at PSB will bring about the requisite changes and that investigations of sworn personnel department-wide will improve, we shall remain vigilant in our scrutiny of this most important component of the reform process.

Based on some issues that have come to light pursuant to our authority to review administrative investigations, on July 31, 2015, the Court assigned my Team the additional responsibility of reviewing MCSO's Property Unit operations. We have made physical inspections of the Unit and conducted interviews with key personnel, as well as confirming the status and location of certain seized items. The Court further ordered, "MCSO is not to destroy any materials stored in its property unit until such time as the Monitor may review the unit and its operation more fully with Defendants." After we commenced our review, MCSO requested, and was allowed to, dispose of a batch of unclaimed inmate property. However, MCSO has not been able to adequately document the destruction of this property, and we have advised MCSO that no further authorizations to destroy property will be allowed until we are satisfied with the documentation from this initial instance.

We will ultimately document our observations and recommendations for the unit, but the process has been slowed by MCSO's delayed response to our requested information; key MCSO personnel being unavailable during our most recent site visit even though they were initially scheduled to be present; and, as mentioned above, the lack of a complete accounting for property destroyed after we began our review.

Appendix: Acronyms

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

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

**Plaintiffs' Comments on Monitor's Draft Sixth Quarterly Report
January 28, 2016**

Sections 1- 3, 12: Introduction, Executive Summary, Implementation and Concluding Remarks

Plaintiffs emphasize their agreement with the Monitor that the MCSO's pace with compliance of the Court's orders remains unacceptably slow. During this reporting period, the MCSO failed to make advances in completing supervisory training, a key element required by the Court, and has still not achieved compliance with the provisions of the Court's orders relating to Early Identification System policies. The failures of the MCSO to make real progress in these areas cannot be overstated as these are key aspects of the Court's orders and overlap significantly with overall compliance in several other areas of the Court's orders.

Section 4: Policies and Procedures

Paragraph 24. The draft report confirms that there are no centralized policies for handling community reports and, indeed, no database of what community reporting mechanisms exist in the different divisions and districts. For this draft report, CID sent a "one time" survey to all divisions to document all methods used to receive complaints from the public. Plaintiffs agree with the Monitor's assessment that MCSO cannot be in compliance with this Paragraph without establishing a system for tracking the various methods by which the Sheriff's Office receives complaints of crimes by the public, in addition to drafting policies on how to handle such public reports. MCSO should be able to state with certainty, for any given month, the method for tracking, reporting and responding to complaints from the community in each division and district.

Paragraph 25. The Monitor discusses its review of a sample of traffic data as the basis for its conclusions relating to bias-free traffic enforcement policies. Plaintiffs disagree with the Monitor's assessment that the MCSO is in compliance with this Paragraph when deficiencies are noted in the subparagraphs. Additionally, Plaintiffs request that the Monitor provide details about the type of review they engage in to determine compliance. Plaintiffs contend that it is not possible through a review of traffic stop data alone to determine that MCSO did not base stops to any degree on race or ethnicity during the reporting period. Plaintiffs also note that the report does not address critical factors, including: what criteria were used, if any, to rule out pretextual stops; whether complaints, EIS data, and other information were taken into account in determining compliance here (i.e., what "red flags" does the Monitor consider apart from noting the location of the sample traffic stops?); whether any analysis was done of deputies' discretionary decisions *not* to conduct a traffic stop when a basis existed to do so (i.e., whether MCSO deputies disproportionately elect not to conduct traffic stops of white motorists as compared to Latino motorists; what checks has MCSO put in place, if any, to prevent selective reporting by MCSO officers, and whether those checks are actually effective in preventing selective reporting. More detail is needed to provide confidence that the sample reviewed by the Monitor is collected from a reliable dataset.

Paragraph 25.g. In the discussion of unlawful extension of detentions, the draft report notes two stops that lasted longer than necessary. The report also certifies that MCSO is in compliance with this subparagraph. Plaintiffs strongly disagree that MCSO can be in compliance with this Paragraph until it has eliminated all unlawfully prolonged detentions. It is not sufficient to act “mostly” constitutionally. Furthermore, the Monitor provides insufficient explanation of why these two stops were deemed unlawfully prolonged, nor provides details as to why the 11 other stops that were extended were not unlawful. These details are important for review by the parties and the public. Plaintiffs note that there is no such thing as a de minimis deprivation of one’s Fourth Amendment rights. See *Rodriguez v. United States*, 135 S. Ct. 1609 (2015).

Paragraph 25.h. The draft report notes discrepancies in the Vehicle Stop Contact Forms and the dispatch CAD printouts regarding the duration of traffic stops. The draft report does not provide any details about the seven cases in which these documents did not match up, including any discussion of an explanation for the discrepancies and the Monitor’s investigation into the same. Plaintiffs would defer a ruling on compliance until there is 100% compliance or acceptable reasons support falling short of 100% compliance.

Paragraph 25.i. The draft report notes that all but one driver stopped provided a drivers’ license to deputies. This small sample does not meaningfully examine whether MCSO is in compliance with this subparagraph. The Monitor also does not state whether the one driver provided no documentation, provided an acceptable form of identification, or provided something else. Unless the Monitor targets additional data from persons who did not provide drivers’ licenses when stopped, a more accurate conclusion is that the sample data did not indicate MCSO was in violation of this subparagraph.

Section 5: Pre-planned Operations

No comments.

Section 6: Training

Paragraph 42. The draft report discusses, among other things, the Monitor’s recommendations related to trainer qualifications and evaluations. Plaintiffs agree with the recommendations, but clarify that the appointment and reappointment of instructors for Court-ordered trainings must be discussed with the Monitor and Plaintiffs (see Paras. 46, 47), and MCSO may not assume previously used instructors remain acceptable to all parties. Plaintiffs stress that the policies related to trainer selection be finalized as soon as possible. Further, we suggest that all parties, including the MCSO, review available teaching evaluations for past courses and/or recordings of classes taught in deciding which trainers to utilize. Doing so is critical to ensuring that training is effective. Finally, we suggest that the Monitor’s report note the value of holding a train-the-trainer session for each new training or new trainers.

Regarding the selection of instructors for the 2015 Annual Combined Training, this paragraph of the draft report notes that the selection and hiring of instructors did not occur during this reporting period. At the October site visit it seemed that MCSO would use previously accepted trainers without the opportunity for the Monitor and Plaintiffs to reevaluate them or substitute

trainers with preferred trainers that were not available in 2014. This unnecessarily rushed the process for selecting trainers and likely contributed to the late start for the Annual Combined Training.

This paragraph of the draft report also discusses MCSO's finalizing training and selection of instructors for the Body-Worn Camera Training that was not reviewed or approved by the Monitor or Plaintiffs. Plaintiffs suggest MCSO include a check to ensure it has complied with this crucial Court requirement. One possible solution would be to include a space on the materials alongside internal MCSO sign-offs indicating the date of the Monitor's approval. As the Monitor describes in Paragraph 43, Plaintiffs agree that the decision to deliver this training was premature.

Paragraph 43. The draft report discusses, among other things, EIU's delivery of the Blue Team and IAPro training and TraCS training without an opportunity for the Monitor or Plaintiffs to observe. MCSO must timely inform the Monitor and the parties of these trainings, among other things, to ensure they comply with the Court's orders. EIS requirements have been particularly problematic, as reflected by the significant and unreasonable delay in finalizing EIS policies. (More comments on those policies, which inform EIS training programs, are contained below.) Community Advisory Board members have also expressed interest in providing input and/or attending required trainings, so advanced notice is paramount.

This Paragraph also discusses the Supervisor Training lesson plan. Plaintiffs note that many comments from the Monitor, Plaintiffs, and Plaintiff-Intervenor went unaddressed in the second draft without explanation. Plaintiffs understand that, going forward, MCSO will provide substantive responses to edits and comments that it rejects. This will make the process for finalizing lessons plans more efficient.

Paragraph 44. The draft report describes the repeated failure to provide the Monitor and Plaintiffs training schedules for Court-mandated training in advance of training. Plaintiffs note that MCSO has also at times failed to provide timely updates to training schedules. This has effectively denied Plaintiffs the ability to observe Court-mandated training, in violation of the Court's order.

This paragraph of the draft report also addresses the circumstances of other court-ordered training including the Blue Team/IAPro training. Plaintiffs note that this paragraph and the results described here cannot be read in isolation, but must be considered in light of the Monitor's comments in the preceding paragraphs describing premature trainings and the inability for the Monitor and/or Plaintiffs to comment on and observe them.

Paragraph 45. The Monitor notes the MCSO's failure to incorporate scenarios and interactive exercises into the Supervisor Responsibilities: Effective Law Enforcement training. Plaintiffs and the Monitor have repeatedly made this recommendation and MCSO has repeatedly failed to provide any materials related to such scenarios and interactive exercises. MCSO must take more seriously the requirement to incorporate learning formats other than lecture into training and the planning that is involved in executing effective interactive trainings.

Plaintiffs also note that, as compared to the collaborative and iterative process for writing and finalizing the initial Fourth Amendment and Bias-Free Policing training curriculum, the process for development of the supervisory training curriculum has been marked by MCSO's refusal to engage in the collaborative process that was previously successfully used by the parties and the Monitor. MCSO's attitude toward the supervisory training curriculum development has been marked by a more adversarial attitude, as compared with Plaintiffs' past experience. In Plaintiffs' view, this shift away from a collaborative approach, as well as MCSO's delays, has been a key cause of MCSO's failure to comply with this requirement.

Paragraphs 48-51. The draft report discusses the draft combined annual Bias-Free Policing and Fourth Amendment training. Plaintiffs confirm that towards the end of the reporting period MCSO appeared more receptive to Plaintiffs' comments on the lesson plan than earlier in the period. Plaintiffs also concur with the Monitor's assessment of deficiencies in the process of selecting trainers for the 2015 Annual Combined Training. Although all parties wish to have these trainings completed as soon as possible, that desire should not interfere with the Monitor's or Plaintiffs' opportunity to thoroughly evaluate the relevant elements of the training. Also, as the training is ongoing, Plaintiffs contend that Phase 2 compliance status should be deferred until the parties have an opportunity to observe the trainings, assess test results, and review course evaluations.

Paragraphs 52-53. The draft report discusses MCSO's extremely slow progress towards finalizing a Supervisor Training. The amount of time that has passed since the Court issued its Supplemental Injunction/Order and the failure by MCSO to finalize the Supervisor Training is completely unreasonable. It is especially appalling given the amount of time MCSO has taken between drafts and how the Monitor, Plaintiffs, and Plaintiff-Intervenor have repeatedly pointed to the same deficiencies in those drafts. Specifically, Plaintiffs disagree with the Monitor's Draft Report at Paragraph 53 stating, "MCSO has been making satisfactory progress" on the Supervisor Training between July 1-September 30, 2015. For example, the drafts provided during this reporting period remained deficient on topics listed in Paragraph 53, subparagraphs a, h, and i. The urgent need to finish this process has been highlighted by the serious failures in supervision and accountability that have been discovered in connection with the ongoing contempt proceedings. MCSO's serious lack of compliance with supervisory training requirements has left supervisors using new systems without even basic training as to their responsibilities, including procedural responsibilities and soft skills. New supervisors and veteran supervisors, alike, are in need of this training. The failure to finalize the EIS policies further impacts the Supervisor Training. Also, there are supervisor-level trainings, like PSB, that should be provided to all supervisors, not just some. This seriously undermines the effectiveness of a number of other reforms in the Court's order. Plaintiffs also note that, while there is an enormous amount of material that must be covered, the trainings must be provided over an appropriate amount of time and in a way that adheres to Paragraph 45.

Section 7: Traffic Stop Documentation and Data Collection

Paragraph 54.i. The draft report indicates that the duration of two traffic stops in the sample size was excessive. The report explains the circumstances for one of those stops but not the other. The draft report also explains that the extended duration of 11 additional traffic stops were

justified but does not specify the circumstances of those stops. Plaintiffs suggest that the Monitor provide additional details about these types of discrepancies in future reports.

Paragraph 64. Plaintiffs have repeatedly voiced serious concerns about the setting of thresholds in the EIS system, which has coincided with an unacceptably large proportion of false alerts, which waste supervisors' time and mask problems with deputies that need to be addressed. The draft report indicates that the MCSO has been unable to explain how current thresholds were set, that the EIU does not share its monthly analyses of the alerts with the ASU staff contracted to conduct traffic stop data analysis as well as significant problems with the TraCS data provided to ASU for analysis. Plaintiffs strongly encourage the Monitor to press for the immediate resolution of these long-standing problems. Additional comments about deficiencies with the EIS system are included in Section 8 of Plaintiffs' comments.

Paragraph 69. Plaintiffs are concerned with the dramatic fluctuations in compliance with the supervisory note requirement between April and September 2015. Although the BIO inspection memos for this time period indicate the percentages of compliance or non-compliance with the supervisory note requirement, they do not indicate any corrective action or discipline taken to ensure supervisors understand the requirements and comply with the completion of supervisory notes. Plaintiffs ask the Monitor to continue to inquire into the reasons for these fluctuations and non-compliance including consequences for failure to comply.

Section 8: Early Identification System (EIS)

Plaintiffs agree with the Monitor's largely critical assessment of the MCSO's state of compliance in this area. Of the nineteen paragraphs relating to EIS, the MCSO is in Phase 1 compliance in ten paragraphs and not in compliance with nine paragraphs. The MCSO is not in Phase 2 compliance with sixteen of these same nineteen paragraphs, in compliance with two paragraphs, and one paragraph is deferred. The fact that the MCSO is still not in "policy compliance" with nearly half of the applicable injunction paragraphs demonstrates a serious lack of commitment to the reform process since all that is required here is to develop and approve applicable policies; no actual "practice compliance" is required. The fact that the MCSO has only complied with two paragraphs for Phase 2 compliance demonstrates even less of a commitment to comply with the Court's orders.

The MCSO's failure to attain more compliance with EIS is particularly troubling since this program is designed to help the officers, particularly "problem officers" who can be identified before serious problems result that impact the lives of the officers themselves as well as the community they serve.

As noted on page 6 of the Monitor's draft report, the MCSO advised during the most recent site visit that it is reconsidering the means by which it incorporates incident reports into the EIS database. At that time, the MCSO offered no alternative to its previous commitment to incorporate incident reports into the EIS database. During a recent conference call, there was some discussion of how the MCSO would accomplish this. During the upcoming site visit, Plaintiffs strongly urge the Monitor to rigorously examine this alleged alternative and see if it

complies with the injunction. We look forward to discussing this issue in detail at the upcoming site visit.

Paragraph 72. Regarding the development and implementation of the EIS, the Monitor notes the steep decline in the compliance rate of supervisors effectively using many of the EIS tools available for supervision during 2015. The MCSO has stated this is due to a learning curve involving a new computer system. Plaintiffs request that the Monitor closely verify and examine the tools that supervisors are using during the upcoming site visit.

Paragraph 73. The draft report notes that the “current leadership is enthusiastically moving forward and embraces the development of statistical tools to deal with the current problems involving ‘false’ alerts, among other issues.” While Plaintiffs agree that the current MCSO personnel in EIU are “enthusiastic,” this has not translated into a decline in the number of false alerts. In fact, as of our letter to the Monitor and Defendant’s counsel dated October 30, 2015, the number of false alerts had tripled between May and October, 2015 (See MELC 233022 and Lt. Lugo-Capt. Aldorasi Memo October 12, 2015, page 3) and comprised over one half of all the alerts generated by the EIS system. If there has been improvement in this area, Plaintiffs request documentation of it at your earliest convenience. Plaintiffs also request that the Monitor examine the current thresholds used by the MCSO to identify whether these thresholds are appropriate and what, if any role, they have in setting off the unacceptable number of “false alerts” noted above.

Section 9: Supervision and Evaluation of Officer Performance

The Monitor’s draft report is basically accurate and appropriate in that it presents a largely critical view of the MCSO’s state of compliance in this area. Of the nineteen paragraphs relating to “Supervision and Evaluation of Officer Performance,” the MCSO is in Phase 1 compliance in ten paragraphs and not in compliance with nine paragraphs. The MCSO is not in Phase 2 compliance with sixteen of these same nineteen paragraphs, in compliance with two paragraphs, and one paragraph is deferred. The fact that the MCSO is still not in “policy compliance” with nearly half of the applicable injunction paragraphs demonstrates a serious lack of commitment to the reform process since all that is required here is to develop and approve applicable policies; no actual “practice compliance” is required. The fact that the MCSO has only complied with two paragraphs for Phase 2 compliance demonstrates even less of a commitment to comply with the Court’s Order.

Paragraph 83. The Monitor reports that “MCSO has not yet established which type of arrests supervisors are required to respond to.” This should be easily and quickly remedied. Plaintiffs strongly urge the Monitor to press this issue at the upcoming site visit and verify MCSO’s promise that these concerns would be addressed by the end of 2015 (see Draft Report, page 110). Plaintiffs also urge the Monitor to verify that the MCSO has directed deputies to complete incident reports in situations where they previously would have filled out “FI cards” as the MCSO promised to do. (see Draft Report, page 108). Likewise, the MCSO statement that the “timeline for the establishment of daily activity reports in CAD is December 31, 2015,” (see Draft Report pages 109 and 118) should also be verified.

Paragraph 86. The draft report notes that “supervisors do not complete daily activity reports to document their supervision or daily contacts with the deputies assigned to them.” The report further indicates that the Monitor is involved in ongoing discussions regarding possible methods to document these interactions. Plaintiffs look forward to further developments in this area and hope they will be discussed in the upcoming site visit.

Paragraph 89. The Monitor states that “the MCSO does not have a mechanism to distinguish arrests reports from the total population of incident reports” and further states that “MCSO advised us, during our October site visit, that it is working on a coding solution that will enable the agency to provide us with arrest reports in the near future.” The stated completion date for this project was December 31, 2015. Plaintiffs look forward to a further progress report on this issue and request that it be revisited in the upcoming site visit.

Plaintiffs note that the MCSO is not in compliance with either Phase 1 or Phase 2 of Paragraph 100 of the injunction, in part because “the thoroughness and detail of supervisory performance evaluations vary widely.” Plaintiffs request a further effort to standardize supervisory performance evaluations on a level that is thorough and detailed.

Section 10: Misconduct and Complaints

Paragraphs 102 and 103. The draft report discusses the Court’s order regarding internally-discovered violations and lists numerous ways in which MCSO has made progress but still falls short. Plaintiffs reiterate that this is the same long-standing noncompliance that MCSO has failed to correct quarter after quarter. MCSO must finalize supervisor trainings and PSB trainings (which every supervisor should be required to attend) immediately. Moreover, these trainings must focus on more than the procedural aspects of supervision and complaint investigations. Leadership, preventative measures, and training on how to investigate are just as important as knowing what forms to fill and how.

Paragraph 104. The draft report notes that the MCSO is still finalizing the checklist that will help evaluate compliance with these paragraphs, a checklist that it has spent the better part of a year finalizing. Plaintiffs note, again, that MCSO is far from compliance and the delay is unacceptable. Furthermore, Plaintiffs note that a checklist of all the information that needs to be documented regarding employees cooperating with investigations will not, by itself, lead to compliance. Supervisors and investigators must be trained on conducting investigations, as well as noting red flags before they develop into disciplinary problems, not just the process.

Section 11: Community Engagement

Plaintiffs agree with the Monitor’s overall assessment regarding the need to evaluate the community meetings. Plaintiffs’ counsel is committed to continue working with the Monitoring Team and Community Advisory Board to ensure community members are aware of the Court’s orders and are offered meaningful ways to provide inputs to the Monitoring Team about the MCSO’s policies and practices.

**Comments on the Sixth Report of the Independent Monitor
for the Maricopa County Sheriff's Office
Provided by Plaintiff-Intervenor United States
January 29, 2016**

Pursuant to Paragraph 132 of the Court's Supplemental Permanent Injunction (ECF No. 606), Plaintiff-Intervenor United States writes to provide comments on the Sixth Report of the Independent Monitor for the Maricopa County Sheriff's Office, covering the third quarter of 2015. Our comments regarding specific aspects of the report are detailed by paragraph below, but we first provide a few comments relating to the monitoring report and process overall.

First, the report notes several circumstances where there was a lack of transparency from MCSO—where the monitoring team learned of significant decisions only after the fact, or where there was a lack of communication about the status of various projects. These comments resonated with us, as we have noted a pronounced adversarial posture during some aspects of the compliance process. It is our strong desire to work collaboratively with MCSO, and it is our experience that the difficult task of reforming a law enforcement agency cannot truly be accomplished any other way. We applaud the monitoring team's efforts to craft a review protocol for policy and training materials, as we also applaud MCSO's agreement to provide all non-confidential compliance materials to the monitoring team, Plaintiffs, and Plaintiff-Intervenors simultaneously. These are important steps, and we would welcome additional proposals to enhance collaboration, especially with regard to projects that require substantial input from Plaintiffs and Plaintiff-Intervenors, such as the content and design of significant training programs.

Second, the Order includes several provisions requiring MCSO to collect, track, and analyze data about its traffic enforcement activities, in order to look for “warning signs or indicia of possible racial profiling or other misconduct.” We note that MCSO's compliance with these provisions of the Order remains at a very early stage. We wanted to raise now our concern that compliance with these provisions of the Order will be primarily assessed through an internal benchmarking analysis—where, as a way to explain a racial or ethnic disparity in law enforcement practices, the citation rate of a deputy will be compared to other similarly-assigned MCSO deputies. In this case, the Court found that MCSO deputies broadly conducted traffic enforcement that discriminated against Hispanics. For that reason, we have concerns about MCSO deputies themselves serving as the benchmark or comparison group to assess the propriety of other deputies' traffic stop activity. As the report notes, MCSO has not provided documentation of the thresholds that they are using to conduct this analysis, and has explained that this documentation does not exist. We hope to work closely with MCSO and its partners at Arizona State University to identify multiple ways—beyond peer-to-peer analysis—to assess officer activity, as contemplated by the Order.

Third, we would like to address the monitoring team's methodology of reporting compliance in terms of percentages, and defining “operational implementation” as requirements of the injunction being complied with “94% of the time, or in more than 94% of the instances being reviewed.” It is our view that although percentages are certainly helpful in getting a

snapshot of where an agency stands overall, the raw number can be somewhat misleading. When it comes to preventing constitutional violations, not all provisions of the supplemental permanent injunction are equal; some provisions are far more critical in that respect than others. But reporting compliance as a percentage gives all of the injunction's requirements equal weight. We raise the issue here to ensure that the focus remains not only on the percentage of requirements met, but also on the core and ultimately qualitative question of MCSO's progress in preserving and protecting constitutional rights.

Finally, we note that we have reviewed the comments submitted earlier today by the Plaintiffs, and we concur in all of them.

We will now turn to specific findings in the report, proceeding from the beginning of the report to the end.

Paragraph 25-j, pp. 25-26

The Monitor notes that MCSO will begin using body-worn cameras, that MCSO has modified its Vehicle Stop Contact Form to include information about the use of body-worn cameras, and that the Monitor plans to review a sample of traffic stops and of the modified Vehicle Stop Contact Forms once the body-worn cameras are implemented. Given these plans for changes to MCSO practice and subsequent Monitor review, it seems premature for the Monitor to find MCSO in compliance with this paragraph. We recommend instead that the Monitor rate MCSO's compliance status for Phase 2 of this paragraph as "Deferred."

Paragraph 27, pp. 27-28

The Monitor discusses possible reasons for the erroneous "belief by many MCSO personnel that MCSO did, in fact, have a LEAR policy," and recommends that MCSO "ensure that any future references to policies or procedures of other agencies are clearly defined and explained to MCSO personnel." We suggest that the Monitor further recommend that MCSO ensure that its personnel do not mistakenly believe that MCSO has a LEAR policy or that MCSO has immigration enforcement authority or obligations such as those that might have been conveyed by having a LEAR policy in effect.

Paragraph 48, pp. 54-55

The Monitor's narrative does not support the conclusion that MCSO is "In compliance." The Monitor states that he had "not yet approved [the 2015 Annual Combined Training] curriculum." Page 54. The Monitor also states that "identification and selection of instructors . . . did not occur during this reporting period." *Id.* The report does not reveal whether the Monitor observed any trainings. Thus, it appears that, during this reporting period, the Monitor had not approved the curriculum, was not included in the process for identification and selection of instructors, and had not observed trainings.

The Monitor's report reveals that 26 personnel successfully completed the Order-mandated 2014 Training on Bias-Free Policing during the reporting period. For the remaining

1776 sworn and Posse members, the Monitors note that they “will be required” to receive the 2015 training, although the Monitors had not yet approved the 2015 training. Page 57-58. Given that only a small fraction of sworn and unsworn personnel had actually completed the mandated training during the reporting period and that issues remained with instructor selection and curriculum, Paragraph 48 should be changed from “In compliance” to “Not in compliance.”

Paragraph 49, p. 56

The Monitor was continuing to review the curriculum for the 2015 Annual Combined Training during the reporting period and will continue to review associated training materials as they are developed. The Monitor will also “observe training as it progresses to verify that the instructors are adhering to the approved lesson plans.”

The report is unclear regarding whether the Monitor has observed trainings, and if so, how many. Unless the Monitor has approved curriculum and observed a sufficient number of trainings, the finding of “In compliance” is premature and should be changed to “Not in compliance.”

Paragraphs 50, pp. 57-58

The Monitor’s report reveals that 26 personnel successfully completed the Order-mandated 2014 Training on Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws. For the remaining 1776 sworn and Posse members, the Monitor notes that they “will be required” to receive the 2015 training.

Given that only a small fraction of sworn and Posse personnel have completed the mandated training, Paragraph 50 should be changed from “In compliance” to “Not in compliance.”

Paragraph 51, pp. 58-59

See Comments to Paragraph 49.

Paragraph 54, p. 63

The Monitor notes that MCSO reported a total of 9,323 cases of traffic stop events between July 1 and September 30, 2015. This is an 11% increase from the prior quarter, and 44% increase from the same time period one year ago. We submit it would be useful to have more information as to how the Monitor is exploring the reasons for this increase.

Paragraph 54-g, p. 69

This provision of the Order requires deputies to document when and why they make contact with any passengers during a traffic stop. The Monitor’s report states that “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.” In assessing

compliance, the Monitor looked within the greater sample of 105 cases per quarter. In the sample pulled, there were just two instances where deputies made contact with passengers. In both instances, the Monitor determined that the deputy had a valid reason for the contact. The Monitor notes that “due to the infrequent contact of passengers during traffic stops, deputies must be diligent in documenting passenger contacts as one or two violations have a direct impact on compliance.”

To assess compliance with this section, we would suggest pulling a larger sample of just those reports that indicate an officer made contact with passengers, to ensure full reporting.

Paragraph 64, p. 83

The Monitor reports that the Early Intervention Unit (EIU) produces monthly analyses of traffic stop data to identify warning signs or indicia of racial profiling, but has not established a protocol for this periodic analysis. During this quarter, MCSO made two changes to the thresholds it uses to identify warning signs: “One benchmark pertains to searches: It was adjusted to include a minimum of four searches where no items were seized for a race/ethnicity group per deputy. The other change pertains to passenger contacts: The new threshold now requires three or more passenger contacts at a rate of at least 30% for a deputy compared to his/her peers.”

We agree that the setting and tracking of thresholds must be transparent and documented. This includes documenting the rationale for changes to those thresholds, which was not indicated here.

Paragraph 67, p. 86

As noted on page 1 of our comments, we are concerned with an approach that relies primarily on internal benchmarking analysis.

Paragraph 69, pp. 88-90

We agree that MCSO is not in compliance with this paragraph. First, as the Monitor notes, MCSO has not demonstrated that supervisors have the access or training to use the Early Identification System (EIS) as a supervisory tool. Although supervisors may now have access to new information concerning the traffic enforcement activities of their deputies, we are concerned that they are not equipped to recognize the signals that additional supervision or intervention may be necessary. Second, at present, incident reports are not included in the relational EIS database, although these reports contain significant information to which supervisors need access. Instead, supervisors who need to review the reports must obtain paper copies to do so. The injunction contemplates that the EIS will be a useful supervisory tool, and it should be implemented in a way to achieve that goal.

Paragraph 70, pp. 91-92

There is very little information on how the agency identifies or addresses “false” EIS alerts. We are concerned that supervisors lack the training to identify, within that data, signs of racial profiling. Instead, they must rely on alerts that are “based upon the experience of EIU personnel and may, therefore, not uncover all aspects of biased policing not captured by these definitions and protocols.”

Paragraph 73, pp. 96-97

The Monitor reports that the Early Intervention Unit (EIU) “has come together well at this point” and that, in spite of personnel changes, “the current leadership is enthusiastically moving forward.” The Monitor reports Phase 2 compliance with paragraph 73 as Deferred and suggests that all that is required for a finding of compliance will be finalizing the policy governing the EIS. We believe that Phase 2 compliance will require not only a suitable EIS policy, but also the EIU’s demonstrated ability to run the system. Given the various technological and other issues that the Monitor has identified with MCSO’s EIS, we believe the appropriate Phase 2 compliance finding for paragraph 73 is “Not in compliance.”

Paragraphs 82-83, pp. 108-110

The Monitor has found Phase 1 compliance with paragraphs 82 and 83 of the injunction, meaning that the requirements of those paragraphs are reflected in MCSO policy. The Monitor also reports, however, that “MCSO has not yet established which type of arrests supervisors are required to respond to,” *id.* at 108, a key requirement of paragraph 83. In fact, MCSO personnel reported to the Monitor that whether to respond to the scene of an arrest is left entirely in the discretion of supervisors. *Id.* at 108-109.

In the absence of a policy directing supervisors about the kinds of arrests that require scene response, MCSO should not be found in Phase 1 compliance with paragraph 83.

Paragraph 82 requires MCSO and Maricopa County to “ensure that an adequate number of qualified first-line Supervisors are available to provide . . . effective supervision.” The Monitor does not report on MCSO’s and the County’s compliance with this requirement, and it does appear, based on statements by MCSO personnel during the previous site visit, that some districts may need additional first-line supervisors. The need will be especially pressing as MCSO attempts to come into compliance with other aspects of the injunction and as it launches its body-worn camera program, which will have a substantial impact on the duties of first-line supervisors.

We also would like additional information about how the Monitor will assess MCSO’s compliance with paragraph 83’s requirement of “effective supervision necessary to direct and guide deputies.” We note that the Monitor currently reports on how many incident reports and field interview cards out of a random sample received a supervisory review, *id.* at 110, but there appears to be no analysis of the quality of supervisory review. For example, it is unclear from the report how many of the hundreds of incident reports that the Monitor reviewed to determine

whether a supervisor had signed and dated them contained deficiencies that should not have been approved by the supervisor.

Paragraph 83 also requires supervisors to “ensure Deputies are working actively to engage the community and increase public trust and safety.” We submit that it would be useful to have more information as to how the Monitor will assess compliance with this requirement, and as to whether MCSO has any concrete plans about how supervisors will fulfill this requirement.

Paragraph 90, pp. 119-120

Paragraph 90 requires deputies to submit documentation of stops and detentions and requires supervisors to review that documentation for boilerplate language, inconsistencies, lack of articulation of the basis for law enforcement actions, and other indications that the report may not be accurate. The Monitor reviewed a number of reports from incidents involving traffic stops, and the focus of the review seemed to be on whether supervisors or deputies had documented in any way that supervisors had reviewed the reports. We would encourage the Monitor to also review the reports to determine whether they meet the substantive requirements of paragraph 90—that is, whether the reports contain boilerplate language, inconsistencies, and so on. Furthermore, if the Monitor is conducting such a review, we would encourage the Monitor to report on these requirements, as well.

Paragraph 91, pp. 120-125

Paragraph 91 requires supervisors to take action to address problems in stops or detentions conducted by deputies. We have a question about how the Monitor is assessing compliance with this paragraph. The Monitor reports that the monitoring team reviewed traffic stop data from July, August, and September, but the report only provides the results of audits conducted by the Bureau of Internal Oversight (BIO). Our question is about the degree to which the Monitor is relying on BIO’s audits, as opposed to conducting its own, independent audits. If the Monitor is relying on BIO, it would be helpful to have more information as to what steps the Monitor is taking to ensure that BIO’s audits are of sufficient quality and reliability that they are acceptable for compliance purposes.

Paragraph 104, p. 137

Under Paragraph 104, MCSO must adopt a policy that requires deputies to cooperate in administrative investigations and provide all requested documents and evidence. The Monitor reports that MCSO has achieved Phase 1 compliance with this paragraph, meaning that the requirements of the paragraph are reflected in policy. We note, however, that the record from the recent contempt proceedings established crucial deficiencies in MCSO’s misconduct policies that dangerously undermine the purpose of this paragraph, which is to ensure thorough, timely, and impartial internal affairs investigations. We also note that the record of the contempt proceedings established that MCSO personnel have not always provided internal affairs investigators with all requested documents and evidence.