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

Reporting Period – Fourth Quarter 2016

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Independent Monitor

May 5, 2017

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Section 1: Introduction

This is the eleventh report issued in my capacity as the Court-appointed Monitor in the case of *Manuel de Jesus Ortega Melendres, et al., v. Paul Penzone, et al.* (No. CV-07-02513-PHX-GMS), and documents activities that occurred during the fourth quarter of 2016. Subsequent to my appointment, and as a result of further Court proceedings, my duties have been expanded in the areas of community engagement, oversight of internal investigations, independent investigative authority, and review of MCSO's Property Unit.

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

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

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

This report covers the period from October 1 through December 31, 2016 – the last quarter Sheriff Arpaio was in office. Our compliance findings reflect our reviews of documentation generated under his administration. However, we consider the site visit following the close of the quarter to be part of that quarterly review. During our January site visit, we met and interacted extensively with Sheriff Paul Penzone, who took office on January 1, and his new team. The entire first day of our site visit was devoted to an orientation for the Sheriff and his upper command staff. We provided an overview of the history of the *Melendres* case, explained our monitoring process, and provided a high-level overview of the requirements of the First and Second Orders and MCSO's challenges and successes in complying with them. The Sheriff also introduced us to those members of his command staff who he appointed from outside the ranks of MCSO. Consequently, while the documents and activity reviewed for this report fall under the previous administration, there may be some references to our interactions with Sheriff Penzone's team in the compliance sections of this report.

As noted in our last report, Paragraph 165 of the Second Order requires that "[w]ithin one month of the entry of this Order, the Sheriff shall conduct a comprehensive review of all policies, procedures, manuals, and other written directives related to misconduct investigations, employee discipline, and grievances, and shall provide to the Monitor and Plaintiffs new policies and procedures or revise existing policies and procedures." MCSO provided well over 30 policies, attachments, and forms for our review and that of the Parties. Many of MCSO's policies required extensive modifications, and all involved in the review process – including MCSO personnel – spent numerous hours reviewing, commenting, and responding to suggested changes. We also utilized meeting time during our more recent site visits, as well as conference calls and virtual meetings, to review some of the more complicated policies. Despite everyone's best efforts, the majority of these policies remained in development at the close of this review period, and this will have an impact on Phase 1 compliance, particularly as it relates to the Second Order.

Once these policies are in place, MCSO is obligated to provide all supervisors and all personnel assigned to the Professional Standards Bureau (PSB) with 40 hours of comprehensive training on conducting employee misconduct investigations. For several months, we have been providing technical assistance to MCSO's Training Division and PSB regarding the development and content of this training. Nearly all of the elements of that training have been completed, and will be sent to the Parties for review. MCSO should be poised to quickly deliver this training once the associated policies are finalized and published.

Section 2: Methodology and Compliance Summary

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

This report documents compliance with applicable Order requirements, or Paragraphs, in two phases. For Phase 1, we assess compliance according to whether MCSO has developed and approved requisite policies and procedures, and MCSO personnel have received documented training on their contents. For Phase 2 compliance, generally considered operational implementation, MCSO must demonstrate that 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. We use "Deferred" in circumstances in which we are unable to fully determine the compliance status – due to a lack of data or information, incomplete data, or other reasons that we explain in the narrative of our report. We will also use "Deferred" in those situations in which MCSO, in practice, is fulfilling the requirements of a Paragraph, but has not yet memorialized the requirements in a formal policy.

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

In light of the large number of policies that either had to be created or revised as a result of the Second Order, described above, we have deviated from this practice in our recent reports. If we note that MCSO is complying in practice with Paragraph requirements that have not yet been memorialized in policy, we are, for now, still recognizing Phase 2 compliance for these Paragraphs, to document MCSO's practices during the policy development process. However, we consider this an accommodation that will not last indefinitely and shall be continued only if we are satisfied that there is an organizational resolve to commit the time and resources to create and revise policies as required. During this reporting period, there were 43 such instances – all in Paragraphs of the Second Order. If MCSO does not publish the requisite policies by July 1, 2017, compliance with these Paragraphs will revert to Deferred.

The tables below summarize the compliance status of Paragraphs tracked in this report.[1] As noted above, this is our second quarterly status report in which we report on MCSO's compliance with both the First and Second Orders. During this reporting period, MCSO's overall Phase 1 compliance rate with the **First Order** increased by three percentage points, from 60% to 63%. MCSO's overall Phase 1 compliance rate with the **Second Order** increased by nine percentage points, from 1% to 10%. As with the last reporting period, these percentages are at such low numbers due to the large group of policies requiring changes for the Second Order, some of which are also used for compliance with the First Order.

During this reporting period, MCSO's overall Phase 2 compliance rate with the **First Order** increased by one percentage point, from 49% to 50%. MCSO's overall Phase 2 compliance rate with the **Second Order** increased by three percentage points, from 43% to 46%.

Eleventh Quarterly Report **First Order Summary**		
Compliance Status	**Phase 1**	**Phase 2**
Not Applicable	14	1
Deferred	0	9
Not in Compliance	28	35
In Compliance	47	44
Percent in Compliance	**63%**	**50%**

Eleventh Quarterly Report **Second Order Summary**		
Compliance Status	**Phase 1**	**Phase 2**
Not Applicable	18	9
Deferred	1	13
Not in Compliance	93	48
In Compliance	11	53
Percent in Compliance	**10%**	**46%**

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

Eleventh Quarterly Report **Overall Summary**		
Compliance Status	**Phase 1**	**Phase 2**
Not Applicable	32	10
Deferred	1	22
Not in Compliance	121	83
In Compliance	58	97
Percent in Compliance	**32%**	**48%**

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

MCSO's Compliance with the Requirements of the **Second Order** *(July 20, 2016)*											
	Report 1	**Report 2**	**Report 3**	**Report 4**	**Report 5**	**Report 6**	**Report 7**	**Report 8**	**Report 9**	**Report 10**	**Report 11**
Phase 1	N/A									1%	10%
Phase 2	N/A									43%	46%

First Supplemental Permanent Injunction/Judgment Order

Section 3: Implementation Unit Creation and Documentation Requests

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

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

Phase 1: In compliance

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

Phase 2: In compliance

To verify Phase 2 compliance with this Paragraph, we reviewed monthly rosters for this reporting period. Although there are no noticeable changes listed on the rosters MCSO submitted for this reporting period, we learned during our January 2017 site visit that our point of contact within the division would change. The former CID Captain was promoted, and a lieutenant who has been assigned to the division now serves as both Acting Captain of CID and our single point of contact, as required by this Paragraph. In addition, CID personnel informed us that the division had hired a new management assistant, and that the division was looking to replace its administrative assistant, who had resigned.

CID currently consists of two lieutenants (one of whom serves as Acting Captain), six sergeants, two deputies, and one management assistant. CID continues to be supported by MCAO attorneys, who frequently participate in our meetings and telephone calls with division personnel.

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

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

Phase 1: In compliance

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

Phase 2: In compliance

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

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

Phase 1: In compliance

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

Phase 2: In compliance

On March 14, 2017, CID published its most recent quarterly report as required by this Paragraph. The report covers the period from October 1, through December 31, 2016, the last quarter of former Sheriff Arpaio's tenure. This report is divided into the Order sections, which in turn are divided among its numbered Paragraphs. For each section, MCSO provides an overview of compliance and provides greater detail on the agency's activities working toward compliance. For each Paragraph, MCSO offers comments on the compliance status and provides responses to concerns raised in the Monitor's previous quarterly status report, published February 10, 2017. The report, as in the past, includes a table developed with the information provided in our previous quarterly report.

While the report documents activities that occurred under the Arpaio administration, it is the first report filed by Sheriff Penzone, and provides a fresh perspective into the compliance process. The report indicates that the Sheriff views the relationship between MCSO, the Parties, and the Monitoring Team as collaborative and non-adversarial. The Sheriff has implemented several structural changes in order to prioritize MCSO's compliance efforts. In addition, the new Sheriff has created a number of advisory boards and reached out to community stakeholders; and he eventually plans to take over hosting the community meetings, which his predecessor refused to do.

The report documents in detail the steps taken by the MCSO to implement the requirements of both Orders.

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

Phase 1: In compliance

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

Phase 2: In compliance

See Paragraph 13.

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

Phase 1: In compliance

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

Phase 2: In compliance

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

Consistent with this agreement, on September 15, 2016, MCSO filed with the Court its 2016 Annual Compliance Report in compliance with this Paragraph. We reviewed this report in detail and raised follow-up questions with CID personnel during our October 2016 site visit. Until such time as MCSO files its next Annual Compliance Report, MCSO remains in compliance with this Paragraph.

Section 4: Policies and Procedures

COURT ORDER V. POLICIES AND PROCEDURES

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

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

Phase 1: In compliance

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

Phase 2: Deferred

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

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

In its response, MCSO noted that several policies were currently in compliance with the First and Second Orders. However, MCSO also determined that several policies required changes to comport with the First Order, Second Order, or both. MCSO continues to make the necessary revisions on these policies. For this reason, we are continuing to defer our compliance assessment with Paragraph 19 for this reporting period.

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

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

a. define racial profiling as the reliance on race or ethnicity to any degree in making law enforcement decisions, except in connection with a reliable and specific suspect description;

b. prohibit the selective enforcement or non-enforcement of the law based on race or ethnicity;

c. prohibit the selection or rejection of particular policing tactics or strategies or locations based to any degree on race or ethnicity;

d. specify that the presence of reasonable suspicion or probable cause to believe an individual has violated a law does not necessarily mean that an officer's action is race-neutral; and

e. include a description of the agency's Training requirements on the topic of racial profiling in Paragraphs 48–51, data collection requirements (including video and audio recording of stops as set forth elsewhere in this Order) in Paragraphs 54–63 and oversight mechanisms to detect and prevent racial profiling, including disciplinary consequences for officers who engage in racial profiling.

Phase 1: In compliance

- CP-2 (Code of Conduct), most recently amended on January 6, 2017.
- CP-8 (Preventing Racial and other Bias-Based Policing), most recently amended on November 17, 2015.
- EA-5 (Enforcement Communications), most recently amended on December 8, 2016.
- EA-11 (Arrest Procedures), most recently amended June 15, 2016.
- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- GJ-33 (Significant Operations), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: Not applicable

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

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

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

Phase 1: In compliance

- CP-8 (Preventing Racial and other Bias-Based Policing), most recently amended on November 17, 2015.
- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: Not in compliance

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

For the audit of Supervisory Notes of sworn personnel for this reporting period, we selected a random sample of 29 employees. MCSO then audited the Supervisory Notes pertaining to the selected employees. In its inspection report for the fourth quarter, dated January 3, 2017, BIO reported an 85.71% compliance rate. With the exception of deputies from District 3, BIO found Supervisory Notes with the required documentation for the rest of the selected sworn employees. We reviewed the same Supervisory Notes and affirmed BIO's findings. None of the deputies from District 3 had the proper Supervisory Note entry with regard to CP-8 (Preventing Racial and Other Biased-Based Profiling). The Supervisory Notes for sworn personnel, as it pertains to this Paragraph, had been in 100% compliance previously. During our January 2017 site visit, we discussed this regression with MCSO. MCSO advised us that the issue stemmed from a supervisor who was out on family leave for an extended period of time, and a failure in the chain of command to carry out the supervisor's responsibilities. We

will continue to monitor this situation. In our visits to District 6 and Lake Patrol in January, we discussed the importance of reaffirming CP-8 as required by this Paragraph, as well the importance of follow-up and ensuring that District Commanders have plans in place to cover supervisory responsibilities whenever there are extended absences.

For the audit of Detention Supervisory Notes for this reporting period, the Monitoring Team randomly selected 35 employees. One of the selected employees was on authorized leave during the reporting period. MCSO conducted an audit of the Supervisory Notes pertaining to the 34 selected employees. BIO found that 29 of the 34 employees had an appropriate supervisory entry reiterating that discriminatory policing is unacceptable. BIO reported an 85.29% compliance rate for Detention Supervisory Notes. We reviewed the same Detention Supervisory Notes and affirmed BIO's findings. MCSO had made some progress in the compliance rate for Detention Supervisory Notes in the previous quarter, as the compliance rate had increased from 78.57% to 91.43%. The drop in compliance rates for the fourth quarter, for both sworn and Detention personnel, is a step backwards. We hope to see improvement in the next reporting period.

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

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

Phase 1: In compliance

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

Phase 2: In compliance

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

During this reporting period, MCSO conducted three CAD and Alpha Paging audits. BIO inspected 6,979 CAD/Alpha Paging messages for October 2016 and reported a 100% compliance rate. BIO inspected 6,078 CAD/Alpha Paging messages for November 2016 and reported a 100% compliance rate. BIO inspected 7,488 CAD/Alpha Paging messages for December 2016 and reported a 100% compliance rate.

During this reporting period, MCSO conducted three email audits. For October 2016, the BIO Inspection Report (BI2016-0122) stated that there were a total of 8,486 emails, of which 6,279 were reviewed. The number of emails reviewed is generally less than the total number of emails due to the elimination of routine business-related and administrative emails generated by the Office, such as training announcements and Administrative Broadcasts. The BIO Inspection Report for October states that BIO found that 6,535 of the inspected emails were in compliance, for a 99.57% compliance rate. There appears to be a discrepancy in the total number of emails reviewed, as the number of emails stated in the first paragraph under "Conditions" is different than the number of emails stated in the second paragraph under the same heading. We believe this to be a clerical error where the number 6,535 was carried over from the previous month; the BIO Inspection Report for September states that 6,535 emails were inspected. There were four instances where BIO found deficiencies in violation of GM-1 (Electronic Communications and Voicemail). Three were related to civilian employees and one involved a sworn supervisor. The deficiencies were appropriately addressed. BIO inspected 7,059 emails for November 2016 (Inspection Report BI2016-0137) and reported a 100% compliance rate, finding no deficiencies. BIO inspected 6,287 emails for December 2016 (Inspection Report BI2016-0149) and reported a 100% compliance rate, finding no deficiencies.

During this reporting period, BIO conducted three facility inspections: one in October, one in November, and one in December. These inspections were conducted at the Aviation Division, which provides aerial support and prisoner extraditions; the Transportation Division, which provides transportation to and from the courts and medical facilities; and the MCSO Range.

All three audits found that there was no evidence indicating that any of the facilities were being used in a manner that would discriminate, or denigrate anyone on the basis of race, color, national origin, age, religious beliefs, gender, culture, sexual orientation, veteran status, or disability. We reviewed the matrix checklist used for these inspections, and it contains a specific question regarding the use of any Office or County equipment that would be a violation of this Paragraph. During our January 2017 site visit, we visited District 6 and Lake Patrol, and found no signage, pictures, or other indication of County property being used in violation of this Paragraph.

During our District site visits, we have routinely inspected each facility and found that the materials posted have been related to the District's needs and/or relevant to the mission of law enforcement.

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

Phase 1: Not in compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision. This policy was trained to during the Fourth and Fourteenth Amendment training completed by MCSO in 2014. While this policy addresses "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.

We will assess Phase 1 compliance with this Paragraph once MCSO publishes the policies and procedures for the new SILO Unit.

Phase 2: Deferred

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

The Judicial Enforcement Division maintains one tip-line and one website, both of which are dedicated to the Sheriff's Office Deadbeat Parent Program. This program is focused on civil arrest warrants for failure to pay child support, and arresting authority is limited by statute. MCSO completes basic intelligence and makes a follow-up call. If a civil warrant is found, it is assigned to a deputy who will attempt to locate the wanted subject. During this reporting period, the Judicial Enforcement Division reported that it received 26 tips. There were no operations conducted that were relevant to this Paragraph.

Enforcement Support receives tips that are not all tracked or recorded. The information received is related to arrest warrants. A Posse member tracks the tips that are distributed on a spreadsheet. During this reporting period, Enforcement Support reported that it received 364 tips. There were no operations conducted that were relevant to this Paragraph.

The Major Crimes Division manages one active hotline and an associated electronic mailbox that community members can use to report complaints of suspected animal abuse. Both are advertised on MCSO's website. During this reporting period, the Major Crimes Division reported that it received 269 tips related to animal abuse. There were no operations conducted that were relevant to this Paragraph.

Special Investigations maintains a Drug Line Report. This report contains information provided by callers regarding possible drug activity. The form includes a call number, call time, category of possible offense, reported details, and a field for a disposition. The Special Investigations Division reported that it received 36 tips through its drug tip line. We reviewed these and found no evidence of bias or requests for law enforcement based on race or ethnicity. There were no operations conducted that were relevant to this Paragraph.

We continue to review the tip information received by Major Crimes, Enforcement Support, Civil, and Special Investigations for each reporting period; and find generally that all tips are consistent with the mission of each tip-line.

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

- District 1 reported, "All calls of this nature would be directed to MCSO Communications to dispatch a Deputy to respond and take a report. Any call regarding drug activity would be directed to MCSO Drug Hotline, which is administrated by MCSO Special Investigations Division." District 1 advised that it had no system outside of those noted that would allow a community member to call in and report a crime. If a community member called the District, s/he would be referred to MCSO Communications. District 1 did not report any activity relevant to this Paragraph during this reporting period, and no operations were conducted
- District 2 reported that it does not have any dedicated hotline or tip-line telephone numbers or other such methods specifically to capture or receive complaints from community members regarding potential criminal activity. In general, the District has a main telephone number for any calls incoming to the District. During this reporting period, District 2 did not report any activity relevant to this Paragraph, and no operations were conducted.
- 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. During this reporting period, District 3 reported that it received two tips: one tip was narcotics-related; and the other involved illegal guns. No operations were conducted as a result.
- District 4 reported that it does not currently have a hotline designated to receive complaints from members of the community within its jurisdiction. District 4 reported that it receives complaints from community members in the following ways: walk-up traffic; telephone calls; emails; and notifications of complaints through mcso.org (forwarded to the captain from Headquarters). District 4 reported receiving five traffic-related complaints from community members during this reporting period, but these did not result in any operations 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 three concerns from the public during this reporting period, two of which were traffic complaints. The third call was a request for special attention to a property while the residents were away on vacation. None of the concerns provided in the response for this reporting period were related to compliance with this Paragraph, and no operations were conducted.
- District 7 reported that it uses a Request for Enforcement Services/Community Service Form, which members of the public complete for specific enforcement for patrols such as speed enforcement or extra patrols because of potentially reoccurring problems such as criminal damage or vandalism. These forms are given to the Patrol sergeants to assign to deputies. District 7 has reported that it does not track or keep any documentation as to what follow-up is completed. District 7 also reported that it participates in "Text-A-Tip" in Fountain Hills. Tips generated in this program are completely anonymous. District 7 investigates the tips whenever possible, but reports that the tips are not always entered into the website. District 7 received a total of 67 "Text-A-Tips" during this reporting period. We reviewed the documentation submitted and did not find any tips that were relevant to compliance with the requirements of this Paragraph, and no operations were conducted.
- Lake Patrol reported that it "does not have any established email addresses or hotlines which community members can utilize to report potential criminal activity." All information relating to potential activity comes to Lake Patrol through the MCSO Communications Division. Lake Patrol reported that it had not received any information from community members regarding criminal activity during this reporting period.

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

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

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

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

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

During our October site visit, we met with MCSO personnel to discuss updates regarding the SILO Unit. At that time, GI-7 (Bias Free Tip and Information Processing) was in the final stages of review before being published. GN-1 (Criminal Intelligence Operations) establishes guidelines on the collection, evaluation, and dissemination of criminal intelligence; at that time, this policy was in the revision process, as well. MCSO advised us that it was also working on end-user issues related to the database that would be used for tracking tips. Once operational, MCSO plans to conduct regular monthly audits of the database to ensure compliance.

During our January 2017 site visit, we met with MCSO staff to inquire on the progress of the SILO Unit, and to find out if there had been any change in plans due to the new administration. MCSO personnel advised us that the unit is still a work in progress. The SILO Unit will be managed out of the ACTIC, under the command of the captain who is currently assigned there. The projected staffing for the SILO Unit is five management assistants and a unit supervisor. The SILO Unit recently lost two employees, and the captain is actively recruiting their replacements. The policies governing the SILO Unit have not been published, and the lesson plan for the training course is still in the revision process. During our site visit, MCSO personnel could not provide an estimated date when the SILO Unit would be fully staffed and fully operational. Until such time as SILO policies and procedures are in place, the Monitoring Team will continue to use the same methodology for reviewing and evaluating information relative to this Paragraph.

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

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

a. prohibit racial profiling in the enforcement of traffic laws, including the selection of which vehicles to stop based to any degree on race or ethnicity, even where an officer has reasonable suspicion or probable cause to believe a violation is being or has been committed;

b. provide Deputies with guidance on effective traffic enforcement, including the prioritization of traffic enforcement resources to promote public safety;

c. prohibit the selection of particular communities, locations or geographic areas for targeted traffic enforcement based to any degree on the racial or ethnic composition of the community;

d. prohibit the selection of which motor vehicle occupants to question or investigate based to any degree on race or ethnicity;

e. prohibit the use of particular tactics or procedures on a traffic stop based on race or ethnicity;

f. require deputies at the beginning of each stop, before making contact with the vehicle, to contact dispatch and state the reason for the stop, unless Exigent Circumstances make it unsafe or impracticable for the deputy to contact dispatch;

g. prohibit Deputies from extending the duration of any traffic stop longer than the time that is necessary to address the original purpose for the stop and/or to resolve any apparent criminal violation for which the Deputy has or acquires reasonable suspicion or probable cause to believe has been committed or is being committed; h. require the duration of each traffic stop to be recorded;

i. provide Deputies with a list and/or description of forms of identification deemed acceptable for drivers and passengers (in circumstances where identification is required of them) who are unable to present a driver's license or other state-issued identification; and

j. instruct Deputies that they are not to ask for the Social Security number or card of any motorist who has provided a valid form of identification, unless it is needed to complete a citation or report.

Phase 1: In compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EA-5 (Enforcement Communications), most recently amended on December 8, 2016.

- CP-8 (Preventing Racial and other Bias-Based Policing), most recently amended on November 17, 2015.
- EA-11 (Arrest Procedures), most recently amended June 15, 2016.

Phase 2: Deferred

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

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

Paragraph 25.a. prohibits racial profiling in the enforcement of traffic laws, including the selection of which vehicles to stop based to any degree on race or ethnicity, even where an officer has reasonable suspicion or probable cause to believe a violation is being or has been committed. The selection of the sample size and the sampling methodology employed for drawing our sample is detailed in Section 7: Traffic Stop Documentation and Data Collection.

Our review of a sample of 105 traffic stops (from a total of 5,562) that occurred during this reporting period in Districts 1, 2, 3, 4, 6, and 7, and Lakes Patrol indicated that MCSO was following protocol, and that the stops did not violate the Order or internal policies. During our January 2017 site visit, we met with the District 1 Captain, who advised us that District 1 had not received any complaints during this reporting period from Latino drivers alleging racial profiling, deputies selecting which vehicles to stop, or deputies targeting specific communities to enforce traffic laws based to any degree on race.

Paragraphs 66 and 67 require an annual comprehensive analysis of all traffic stop data, which will more accurately determine if the requirements of this Paragraph are being met. The first comprehensive analysis completed by ASU was issued during the second quarter of 2016, and MCSO and ASU presented a draft of ASU's Second Annual Report during our October 2016 site visit. There were some data issues with this report; and during our January 2017 site visit, MCSO advised us that a final draft would be forthcoming in early 2017. Both analyses

contained several findings that "may be indicative of racially biased policing." We, the Parties, and MCSO are currently working to clarify if any of the instances that lead to these suppositions were, in fact, indicative of biased policing. While that process continues, MCSO's compliance with this Subparagraph is deferred.

Paragraph 25.b. requires MCSO to provide deputies with guidance on effective traffic enforcement, including the prioritization of traffic enforcement resources to promote public safety. MCSO policy EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), Sections A-E address these concerns. The policy specifies that driving under the influence and speeding are the main causes of accidents, and should be the focus of traffic enforcement. Based on our review of the data provided for the reporting period, the most common traffic stop violations are as follows: 54 stops for speed above the posted limit (52%); 14 stops for failure to possess valid registrations or tags (13%); 17 stops for failing to obey official traffic control devices (16%); and eight stops for equipment violations (8%).

There were 105 stops in our sample – 104 of which were actual stops. In the one exception, the deputy was dispatched to game lands by Communications where a community member was complaining that ATVs were illegally using these vehicles. The responding deputy observed the vehicles but was unable to make contact due to the irregular terrain.

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

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

MCSO is in compliance with this Subparagraph.

Paragraph 25.d. requires MCSO to prohibit the selection of which motor vehicle occupants to question or investigate based, to any degree, on race or ethnicity. During this review of the traffic stop data, we reviewed 31 instances where the deputy contacted passengers; in 11 cases, the contact was due to the driver not having a valid driver's license, a suspended plate, or a passenger was the owner of the vehicle, and therefore the driver was unable to operate the vehicle. In these cases, in lieu of towing, the deputy allowed a passenger or another person to drive the vehicle. In the remaining instances where MCSO made contact with passengers, the following occurred:

- In five cases, the passenger initiated contact for an explanation of the traffic violation or to request a courtesy transport.
- In three separate cases involving drug offenses, passengers were contacted due to the smell of marijuana in the vehicle or the observation of drug paraphernalia. The three cases involved a Latino, a Latina, and a white male.
- In one case, the Latina passenger had an order of protection against the Latino driver; this was revealed when the deputy ran a warrants check on the driver. The passenger was the driver's girlfriend.
- In one case, the Latina passenger interpreted for the deputy.
- In one stop, a white female was stopped for speeding. Upon approaching the vehicle, the driver advised the deputy that the 73-year-old passenger was experiencing chest pains. The deputy spoke to the passenger and immediately called for EMTs to respond to the scene.
- In one case, the deputy either failed to complete the required VSCF or the form was lost in the system. We cannot verify if a passenger was in the vehicle or whether contact was made.
- In one case, a store employee reported that a white male and a white female had shoplifted and left the scene. The deputy located the vehicle and made the stop. As part of the ongoing shoplifting investigation, the deputy contacted the passenger.
- In one case, the deputy stopped a vehicle driven by a white female for speeding (criminal speed); and during the stop, spoke with the white male passenger who was searching in the glove box for the car insurance documents.
- In another case, a vehicle with two white male occupants was stopped for speeding. As the deputy approached the vehicle, the driver advised that he had a handgun in the center console. The passenger advised that he had a handgun in his waistband. The deputy secured both weapons prior to proceeding with the stop.
- In one case, the deputy stopped a vehicle with two white male occupants and approached the vehicle from the passenger side. He advised that he spoke with the driver and passenger and documented that he requested identification from the passenger. The video review of this stop indicated there was no reason or need for the passenger to be asked for identification.
- In one case, a Latino was stopped for an expired vehicle registration and did not have a driver's license. The passenger, a Latina, owned the vehicle; the deputy asked her if she had a valid driver's license, which she produced. When the warrants check came back on her, it was revealed that she was wanted on a warrant for operating a house of prostitution.
- In one case, the deputy made a stop due to no taillights on the vehicle. The white male passenger exited the vehicle to check on the lights and conversed with the deputy.

- In one case, we could not determine why the deputy made contact with the passenger, although he indicated the contact on the VSCF. The driver in this instance was a Black male. The passenger was Latino, and the deputy failed to indicate the nature or reason for the contact.
- In one case, a white female was stopped during nighttime hours for failing to activate her turn signal when turning right. The deputy was aware that the male passenger had two outstanding warrants (revealed by the body-worn camera recording). The driver was aware of the warrants, and the passenger was arrested.

We reviewed the demographic data of Maricopa County (according to 2014 U.S. Census data, 30.3% of the population is Latino), and found that the ratio of the ethnicity of the violators and passengers in the population was in range with the ethnicity of the individuals stopped. (See Paragraph 54.e.). Ten of the 31 stops where passenger contacts occurred involved Latinos (32%). A review of citizen complaints for the quarter did not reveal any accusations against MCSO personnel that would indicate deputies were conducting pre-textual traffic stops to question drivers or passengers regarding their ethnicity or to determine whether they are unlawfully present in the country. Body-worn cameras have been fully implemented, and we review a sample of the recordings to verify if deputies are questioning occupants to determine if they are legally in the country. One stop did not contain a VSCF, and therefore we could not determine if any passengers were in the vehicle and if so, were they contacted.

During our previous ride-alongs with deputies during daylight hours, there were many instances where, at the time of the stop, we could not determine the ethnicity or gender of the driver or passengers until the vehicle was approached. During this reporting period, we observed that 46 stops occurred during nighttime hours. We inquired of the District 1 captain during our January 2017 site visit if, during this reporting period, any Latino drivers or passengers made any complaints regarding deputies using particular tactics or procedures to target Latinos – and his response was negative. Our review of the sample data indicated that traffic stops generally were not based on race or ethnicity and reflected the general makeup of the population of the County; therefore, MCSO is in compliance with this Subparagraph.

Paragraph 25.e. requires MCSO to prohibit the use of particular tactics or procedures on a traffic stop based on race or ethnicity. We reviewed a sample of CAD audio recordings and CAD printouts where the dispatcher enters the reason for the stop when advised by the deputy in the field. We also reviewed body-worn camera recordings of deputies making traffic stops. The methodology that we employed to select our cases is described in detail in Section 7. In the cases we reviewed, the CAD audio recordings and the body-worn camera video revealed that deputies were not making traffic stops using tactics based on race or ethnicity. We have found in our reviews that some deputies are classifying Hispanic drivers as white on the Vehicle Stop Contact Form. Supervisors must provide more scrutiny of these instances to ensure accurate reporting by deputies. (See Paragraph 54.e.). MCSO remains in compliance with this Subparagraph.

Paragraph 25.f. requires deputies at the beginning of each stop, before making contact with the vehicle, to verbally contact dispatch and state the reason for the stop unless exigent circumstances make it unsafe for the deputy to contact Communications. We reviewed 30 CAD audio recordings; in each, the deputy advised dispatch of the reason for the stop, prior to making contact with the vehicle occupants. In our sample request of 30 body-worn camera reviews each quarter, one deputy failed to activate his recording equipment; and therefore, we were unable to determine from the video if the deputy advised dispatch of the stop. The CAD printout and audio we reviewed of the stop indicated that the deputy advised Communications as required. In this case, there was no Axon printout provided, which indicates the deputy failed to activate the body-worn camera. For the 75 other cases that were part of our sample, we reviewed the VSCFs and the CAD printouts, if included in the documentation, to ensure that deputies were properly advising dispatch of the reason for the stop prior to making contact with the violator. When the deputy advises Communications of the location, tag number, and reason for the stop, this information is digitally logged on the CAD printout. (See Paragraph 54.e.) MCSO is in compliance (100%) with this Subparagraph.

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

- A Black male driver was stopped for displaying a fictitious license plate and did not have a driver's license on his person. The driver was cited and released and the tag seized. (In these situations, the deputy can determine if the driver has a valid license if the driver provides his/her correct name and date of birth.)
- An Asian/Pacific Islander female was stopped and cited for running a stop sign. The deputy advised that she was crying and having difficulty finding her vehicle registration. The delay in the release of the driver was not overly excessive, although the deputy so indicated on the VSCF. (The duration of the stop was 19 minutes.)
- A white female was stopped for speeding. A warrants check on the driver revealed her driver's license had been suspended for failure to obtain insurance. The driver's license was seized and the vehicle was towed.
- A Black male was stopped for speeding (75 m.p.h. in a 45 m.p.h. zone). A subsequent warrant check indicated the driver had a suspended driver's license and a warrant out of Phoenix. The deputy waited with the driver on the scene until a Phoenix police officer came to pick up the subject. The vehicle was towed.
- A Latino driver ran a red light and was pulled over. The driver admitted that he never applied for a driver's license. The driver was cited and released and the vehicle was towed.

- A white male driver was stopped for excessive speed. The deputy conducted a field sobriety test on the driver that was negative. The driver received a warning for the speed violation and cited for failing to obtain insurance on the vehicle.
- An Asian/Pacific Islander male was stopped for lane violations. He did not have a driver's license due to it being suspended. The driver was cited and released, his vehicle was towed and license plate was seized.
- A Latino driver was stopped for speeding and cited. The deputy advised that he forgot to check back into service. According to the CAD printout, the elapsed time for this stop was 47 minutes.

In our experience reviewing MCSO's traffic stop forms, the majority of violations with documenting the beginning and ending times of the stop is attributed to the deputy inaccurately inputting times on the VSCF. The supervisor is required to review all activity by deputies within 72 hours and should catch any discrepancies and provide appropriate counseling to the involved subordinates. Proper and timely supervision should reduce the number of deficiencies. Now that the beginning and ending times of the stop are auto-populated to the VSCF from CAD, these issues should be resolved. (See Paragraphs 54.b. and 54.i.) MCSO is in compliance with this Subparagraph, with a 99% compliance rating.

Paragraph 25.h. requires the duration of each traffic stop to be recorded. In our review, we determined that the duration was recorded accurately in 104 traffic stops. One stop did not contain the VSCF and we were unable to determine if the duration of the stop was accurately recorded. The time of the stop and its termination is now auto-populated on the VSCF by the CAD system. To ensure data entry accuracy, a technical change to the TraCS system was implemented on November 29, 2016. The change will automatically create a red field in the stop contact times if the deputy manually changes these times on the VSCF.

As we noted in Paragraph 25.g., the supervisor is required to review all traffic stop activity by deputies and should catch any discrepancies and provide appropriate counseling. (See Paragraphs 54.b. and 54.i.) MCSO is in compliance with Subparagraph 25.h., with a 99% compliance rating.

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

- A Black male driving with a fictitious license plate was stopped. The driver did not have a driver's license on his person. A license check revealed the subject did have a valid license. The driver was cited for the plate violation, the plate was seized, and he was released from the scene.
- A white male was stopped for speeding and presented an Arizona Identification Card to the deputy. He did not possess a driver's license and was cited and released.
- A white female driver was stopped for criminal speed. Her license had been suspended. She was cited and released, and the vehicle was towed.
- A Latino was stopped for an expired license plate. The driver did not have a driver's license in his possession at the time. The deputy ran a license check on the driver and discovered the driver had a valid license. The deputy issued a citation for the expired license but did not issue a citation for not having a driver's license in possession while operating a motor vehicle.
- A Black male driver was speeding and stopped by the deputy. The driver had a suspended driver's license but not on his person. He presented an Arizona Identification Card as proof of identity. A warrant check revealed the driver's license was suspended. In addition, an open warrant out of Phoenix was revealed. The driver was cited for the speed and a Phoenix police officer came to the scene to transport the driver. The vehicle was towed.
- The deputy observed a vehicle run a red light and conducted a traffic stop. The driver, a Latino, had no identification on his person. The driver further stated that he had never had a driver's license. The driver was cited and the vehicle towed.

MCSO is in compliance with this Subparagraph.

Paragraph 25.j. requires MCSO to instruct deputies that they are not to ask for the Social Security Number or card of any motorist who has provided a valid form of identification, unless it is needed to complete a citation or report. EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) prohibits deputies from asking for the Social Security Number of any motorist who has provided a valid form of identification. For this reporting period, we did not find in our sample any instances where a deputy requested – or was provided with – a Social Security Number by the driver or passengers. In two cases, the deputy accepted alternative forms of identification as proof of identity (Arizona Identification Card). MCSO began employing body-worn cameras in November 2015, and all Districts were online and fully operational with the body-worn cameras in May 2016. We reviewed 29 traffic stops (one deputy failed to activate the camera) to evaluate the body-worn camera video/audio interactions of the deputies to determine if they are abiding by the requirements of the Order. In September 2015, MCSO added fields to the Vehicle Stop Contact Form to include the documentation of on-body camera recordings. MCSO is in compliance with this Subparagraph.

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

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

a. require that Deputies have reasonable suspicion that a person is engaged in, has committed, or is about to commit, a crime before initiating an investigatory seizure;

b. require that Deputies have probable cause to believe that a person is engaged in, has committed, or is about to commit, a crime before initiating an arrest;

c. provide Deputies with guidance on factors to be considered in deciding whether to cite and release an individual for a criminal violation or whether to make an arrest;

d. require Deputies to notify Supervisors before effectuating an arrest following any immigration-related investigation or for an Immigration-Related Crime, or for any crime by a vehicle passenger related to lack of an identity document;

e. prohibit the use of a person's race or ethnicity as a factor in establishing reasonable suspicion or probable cause to believe a person has, is, or will commit a crime, except as part of a reliable and specific suspect description; and

f. prohibit the use of quotas, whether formal or informal, for stops, citations, detentions, or arrests (though this requirement shall not be construed to prohibit the MCSO from reviewing Deputy activity for the purpose of assessing a Deputy's overall effectiveness or whether the Deputy may be engaging in unconstitutional policing).

Phase 1: In compliance

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

Phase 2: In compliance

During this reporting period, MCSO again reported that there were no immigration-related arrests or investigations; or investigations for misconduct with weapons, forgery, or any other immigration-related crime. With the exception of three traffic-related arrests and one arrest for trafficking in stolen property, all arrests made by the Anti-Trafficking Unit during this reporting period were related to narcotics. MCSO informed us of a problematic traffic stop made by a Patrol deputy on October 15, 2016. The driver did not speak English, and the deputy did not speak Spanish. The deputy requested assistance from a Spanish-speaking MCSO employee, but none were available. The deputy then requested that Customs and Border Patrol (CBP) assist with the interpretation, and a CBP agent responded to the scene and interpreted. The individual was cited for not having a valid driver's license, but was immediately taken into custody by CBP. There are several issues of concern with this case, some of which we have already discussed with MCSO. PSB is currently investigating this matter, and we will address our concerns once the investigation is closed and we have an opportunity to review the investigation and findings.

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

For the fourth quarter, we reviewed 61 incidents involving arrest and 80 incidents involving criminal citations. Based on our review of the above incidents and the documentation provided by MCSO, the actions of deputies at each scene appear to be consistent with acceptable law enforcement practices. There was no indication that race or ethnicity was a factor in determining any law enforcement action that MCSO personnel took in any of these investigations.

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

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

Phase 1: In compliance

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

Phase 2: In compliance

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

a. specify that unauthorized presence in the United States is not a crime and does not itself constitute reasonable suspicion or probable cause to believe that a person has committed or is committing any crime;

b. prohibit officers from detaining any individual based on actual or suspected "unlawful presence," without something more;

c. prohibit officers from initiating a pre-textual vehicle stop where an officer has reasonable suspicion or probable cause to believe a traffic or equipment violation has been or is being committed in order to determine whether the driver or passengers are unlawfully present;

d. prohibit the Deputies from relying on race or apparent Latino ancestry to any degree to select whom to stop or to investigate for an Immigration-Related Crime (except in connection with a specific suspect description);

e. prohibit Deputies from relying on a suspect's speaking Spanish, or speaking English with an accent, or appearance as a day laborer as a factor in developing reasonable suspicion or probable cause to believe a person has committed or is committing any

crime, or reasonable suspicion to believe that an individual is in the country without authorization;

f. unless the officer has reasonable suspicion that the person is in the country unlawfully and probable cause to believe the individual has committed or is committing a crime, the MCSO shall prohibit officers from (a) questioning any individual as to his/her alienage or immigration status; (b) investigating an individual's identity or searching the individual in order to develop evidence of unlawful status; or (c) detaining an individual while contacting ICE/CBP with an inquiry about immigration status or awaiting a response from ICE/CBP. In such cases, the officer must still comply with Paragraph 25(g) of this Order. Notwithstanding the foregoing, an officer may (a) briefly question an individual as to his/her alienage or immigration status; (b) contact ICE/CBP and await a response from federal authorities if the officer has reasonable suspicion to believe the person is in the country unlawfully and reasonable suspicion to believe the person is engaged in an Immigration-Related Crime for which unlawful immigration status is an element, so long as doing so does not unreasonably extend the stop in violation of Paragraph 25(g) of this Order;

g. prohibit Deputies from transporting or delivering an individual to ICE/CBP custody from a traffic stop unless a request to do so has been voluntarily made by the individual;

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

Phase 1: In compliance

- CP-8 (Preventing Racial and other Bias-Based Policing), most recently amended on November 17, 2015.
- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EA-11 (Arrest Procedures), most recently amended June 15, 2016.

Phase 2: In compliance

During this reporting period, MCSO reported one incident, which occurred on October 15, 2016, in which an individual was stopped for a traffic-related event. The subject did not speak English and had no identification. The deputy did not speak Spanish, the individual's native language. The deputy requested another MCSO unit to interpret, but no Spanish speakers were available. The deputy then requested that the dispatcher check to see if any Customs and Border Patrol (CBP) units in the area could assist with the interpretation. A CBP agent

subsequently arrived and assisted. The deputy cited the individual for driving without a license. Although the CBP agent was told to advise the subject that he was free to go, in actuality the subject was not free go. The CBP agent eventually took the individual into custody.

We noted several concerns, one of which was that it appears that the deputy did not notify the supervisor or request approval to ensure that the detention and subsequent contact with CBP were in compliance with MCSO policy and the Orders. MCSO notified us of this incident in December and provided all documentation pertaining to the traffic stop. PSB is investigating the case, and we will raise our concerns once the investigation is completed and we have had an opportunity to review the investigation and findings.

In our previous report, we discussed an incident that occurred in December 2015, where MCSO had contact with CBP. In that incident, deputies detained an individual to verify what turned out to be an administrative ICE warrant. We believe that MCSO addressed the December 2015 incident appropriately and is actively investigating the October 2016 incident. The Annual Combined Training – which includes an explanation of administrative warrants, an example of an administrative warrant, a screenshot of an ICE administrative warrant hit, and reinforcement that MCSO does not have the authority to detain or arrest for these types of warrants – began in September 2016 and was completed by the end of the year.

With the exception of these two contacts with CBP – in December 2015, and October 2016 – MCSO has consistently not reported any instances of any subject being transported to CBP; any instances of deputies having contacts with CBP for the purpose of making an immigration status inquiry; and any arrests for any immigration-related investigation, or for any immigration-related crime.

e. Policies and Procedures Generally

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

Phase 1: Not applicable

Phase 2: In compliance

See Paragraph 30.

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

Phase 1: Not applicable

Phase 2: In compliance

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

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

Phase 1: In compliance

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

Phase 2: In compliance

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

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

We have advised MCSO that in those cases where formal training is required by the Order, the E-Policy questions – which test comprehension of a policy – cannot serve as a substitute for the training. During this reporting period, MCSO issued the Body-Worn Camera Program Operations Manual and 15 Order-related policies, including: CP-3 (Workplace Professionalism: Discrimination and Harassment); CP-5 (Truthfulness); CP-11 (Anti-Retaliation); EA-2 (Patrol Vehicles); EA-5 (Enforcement Communications); EB-7 (Traffic Control and Services); GA-1 (Development of Written Orders); GC-11 (Employee Probationary Periods); GE-4 (Use, Assignment, and Operation of Vehicles); GF-1 (Criminal Justice Data Systems); GF-3 (Criminal History Information and Public Records); GF-5 (Incident Report Guidelines); GH-4 (Bureau of Internal Oversight); GI-5 (Voiance Language Services); and GM-1 (Electronic Communication and Voicemail).

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

During our July 2016 site visit, we first learned that MCSO, as part of a Countywide initiative, intended to replace its E-Policy System with a new online software program, Cornerstone. According to Training Division personnel, Cornerstone would be more user-friendly and offer more features than E-Policy. At that time, MCSO personnel anticipated that the new software would be adopted by the end of August 2016. During subsequent communications and also during our October 2016 and January 2017 site visits, we learned that County officials delayed the implementation of Cornerstone until at least May 2017. Training personnel are currently reviewing and testing the system. We continue to follow these developments closely, and look forward to receiving a demonstration of this new system's features in our upcoming site visit.

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

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

Phase 1: Not in compliance

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

Phase 2: Not in compliance

Since we began reviewing internal investigations conducted by MCSO, we have reviewed more than 440 administrative investigations involving MCSO Patrol personnel. During our reviews, we have observed cases with improper formatting, cases where allegations were not properly investigated, findings and discipline that were inappropriate, and case reports that failed to include adequate written documentation.

During each site visit, we meet with PSB personnel and provide them with information regarding the cases that we find to be deficient in structure, format, investigation, or reporting requirements. PSB has developed and implemented the use of an investigative checklist and specific format for the completion of internal investigations. These protocols have resulted in improvement in the structure and procedural completeness of the investigations. All supervisors who conduct investigations have been trained in the use of these documents. A Monitoring Team member attended two of the training sessions. In both training sessions, the attendees provided very positive feedback regarding both the development of the protocols and the training. Effective June 1, 2016, use of these investigative protocol documents is required for all administrative investigations.

While there has been significant improvement in the procedural requirements, we have observed that many cases are still not being properly and thoroughly investigated. We have noted concerns, including: failure to conduct a timely investigation; failure to interview all parties, failure to make the appropriate credibility determination; failure to conduct a thorough investigation; and findings that are not supported by the investigation. We have noted further concerns with the Pre-Determination Hearings where findings have been changed, or discipline has been reduced, without adequate justification.

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

During our reviews, we continue to note ongoing problems with those administrative investigations conducted by Districts and Enforcement Support. While improvement has been noted in the format and structure of these investigations, we have continued to observe problems with their overall quality. PSB continues to have a lieutenant assigned to the bureau who reviews Division and District cases when they are received. We have reviewed a number of emails sent to District personnel regarding cases they have completed. These emails provide excellent feedback, guidance – and in some cases, direction – to make necessary corrections to the report, or conduct further investigation. We appreciate and support these efforts by PSB.

Prior to our January 2017 site visit, we requested information on the status of delinquent cases in Districts and Divisions. As of the end of December 2016, there is only one pending case that was initiated prior to January 1, 2016. We noted, however, that there are now a number of investigations initiated in early 2016 that are delinquent. During our January 2017 site visit, we again met with PSB personnel, and then with District and Division command staff, to discuss delinquent and deficient administrative investigations. We continue to stress the importance of these investigations and emphasize that MCSO's internal investigations must improve for MCSO to achieve compliance with the Paragraphs related to internal investigations. We have also provided specific examples of cases we have found to be deficient, as well as examples of cases we have found to be thoroughly conducted and well-written.

During our meeting with District and Division command staff in January 2017, the MCSO staff in attendance was attentive and asked relevant questions. However, it was clear to our Team from the discussion at this meeting, that some of the MCSO command staff do not believe that they, or their supervisory personnel, have yet received sufficient training in how to conduct a quality investigation and comply with the Orders. We discussed the upcoming investigative training and are hopeful that this training will provide supervisory personnel and command staff with the skills and guidance necessary to properly conduct and review administrative investigations.

During this reporting period, we reviewed 84 cases involving 99 sworn, Posse, or reserve personnel that were submitted in compliance with the requirements of Paragraph 32. Three of these cases were internal criminal investigations, and the remaining 81 were administrative investigations. There were 158 potential policy violations included in the 81 administrative cases. Fifty-five of the administrative cases were initiated prior to the Second Order, and 26 were initiated on or after July 20, 2016. Sixty-nine of the cases were completed after July 20, 2016.

Nineteen of the 81 administrative investigations resulted in sustained violations against one or more employees. In five of these cases, the deputy was either deceased or had resigned at the time the case was concluded and no disciplinary findings were appropriate. Of the remaining 14 cases, we concurred with all the sustained findings, but disagreed with the discipline imposed in four of the cases, all of which were completed after the Second Order became effective. Discipline in these 14 cases included: one 80-hour suspension; one 40-hour suspension; one 24-hour suspension; one 16-hour suspension; seven written reprimands; and three coaching sessions. In all of these cases, the PSB Commander identified the category and offense number as well as the range of discipline. Our concern is not with the initial determination of the range of discipline by the PSB Commander, but with *the final discipline decision* made by the appointing authority. While the appointing authority documented the reasons for his decisions, we do not believe that his decisions were justified based on the facts of the cases involved.

Of the 12 cases completed prior to July 20, 2016, six of the administrative investigations were not completed within the 60 or 85 days required by MCSO policy. All 12 of the cases were reviewed and finalized within the 180-day timeframe required by MCSO policy and law. Of the 69 administrative investigations completed after July 20, 2016, only 24 of the investigations were completed within the 60 or 85 days required by MCSO policy. While many of the cases not completed within the 60- or 85-day timeframe were those cases that were delinquent from 2014 and 2015, we continue to see cases initiated in 2016 where the investigations have not been completed within the timeframes established by MCSO policy.

PSB investigated 21 of the administrative cases and all three of the criminal cases we reviewed for compliance with this Paragraph. While only four of the 21 administrative investigations were initiated on or after July 20, 2016, all were completed after the July 20, 2016 Order. The investigations were generally thorough and well-documented; and in 19 of the cases, the findings were supported by the investigations. We noted two cases where we believe the findings were not supported by the investigation. One case resulted in a not sustained finding, and the second case resulted in an exonerated finding. In both cases, we believe sufficient information existed to sustain the policy violations alleged. While we continue to find generally that PSB investigations are properly investigated and well-written, continue to miss a number of the written report compliance requirements in the Second Order. The specific deficiencies related to the Second Order will be addressed in later Paragraphs of this report.

Prior to, and during our January 2017 site visit, we discussed case deficiencies with PSB. We reviewed a number of specific cases and noted the required elements in the Second Order that are consistently missing in the reports. The required elements in the Second Order will be included as part of the pending training for all investigators, and PSB intends to revise the checklist to include many of these areas as well.

District or Enforcement Support Bureau personnel completed 60 of the internal administrative cases we reviewed for this Paragraph. We continue to see concerns with the quality of the investigations and the findings, in addition to those cases that were not completed within the required timeframes. Of the 60 cases we reviewed, 40 were initiated prior to July 20, 2016, and the remaining 20 were initiated on or after July 20, 2016. Forty-eight of the cases were completed after July 20, 2016. Of the 60 cases we reviewed, we had concerns with 12, and we disagreed with the findings in 11 of the cases. While this is an improvement from the previous reporting period, it still falls below compliance requirements. We noted numerous instances where PSB had returned the investigations for further investigation or additional documentation. As with the PSB investigations completed after July 20, 2016, the District cases that were completed after July 20, 2016 also had a number of deficiencies specifically related to the requirements of the Second Order.

While there has been improvement in the overall completion of administrative investigations, MCSO's compliance rate in this area remains unacceptable. As we have continued to note, compliance is dependent on all those who complete, review, or approve investigations. It is not, nor should it be, the sole responsibility of PSB to bring MCSO into compliance with the requirements of this and other Paragraphs related to internal investigations. The leadership of the organization must provide proper oversight and ensure that there are consequences for those who continue to fail to comply with these requirements. The requirements of the Second Order dictate additional requirements, and require an even greater commitment from MCSO to achieve compliance. The failure to properly and expeditiously address misconduct complaints remains a disservice to the community and to the MCSO employees who are subjects of these complaints.

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

Phase 1: Not in compliance

- CP-8 (Preventing Racial and other Bias-Based Policing), most recently amended on November 17, 2015.
- GH-2 (Internal Investigations), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.

Phase 2: Not in compliance

We previously reviewed 27 administrative investigations relevant to compliance with this Paragraph. We disagreed with the findings in six cases; and noted other concerns, including the appropriateness of a disciplinary sanction, a two-year delay in completing an investigation, and an investigation that failed to address all the allegations. We have continued to discuss our concerns regarding these investigations with PSB personnel during our site visits.

During this reporting period, MCSO completed and submitted five internal administrative investigations – all conducted by PSB personnel – in compliance with this Paragraph. The investigations reviewed for compliance with this Paragraph do not include those biased policing complaints involving the Plaintiffs' class. Those investigations have additional compliance requirements and are discussed in Paragraphs 275-283.

Only one of the five cases submitted for compliance for this this reporting period was initiated after July 20, 2016, but all five were completed after July 20, 2016. None of the cases submitted for this reporting period had final sustained findings for violations of biased policing, though there were other allegations sustained and discipline assessed for these violations. In three of the cases, we believe they were properly investigated and concur with the final findings determined by PSB.

In one case involving the conduct of two Detention officers, we have concerns with the overall quality of the investigation. This case was also investigated criminally and closed without submittal prior to the requirements of the Second Order of the Court. The administrative investigation was not thoroughly conducted and interviews of parties who may have had knowledge of the alleged misconduct were not conducted.

In a second case, also involving a Detention employee, PSB sustained the allegation of biased policing along with violations of workplace professionalism and unbecoming conduct. The proposed discipline by the PSB Commander was an 80-hour suspension to termination, which is consistent with the Discipline Matrices currently in use for these sustained violations. The appointing authority overturned the sustained allegation of biased policing, and sustained only the violations of unbecoming conduct and workplace professionalism, approving a 16-hour suspension. The 16-hour suspension is consistent with the matrices for the final findings determined by the appointing authority. This case involved the conduct of a Detention supervisor who was alleged to have made negative comments about both minorities and women. The appointing authority found that these comments had been made but determined that no discriminatory conduct occurred related to the treatment of inmates or prisoners. For this reason, he not sustained the biased policing allegation. This employee acknowledged making the inappropriate comments, but denied that he intended to be biased. While this employee was not a supervisor at the time of the alleged conduct, he was promoted to a supervisory position prior to the investigation of this conduct. This employee cited numerous factors that led to his use of inappropriate language, but denied that he intended to be discriminatory in any way. There is no indication in the report or disciplinary documents that this employee has been, or will be, required to attend training to address those factors that he contends were relevant to his use of this language, or to ensure that he fully understands what is appropriate conduct in the workplace. This is particularly concerning – given the fact that he is now a supervisor.

We reviewed five additional cases this reporting period that involved biased policing allegations. All of these cases were closed after July 20, 2016 and were determined to be CRMs. They will be reported in the Paragraphs related to CRMs later in this report.

To date, we have reviewed 32 administrative investigations relevant to Phase 2 compliance with this Paragraph. MCSO is not in Phase 2 compliance based on the deficiencies we have found during our reviews. During our next site visit, we will discuss with PSB personnel the investigations where we have identified concerns related to this Paragraph.

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

Phase 1: In compliance

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

Phase 2: In compliance

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

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

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

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

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

Section 5: Pre-Planned Operations

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

Phase 1: In compliance

- Special Investigations Division Operations Manual, published May 15, 2015.
- Special Investigations Division Organizational Chart, published February 15, 2015.
- Memorandum from Executive Chief Trombi to Deputy Chief Lopez directing the elimination of the Criminal Employment Unit, dated January 6, 2015.

Phase 2: In compliance

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

During our review of the arrests made by the Special Investigations Division ATU since March 2015, we have not seen any arrests for immigration or human smuggling violations. The cases submitted by MCSO and reviewed for the ATU have been primarily related to narcotics trafficking offenses.

During this reporting period, MCSO reported that it did not engage in any investigations of human smuggling and did not make any arrests for immigration or other human smuggling violations. The primary focus on narcotics crimes by the ATU continues to be demonstrated in the monthly reports we review that reflect documentation of these types of investigations and arrests.

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

Phase 1: In compliance

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

Phase 2: In compliance

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

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

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

We noted, as did the Plaintiffs, that "Operation Gila Monster" involved traffic stops of Latinos and that those arrested were undocumented Latinos. We will continue to closely monitor and review any operations we become aware of to ensure continued compliance with this and other Paragraphs related to significant operations.

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

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

Phase 1: In compliance

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

Phase 2: In compliance

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

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

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

a. documentation of the specific justification/reason for the operation, certified as drafted prior to the operation (this documentation must include analysis of relevant, reliable, and comparative crime data);

b. information that triggered the operation and/or selection of the particular site for the operation;

c. documentation of the steps taken to corroborate any information or intelligence received from non-law enforcement personnel;

d. documentation of command staff review and approval of the operation and operations plans;

e. a listing of specific operational objectives for the patrol;

f. documentation of specific operational objectives and instructions as communicated to participating MCSO Personnel;

g. any operations plans, other instructions, guidance or post-operation feedback or debriefing provided to participating MCSO Personnel;

h. a post-operation analysis of the patrol, including a detailed report of any significant events that occurred during the patrol;

i. arrest lists, officer participation logs and records for the patrol; and

j. data about each contact made during the operation, including whether it resulted in a citation or arrest.

Phase 1: In compliance

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

Phase 2: In compliance

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

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

(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.*

Phase 1: In compliance

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

Phase 2: In compliance

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

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

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

Section 6: Training

COURT ORDER VII. TRAINING

a. General Provisions

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

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

Phase 1: Not in compliance

- GG-1 (Peace Officer Training Administration), currently under revision.
- GG-2 (Detention/Civilian Training Administration), currently under revision.
- Training Division Operations Manual, currently under revision.

Phase 2: Deferred

To verify Phase 2 compliance with this Paragraph, we reviewed instructor files that included resumes, certificates, and Skills Manager System lists for individuals selected as instructors and Field Training Officers. These files were assessed for consistency with the selection criteria established in GG-1. This criteria requires the review of a curriculum vitae (CV), documentation of qualifications, disciplinary reviews conducted annually and 30 days prior to instructing a training program, and documentation of an AZ POST qualification as a General Instructor.

MCSO provided documentation proposing 10 PSB members for consideration as instructors for the Misconduct Investigative Training, which is currently under development. The selection of these individuals did not follow the criteria of GG-1, and we discussed this with MCSO during our January 2017 site visit. Although GG-1 has not been published, Training Division command personnel have continually stated their intentions to adhere to the policy requirements. Consistent with these requirements, each individual received a disciplinary review in October 2016. Although the reviews appeared to be significantly premature, Training Division personnel justified them as baseline reviews to establish the individuals' eligibility as potential instructors. After our discussion, we do not object to the procedure that Training utilized; in fact, we recommend that this procedure be utilized for all instructor and FTO selections in the future.

PSB initially provided CVs for only six of the 10 proposed instructors. We did not receive the remaining CVs until January 17, 2017. Based on our review, each individual appeared to be competent and possess significant experience and expertise. Three proposed instructors lacked the required AZ POST General Instructor certificate. However, PSB had alerted the Training Division of this issue during the selection process. PSB recognized this as a policy requirement and provided documentation to the Training Division that all three proposed instructors were scheduled to attend General Instructor Training on January 23-27, 2017. Upon graduation from this course, all 10 proposed instructors met the instructor criteria of GG-1. We recommend that candidates for instructors should meet the requirements of GG-1 *prior* to their selection.

The selection of sworn FTOs during this reporting period was not consistent with the requirements of GG-1. In December, the Training Division put forth two positions related to FTO selection and FTO training that are inconsistent with the requirements of GG-1. The Training Division advised us that "to eliminate individuals from attendance in any training class which had vacancies, for the sole purpose of disciplinary history would be counterproductive to the creation of a productive learning environment for our agency;" and that a "PSB disciplinary review would be conducted prior to any FTO receiving a deputy to train." We believe that both positions are fundamentally flawed and inconsistent with policy GG-1. The policy language is succinct on the requirements to become an FTO candidate and to remain an active FTO. These requirements include a written recommendation from the deputy's immediate supervisor, a minimum of two years' peace officer experience, a meets "Minimum Performance Standards" on the last two consecutive EPAs, and successful completion of AZ POST General Instructor School. Additionally, a deputy with an open investigation relating to a serious offense will not be considered as an FTO candidate until that investigation has concluded with a satisfactory outcome. Also required is a report from PSB indicating that discipline in the form of a suspension or demotion, within the last seven years, shall presumptively eliminate the individual from consideration until outside that timeframe.

In November, MCSO selected 19 deputies to attend the FTO Basic School. Several of these individuals did not meet these requirements, and the requirements of GG-1 clearly were not utilized as the basis for these selections. We inquired with Training Division personnel about this during our January 2017 site visit. They indicated that a miscommunication had caused "a partial disciplinary review" to be conducted on the FTO candidates, meaning that only four deputies received a review of their employee profile. The employee profile does not constitute a disciplinary review and does not fulfill the curriculum vitae requirements of GG-1. We found that none of the 19 personnel selected to attend this training had received the requisite disciplinary review to be considered FTO candidates.

For this class of FTOs, we did not receive any documentation prior to their selection. While all of the individuals appeared to possess greater than the minimum two years of peace officer experience, the failure of the Training Division to adhere to MCSO policy, even in spirit, resulted in undesirable outcomes. No recommendations from their immediate supervisors were provided. The previous two consecutive EPAs were not provided for review. Only three individuals possessed the mandatory AZ POST General Instructor certificate. Most disturbing was the results of the PSB disciplinary review that was conducted *after* the class was complete.

Eight of 19 personnel had open investigations that should have negated any current consideration as an FTO candidate.

We recognize that the Training Division, under its new command, has taken great strides to craft a thorough guidance document in the form of GG-1. This document was not published during this reporting period, but much to the credit of Training command, they have stated and demonstrated a willingness to apply the requirements of this policy in the interim. We recognize the Training Division's desire to develop and deliver quality training programs. However, the FTO training program is arguably the single most important training program for any organization, as it provides the foundation for the future of new deputies and the organization as a whole. To underscore this point with language from the policy, "Field Training Officer shall demonstrate professional and ethical behavior, reinforce the policies and procedures of the Office, and generally assist the OIT as he transitions from a Basic Training Academy to the field."

We encourage and recommend that the Training Division adhere to policy restrictions for both the requirements to become an FTO candidate, and the requirements to remain an FTO. The elevation and maintenance of high individual standards for instructors and FTOs should demonstrate the value the organization places on these individuals.

The Training Division did not conduct annual PSB reviews of incumbent instructors or of active FTOs during this reporting period. We will continue to conduct reviews of instructor and FTO files for content and consistency with the requirements of GG-1.

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

Phase 1: Not in compliance

- GG-1 (Peace Officer Training Administration), currently under revision.
- GG-2 (Detention/Civilian Training Administration), currently under revision.
- Training Division Operations Manual, currently under revision.

Phase 2: Deferred

To verify compliance with this Paragraph, we reviewed all completed tests, documentation of all failures, and all failure remediation efforts for each class delivered during this reporting period.

During this reporting period, MCSO delivered one class of the 2014 Detention, Arrests, and Immigration Related Laws, and Bias Free Policing training. A total of 81 (30 sworn, 51 Posse recruits) attended the class. Seven students failed the initial testing. Only one of the seven was successful after the remedial test.

MCSO delivered 47 classes of the 2016 Annual Combined Training (ACT) during this reporting period. A total of 1,313 personnel (599 sworn, 24 reserve, 26 retired reserve, 663 Posse, and one civilian) received the training; with the exception of four Posse members, all successfully completed testing. The 2016 ACT training program was completed during this reporting period.

MCSO delivered one class of the 2016 Supervisor Responsibilities: Effective Law Enforcement (SRELE) training during this reporting period; 10 sworn personnel received the training. All personnel successfully completed testing.

MCSO delivered one 2015 EIS "Blue Team Entry System for IAPro" training during this reporting period; 30 sworn personnel received this training. The revised lesson plan and test remain under revision.

MCSO delivered one class of 2015 TraCS training during this reporting period; 30 sworn personnel received this training. The TraCS lesson plan and test remain under revision.

MCSO delivered one class of 2015 Body-Worn Camera Training during this reporting period; 30 sworn personnel received this training. The Body-Worn Camera training lesson plan and test remain under revision.

MCSO delivered one class of the 2016 Administrative Investigations Checklist class; nine sworn supervisors received this training.

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

Phase 1: Not in compliance

- GG-1 (Peace Officer Training Administration), currently under revision.
- GG-2 (Detention/Civilian Training Administration), currently under revision.
- Training Division Operations Manual, currently under revision.

Phase 2: Deferred

To verify compliance with this Paragraph, we reviewed the Master Training Calendar. This calendar covers the period October 31, 2016 through November 5, 2017. No tentative dates for Order-related training are indicated.

The Sworn Master Roster – December Report indicates that MCSO has 745 sworn personnel who are required to receive Order-related training. This number reflects an increase of 19 personnel.

The Reserve Master Roster – December Report indicates that 31 reserve personnel are required to receive Order-related training. This represents a decrease of two personnel.

The Retired Reserve Master Roster – December Report indicates that 34 retired reserve personnel are required to receive Order-related training. This represents a decrease of one individual.

The Posse Roster – December Report indicates that 725 Posse personnel are required to receive Order-related training. This represents a decrease of 68 personnel.

The Supervisor Responsibilities: Effective Law Enforcement (SRELE) Mandatory Attendance Roster – October indicates that a total of 194 supervisors (18 captains, five Deputy Chiefs, 41 lieutenants, and 130 sergeants) are required to receive Order-related Supervisory Training programs.

2016 Supervisor Responsibilities: Effective Law Enforcement Training was delivered once during this reporting period to 10 supervisory personnel.

MCSO delivered one 2015 Blue Team Entry System for IAPro during this reporting period to 30 sworn personnel.

MCSO delivered one 2015 TraCS Training to 30 sworn personnel during this reporting period.

MCSO delivered one 2015 Body-Worn Camera Training to 30 sworn personnel during this reporting period.

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

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

Phase 1: Not applicable

Phase 2: In compliance

To verify compliance with this Paragraph, we review and provide recommendations for all newly developed lesson plans, and all lesson plans under revision.

The EIS curriculum was not reviewed or approved during this reporting period.

The Body-Worn Camera curriculum was not reviewed or approved during this reporting period.

The TraCS curriculum was not reviewed or approved during this reporting period.

The EPA curriculum was not approved during this reporting period.

The SILO Tips Database curriculum was not approved during this reporting period.

We continue to provide technical assistance to MCSO for its Misconduct Investigative Training curriculum; the curriculum was not reviewed or approved during this reporting period.

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

Phase 1: Not applicable

Phase 2: In compliance

MCSO continues to utilize the training cycle concept, and used it extensively during this reporting period. MCSO's use of testing analysis allowed for the timely review and modification to the test for the 2016 ACT. The Training Division continues to benefit from the use of these effective training management tools.

MCSO continues to request technical assistance from our Team to assist in the development of lesson plans, train-the-trainer, and other training documents.

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

Phase 1: Not in compliance

- GG-1 (Peace Officer Training Administration), currently under revision.
- GG-2 (Detention/Civilian Training Administration), currently under revision.
- Training Division Operations Manual, currently under revision.

Phase 2: Deferred

During our January 2017 site visit, Training Division and IT personnel provided an update on the status of the implementation of Cornerstone, the online learning management software that will eventually replace the E-Policy System. MCSO initially anticipated that Cornerstone would be operational in 2016, but it now appears that the system may not be implemented until at least May 2017. The MCSO IT gap analysis projects that the system will meet the needs of the Training Division. During our January 2017 site visit, MCSO advised us that the Training Division had provided a list of required data points to Cornerstone. We had recommended that MCSO provide data points related to documenting classroom training. MCSO IT has assured us that Cornerstone will interface with EIS.

The TraCS lesson plan is currently under review by our Team and the Parties.

The Body-Worn Camera lesson plan remains under revision and was not been presented to our Team for review during this reporting period.

The EIS lesson plan remains under revision and was not presented to our Team for review during this reporting period.

The EPA lesson plan remains under development and review by our Team and the Parties.

The SILO Tips Database Training remains under development and review by our Team and the Parties.

Misconduct Investigative Training remains under development by our Team and MCSO review.

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

B. Bias-Free Policing Training

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

Phase 1: Not applicable

Phase 2: In compliance

During this reporting period, MCSO delivered one class of the 2014 Bias Free Policing training. A total of 81 (30 sworn, 51 Posse recruits) attended the class. Seven students failed the initial testing. Only one of the seven successfully completed remedial testing.

MCSO delivered 47 classes of the 2016 Annual Combined Training (ACT) during this reporting period. This lesson plan comports with the requirements of this Paragraph. A total of 1,313 personnel (599 sworn, 24 reserve, 26 retired reserve, 663 Posse, and one civilian) received the training; with the exception of four Posse members, all successfully completed testing. The 2016 ACT training program was completed during this reporting period.

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

a. definitions of racial profiling and Discriminatory Policing;

b. examples of the type of conduct that would constitute Discriminatory Policing as well as examples of the types of indicators Deputies may properly rely upon;

c. the protection of civil rights as a central part of the police mission and as essential to effective policing;

d. an emphasis on ethics, professionalism and the protection of civil rights as a central part of the police mission and as essential to effective policing;

e. constitutional and other legal requirements related to equal protection, unlawful discrimination, and restrictions on the enforcement of Immigration-Related Laws, including the requirements of this Order;

f. MCSO policies related to Discriminatory Policing, the enforcement of Immigration-Related Laws and traffic enforcement, and to the extent past instructions to personnel on

these topics were incorrect, a correction of any misconceptions about the law or MCSO policies;

g. MCSO's protocol and requirements for ensuring that any significant pre-planned operations or patrols are initiated and carried out in a race-neutral fashion;

h. police and community perspectives related to Discriminatory Policing;

i. the existence of arbitrary classifications, stereotypes, and implicit bias, and the impact that these may have on the decision-making and behavior of a Deputy;

j. methods and strategies for identifying stereotypes and implicit bias in Deputy decision-making;

k. methods and strategies for ensuring effective policing, including reliance solely on non-discriminatory factors at key decision points;

l. methods and strategies to reduce misunderstanding, resolve and/or de-escalate conflict, and avoid Complaints due to perceived police bias or discrimination;

m. cultural awareness and how to communicate with individuals in commonly encountered scenarios;

n. problem-oriented policing tactics and other methods for improving public safety and crime prevention through community engagement;

o. the benefits of actively engaging community organizations, including those serving youth and immigrant communities;

p. the MCSO process for investigating Complaints of possible misconduct and the disciplinary consequences for personnel found to have violated MCSO policy;

q. background information on the Melendres v. Arpaio litigation, as well as a summary and explanation of the Court's May 24, 2013 Findings of Fact and Conclusions of Law in Melendres v. Arpaio, the parameters of the Court's permanent injunction, and the requirements of this Order; and

r. Instruction on the data collection protocols and reporting requirements of this Order.

Phase 1: Not applicable

Phase 2: In compliance

During this reporting period, MCSO delivered one class of the 2014 Bias Free Policing training. A total of 81 (30 sworn, 51 Posse recruits) attended the class. Seven students failed the initial testing. Only one of the seven successfully completed remedial testing.

MCSO delivered 47 classes of the 2016 Annual Combined Training (ACT) during this reporting period. This lesson plan comports with the requirements of this Paragraph. A total of 1,313 personnel (599 sworn, 24 reserve, 26 retired reserve, 663 Posse, and one civilian) received the training; with the exception of four Posse members, all successfully completed testing. The 2016 ACT training program was completed during this reporting period.

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

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

Phase 1: Not applicable

Phase 2: In compliance

During this reporting period, MCSO delivered one class of the 2014 Detention, Arrests, and Immigration Related Laws training. A total of 81 (30 sworn, 51 Posse recruits) attended the class. Seven students failed the initial testing. Only one of the seven successfully completed remedial testing.

MCSO delivered 47 classes of the 2016 Annual Combined Training (ACT) during this reporting period. This lesson plan comports with the requirements of this Paragraph. A total of 1,313 personnel (599 sworn, 24 reserve, 26 retired reserve, 663 Posse, and one civilian) received the training; with the exception of four Posse members, all successfully completed testing. The 2016 ACT training program was completed during this reporting period.

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

a. an explanation of the difference between various police contacts according to the level of police intrusion and the requisite level of suspicion; the difference between reasonable suspicion and mere speculation; and the difference between voluntary consent and mere acquiescence to police authority;

b. guidance on the facts and circumstances that should be considered in initiating, expanding or terminating an Investigatory Stop or detention;

c. guidance on the circumstances under which an Investigatory Detention can become an arrest requiring probable cause;

d. constitutional and other legal requirements related to stops, detentions and arrests, and the enforcement of Immigration-Related Laws, including the requirements of this Order;

e. MCSO policies related to stops, detentions and arrests, and the enforcement of Immigration-Related Laws, and the extent to which past instructions to personnel on these topics were incorrect, a correction of any misconceptions about the law or MCSO policies;

f. the circumstances under which a passenger may be questioned or asked for identification;

g. the forms of identification that will be deemed acceptable if a driver or passenger (in circumstances where identification is required of them) is unable to present an Arizona driver's license;

h. the circumstances under which an officer may initiate a vehicle stop in order to investigate a load vehicle;

i. the circumstances under which a Deputy may question any individual as to his/her alienage or immigration status, investigate an individual's identity or search the individual in order to develop evidence of unlawful status, contact ICE/CBP, await a response from ICE/CBP and/or deliver an individual to ICE/CBP custody;

j. a discussion of the factors that may properly be considered in establishing reasonable suspicion or probable cause to believe that a vehicle or an individual is involved in an immigration-related state crime, such as a violation of the Arizona Human Smuggling Statute, as drawn from legal precedent and updated as necessary; the factors shall not include actual or apparent race or ethnicity, speaking Spanish, speaking English with an accent, or appearance as a Hispanic day laborer;

k. a discussion of the factors that may properly be considered in establishing reasonable suspicion or probable cause that an individual is in the country unlawfully, as drawn from legal precedent and updated as necessary; the factors shall not include actual or apparent race or ethnicity, speaking Spanish, speaking English with an accent, or appearance as a day laborer;

l. an emphasis on the rule that use of race or ethnicity to any degree, except in the case of a reliable, specific suspect description, is prohibited;

m. the MCSO process for investigating Complaints of possible misconduct and the disciplinary consequences for personnel found to have violated MCSO policy;

n. Provide all trainees a copy of the Court's May 24, 2013 Findings of Fact and Conclusions of Law in Melendres v. Arpaio and this Order, as well as a summary and explanation of the same that is drafted by counsel for Plaintiffs or Defendants and reviewed by the Monitor or the Court; and

o. Instruction on the data collection protocols and reporting requirements of this Order, particularly reporting requirements for any contact with ICE/CBP.

Phase 1: Not applicable

Phase 2: In compliance

During this reporting period, MCSO delivered one class of the 2014 Detention, Arrests, and Immigration Related Laws training. A total of 81 (30 sworn, 51 Posse recruits) attended the class. Seven students failed the initial testing. Only one of the seven successfully completed the remedial test.

MCSO delivered 47 classes of the 2016 Annual Combined Training (ACT) during this reporting period. This lesson plan comports with the requirements of this Paragraph. A total of 1,313 personnel (599 sworn, 24 reserve, 26 retired reserve, 663 Posse, and one civilian) received the training; with the exception of four Posse members, all successfully completed testing. The 2016 ACT training program was completed during this reporting period.

d. Supervisor and Command Level Training

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

Phase 1: Not applicable

Phase 2: In compliance

MCSO delivered one class of the 2016 Supervisor Responsibilities: Effective Law Enforcement (SRELE) training during this reporting period. The annual requirements for Supervisory Training were completed during this reporting period.

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

a. techniques for effectively guiding and directing Deputies, and promoting effective and constitutional police practices in conformity with the Policies and Procedures in Paragraphs 18–34 and the Fourth and Fourteenth Amendment Training in Paragraphs 48–51;

b. how to conduct regular reviews of subordinates;

c. operation of Supervisory tools such as EIS;

d. evaluation of written reports, including how to identify conclusory, "canned," or perfunctory language that is not supported by specific facts;

e. how to analyze collected traffic stop data, audio and visual recordings, and patrol data to look for warning signs or indicia of possible racial profiling or unlawful conduct;

f. how to plan significant operations and patrols to ensure that they are race-neutral and how to supervise Deputies engaged in such operations;

g. incorporating integrity-related data into COMSTAT reporting;

h. how to respond to calls from Deputies requesting permission to proceed with an investigation of an individual's immigration status, including contacting ICE/CBP;

i. how to respond to the scene of a traffic stop when a civilian would like to make a Complaint against a Deputy;

j. how to respond to and investigate allegations of Deputy misconduct generally;

k. evaluating Deputy performance as part of the regular employee performance evaluation; and

l. building community partnerships and guiding Deputies to do the Training for Personnel Conducting Misconduct Investigations.

Phase 1: Not applicable

Phase 2: In compliance

MCSO delivered one class of the 2016 Supervisor Responsibilities: Effective Law Enforcement (SRELE) training during this reporting period. This lesson plan incorporates the requirements.

Section 7: Traffic Stop Documentation and Data Collection

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

For Paragraphs 54 and 55, in particular, the Monitoring Team requests traffic stop data from MCSO. The following describes how we made that request and how we handled the data once we received it. These data may also be referred to in other areas of Section 7 and the report as a whole.

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

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

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

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

a. Collection of Traffic Stop Data

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

a. the name, badge/serial number, and unit of each Deputy and posse member involved;

b. the date, time and location of the stop, recorded in a format that can be subject to geocoding;

c. the license plate state and number of the subject vehicle;

d. the total number of occupants in the vehicle;

e. the Deputy's subjective perceived race, ethnicity and gender of the driver and any passengers, based on the officer's subjective impression (no inquiry into an occupant's ethnicity or gender is required or permitted);

f. the name of any individual upon whom the Deputy runs a license or warrant check (including subject's surname);

g. an indication of whether the Deputy otherwise contacted any passengers, the nature of the contact, and the reasons for such contact;

h. the reason for the stop, recorded prior to contact with the occupants of the stopped vehicle, including a description of the traffic or equipment violation observed, if any, and any indicators of criminal activity developed before or during the stop;

i. time the stop began; any available data from the E-Ticketing system regarding the time any citation was issued; time a release was made without citation; the time any arrest was made; and the time the stop/detention was concluded either by citation, release, or transport of a person to jail or elsewhere or Deputy's departure from the scene;

j. whether any inquiry as to immigration status was conducted and whether ICE/CBP was contacted, and if so, the facts supporting the inquiry or contact with ICE/CBP, the time Supervisor approval was sought, the time ICE/CBP was contacted, the time it took to complete the immigration status investigation or receive a response from ICE/CBP, and whether ICE/CBP ultimately took custody of the individual;

k. whether any individual was asked to consent to a search (and the response), whether a probable cause search was performed on any individual, or whether a pat-and-frisk search was performed on any individual;

l. whether any contraband or evidence was seized from any individual, and nature of the contraband or evidence; and

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

Phase 1: In compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EA-5 (Enforcement Communications), most recently amended on December 8, 2016.
- EA-11 (Arrest Procedures), most recently amended on June 5, 2016.
- CP-8 (Preventing Racial and other Bias-Based Policing), most recently amended on November 17, 2015.
- GJ-3 (Search and Seizure), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: Not in compliance

To verify the information required for this Paragraph, MCSO created, and we reviewed, the Vehicle Stop Contact Form (VSCF), the Vehicle Stop Contact Form Supplemental Sheet, the Incidental Contact Receipt, and the Written Warning/Repair Order, all in electronic form, for those motorists who, during this reporting period, committed a traffic violation or operated a vehicle with defective equipment and received a warning. We also reviewed the Arizona Traffic Ticket and Complaint Forms issued for violations of Arizona Statutes, Internet I/Viewer Event Unit printout, Justice Web Interface printout, and any Incident Report associated with the event. We selected a sample of 105 traffic stops conducted by MCSO deputies from October 1, through December 31, 2016 for purposes of this review; and assessed the collected data from the above-listed documents for compliance with Subparagraphs 54.a.-54.m. All of the listed documentation was used for our review of the following subsections of this Paragraph.

The Paragraph requires that MCSO create a system for data collection. The data collected pursuant to this Paragraph will be captured in the Early Identification System, which we discuss further in subsequent sections of this report.

Paragraph 54.a. requires MCSO to document the name, badge/serial number, and unit of each deputy and Posse member involved. Our review indicated that in the 105 vehicle traffic stops, there were 18 cases where the deputy's unit had another deputy assigned to the vehicle or one or more other deputy units or Posse members were on the scene. In three cases involving secondary units who arrived on the scene, the deputies' names, serial and unit numbers were not listed on the VSCF. In one case, an Asian/Pacific Islander male was stopped for a lane violation and issued a citation. A two-deputy unit was on the scene and their names, serial numbers, or unit numbers were not documented on the VSCF. In a second case, a white male was stopped for a DUI investigation and a subsequent field sobriety test. The stop resulted in a citation for failing to have his vehicle insured. The deputy failed to document the supervisor who arrived on the scene. Our review of the body-worn camera recording showed the supervisor arriving and conversing with the deputy. In the third case, the VSCF could not be located; and therefore, we do not know if any other units were on the scene. We found one other case where the primary deputy entered his own unit number incorrectly on the VSCF.

For this reporting period, all but one of the primary deputies indicated their own serial numbers for every stop they initiated. We review the Vehicle Stop Contact Form, I/Viewer Event document, the Justice Web Interface, and the CAD printout to determine which units are on the scene. If back-up units arrive on a scene and do not announce their presence to dispatch, CAD does not capture this information. As in one of the cases above, if the arriving unit announced his presence the documentation of additional unit(s) would be captured. A TraCS change was made to the VSCF during 2016 to secure this information. MCSO added a drop-down box so the deputy could enter the number of units on the scene and the appropriate fields would be added for the additional deputies. While this addition is an improvement, if the deputy fails to enter the number of additional units on the form, the drop-down boxes do not appear.

The identity of personnel on scenes is a core issue in this case, and we shall consistently evaluate the agency's measure of compliance with this requirement. The Order requires that all deputies on the scene be identified with their names, serial and unit numbers on the appropriate forms. We found that the deputies' names, and serial and unit numbers, were listed, with few exceptions, on all required forms and identified on the Vehicle Stop Contact Form. We noted three instances where the primary deputy did not list the name, serial number, or unit number on the VSCF. MCSO's compliance rate for this reporting period is 96%.

Paragraph 54.b. requires MCSO to document the date, time, and location of the stop, recorded in a format that can be subject to geocoding. Our reviews of the CAD printout for all 105 traffic stops in our sample indicated that the date, time, and location is captured with the time the stop is initiated and the time the stop is cleared. In previous reporting periods, we noted instances where the GPS coordinates could not be located on the documentation received (CAD printout/I/Viewer). We contacted MCSO about this issue, and MCSO is now providing us with the GPS coordinates by way of a separate document that lists the coordinates for the traffic stop samples we provide. MCSO uses GPS to determine location for the CAD system. GPS collects coordinates from three or more satellites to enhance the accuracy of location approximation. The data from the satellites can be decoded to determine the longitude and latitude of traffic stop locations should that be necessary. During our quarterly site visits, we review the GPS coordinates with CID personnel to ensure the accuracy of the data. The CAD system was upgraded in 2014 to include geocoding of traffic stops. CID continues to provide us with a printout of all case numbers in the sample containing the associated coordinates. The CAD or I/Viewer system contains the coordinates in about 90% of the cases. MCSO provided GPS coordinates for 104 cases we reviewed, for 99% compliance.

Occasionally the CAD time of stop and end of stop time do not exactly match those listed on the Vehicle Stop Contact Form due to extenuating circumstances the deputy may encounter. During this reporting period, we found no instances where the start or end time on the Vehicle Stop Contact Form differed by five minutes or more from the CAD printout. In monthly audits of traffic stop data, BIO looks at the beginning/ending times of the stops and sends Action Forms to the Districts when there are discrepancies. The CAD system is more reliable than the VSCF in determining stop times, as it is less prone to human error. When the deputy verbally advises dispatch that s/he is conducting a traffic stop, the information is digitally time-stamped into the CAD system without human input; and when the deputy clears the stop, s/he again verbally advises dispatch.

During our April 2016 site visit, we discussed with ASU and MCSO the possibility of utilizing the CAD printout instead of the TraCS data to determine stop times. We determined that utilizing the CAD system to determine stop end times created additional challenges. However, a decision was made to utilize the CAD printout to determine traffic stop beginning and ending times for data analysis. MCSO issued Administrative Broadcast 16-62 on June 29, 2016 that indicated beginning with the July 2016 traffic stop data collection, the stop times captured on the CAD system would be used for reporting and analytical purposes. Eleven additional TraCS technical changes were made during this reporting period. The most significant are highlighted below:

- Contact start time will be populated on the VSCF by CAD;
- Added a new field (Classification) that requires the deputy to select an ARS Offense Classification (Civil Traffic, Criminal Traffic, Criminal or Petty Offense);
- Previously, once a supervisor had reviewed the VSCF, the form could not be modified. The change now allows the supervisor who reviewed the form to "REJECT" it and request that appropriate changes be made after the supervisor's initial review;
- Replaced the Yes/No selection with a series of five questions that define the reason for an extended stop;
- Corrected the rule so the deputy's serial number is defaulted correctly;
- Added custom search features for citations and warnings so the deputy is able to search fields by driver; and
- Added help fields for the deputy to navigate the TraCS system.

The first change listed above should ensure the start and end time of the stop from the CAD system and VSCF should be consistent. MCSO's compliance rate is 99% for this portion of the Subparagraph.

Paragraph 54.c. requires MCSO to document the license plate and state of the subject vehicle. During this reporting period, we found that deputies properly recorded the vehicle tag number and state of issuance in 101 cases. (One case in our sample was not a traffic stop.) There were three cases where the deputy either announced an incorrect tag number or ran a tag check that differed from the tag documented on the VSCF. In the first case, the deputy documented a tag number on the VSCF that was different from the tag he ran on CAD and the I/Viewer systems. In this case, a white male was stopped for running a stop sign and issued a warning. In the second case, also involving a white male driver who was cited for speeding, the deputy announced a tag that was completely different from the one documented on the VSCF, CAD, and I/Viewer printouts. We could not determine the reason for the separate queries in the documentation we reviewed. In a third case, involving a Latino, the deputy inverted two numbers on the tag when he entered the information on the VSCF. The sample included seven stops where the vehicles were titled in another state and 11 drivers were licensed in other states.

As in our previous reports, we found that many of the stops made by deputies were for speeding, invalid license plates, or expired vehicle registrations. MCSO is in compliance with this Subparagraph, with a compliance rate of 97%.

Paragraph 54.d. requires MCSO to document the total number of occupants in the vehicle when a stop is conducted. In 34 of the 105 traffic stops, the driver had one or more passengers in the vehicle (47 total passengers). The Vehicle Stop Contact Form, completed by the deputy on every traffic stop, is used to capture the total number of occupants and contains a separate box on the form for that purpose. Policy EB-2 (Traffic Stop Data Collection) requires deputies to collect data on all traffic stops using the MCSO VSCF; this includes incidental contacts with motorists. Our review of the sample data indicates that deputies identified the correct number of vehicle occupants in all but one case. Our review of the body-worn camera footage indicated that in one case, a passenger was in the vehicle but not documented by the deputy. MCSO's compliance rate is 99% for this Subparagraph.

Paragraph 54.e. requires MCSO to document the perceived race, ethnicity, and gender of the driver and any passengers, based on the deputy's subjective impression. (No inquiry into the occupant's ethnicity or gender is required or permitted.) In 34 of the 105 stops from the traffic stop data sample, there was more than one occupant in the vehicle (47 passengers).

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

The Plaintiffs' attorneys provided us with 30 additional cases (three were in the traffic stop sample) that were not part of our sample of 105 traffic stops. The 30 cases involved drivers with Latino surnames that were classified by deputies as white on the VSCF. The Plaintiffs' attorneys' concern was that deputies were under-reporting stops of Latino drivers. We pulled the video recordings of each of those stops and determined that 15 of the drivers' ethnicities should have been classified as Latino. A review of these same 30 cases by CID produced similar results. For this reason, we have requested that MCSO provide us with the BWC recordings of every traffic stop in the sample where a driver with a Latino surname is documented as white. MCSO must also address the issue of possible under-reporting by providing additional training for deputies and supervisors, along with more effective supervision. MCSO should identify the method of training and a set timetable for its completion. In view of the ongoing concerns regarding the misidentification of Latino drivers, the proposed training methodology and timetable should be completed and disseminated to the Monitor and Parties by July 1, 2017.

In two stops in our sample of 105 that contained a body-worn camera recording, our review found drivers with a Latino surname documented as white who should have been documented as Latinos on the VSCFs. BIO flagged one of the two stops for misidentification of the ethnicity of the driver. Both drivers were issued warnings.

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. When BIO conducts audits of the traffic stop data, it issues memorandums to the individual Districts so that they can take corrective action when necessary. The District Captains are required to respond to BIO with comments on violations, or with corrective action if required. We review the internal audits and associated matrices conducted by MCSO, and occasionally we disagree with their findings. During our January 2017 site visit, we reviewed the October and November 2016 TraCS deficiencies discovered in MCSO's audits and in our review of the documentation. BIO provided us with the corresponding Action Forms returned by the Districts in response to those deficiencies.

There were 40 instances where deputies elected to issue warnings to drivers instead of issuing citations. Thirty-eight percent of the 105 traffic stops we reviewed resulted in a written warning. The breakdown of those motorists issued warnings is as follows: 18 white males (40% of the total white males stopped); 11 white females (52% of the total white females stopped); three Latino males (19% of the Latino males stopped); three Latina females (33% of the Latina females stopped); three Black males (43% of the Black males stopped). There was one Black female stopped in the sample and she received a citation. There were no Indian/Alaskan drivers stopped in the sample. Five Asian/Pacific Islander drivers were stopped; and in two cases, warnings were issued. In our previous report, white male drivers had the lowest percentage of receiving warnings compared to other drivers being stopped. We will continue to evaluate these fluctuating trends during our future reviews.

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

There were a total of 152 occupants (105 drivers and 47 passengers), with two passengers not being identified by race, ethnicity, or gender. MCSO's has been compliant with this Subparagraph in past reviews; however, we defer compliance due to the additional BWC recordings we have reviewed for this review period indicating under reporting of Latino drivers.

Paragraph 54.f. requires that MCSO record the name of any individual upon whom the deputy runs a license or warrant check (including the subject's surname).

For this reporting period, we found that in the 105 traffic stops we reviewed, all stops included a check on the license plate. There were 99 stops where the driver or passengers had a warrant check run. There was one instance where a warrant check was run on a passenger and the query revealed an open warrant. In this case, the driver did not have a driver's license and the passenger volunteered that she had a valid license. The deputy queried the passenger's license to determine if it was valid.

MCSO issued Administrative Broadcast 16-25 on July 29, 2016 that mandated that deputies run warrant checks on the drivers for all traffic stops. Running queries on all drivers had been the practice, but it was not enforced by policy. The dissemination of the Administrative Broadcast should ensure that disparities between which drivers receive warrant checks are resolved. MCSO's compliance rate is 95%, and is in compliance with this Subparagraph.

Paragraph 54.g. requires the deputy to document whether contact was made with any passengers, the nature of the contact, and the reasons for the contact. Due to the low number of cases where contact is made with passengers in our sample of 105 traffic stop cases per quarter, we pulled an additional sample for those cases involving passenger contacts. For this reporting period, we reviewed 31 traffic stops where the deputy had interaction with one or more passengers. Each passenger contact is described in detail in Paragraph 25d. There was one instance where the deputy failed to document the nature or reason for the passenger contact on the VSCF. Deputies must be explicit in their descriptions of why passengers are contacted.

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

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. During previous meetings with MCSO personnel, we explored the possibility of developing a mechanism to increase the number of samples we review for compliance with the requirements of this Paragraph. MCSO advised us that the TraCS system had the ability to segregate all stops where passengers were contacted. Beginning in the first quarter of 2016, we began pulling additional samples of these cases (passenger contacts) for a more complete review. MCSO's compliance rate is 97% for this Subparagraph.

Paragraph 54.h. requires deputies to record, prior to the stop, the reason for the vehicle stop, including a description of the traffic or equipment violation observed, and any indicators of criminal activity developed before or during the stop. For this review, we identified a random sample of 10 cases from the 35 cases we initially requested each month, and requested CAD audio and body-worn camera (BWC) footage for those cases. We listened to 30 CAD dispatch audio recordings, and reviewed 29 body-worn camera recordings (one primary deputy failed to activate the BWC) from the sample of 105 traffic stops used for this review; and found that the deputies advised Communications of the reason for the stop, location of the stop, and license plate and state of registration for all the 30 stops.

For those samples where CAD audiotapes have not been requested, we review the CAD printout and the VSCF to ensure the reason for the stop has been captured. These forms are included in our monthly sample requests. The dispatcher enters the reason for the stop in the system as soon as the deputy verbally advises Communications of the stop, location, and tag number. The VSCF and the CAD printout documents the time the stop begins and when it is concluded –

either by arrest, citation, or warning. Deputies need to be precise when advising dispatch of the reason for the traffic stop, and likewise entering that information on the appropriate forms. Both MCSO's internal audits and our reviews in the past have identified issues with deputies entering inaccurate information on the forms. For the most part, these issues have been corrected.

MCSO's compliance rating for this Subparagraph remains at 100%. MCSO remains in compliance with this Subparagraph.

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

We did not find any stops where the stop or end time of the stop differed by more than five minutes between the Vehicle Stop Contact Form and the CAD printout. Some stops vary in time for any number of reasons that may, or may not, be justified. Seven of eight extended stops were justified due to the circumstances of the stops. The extended stops were justified to address the original purpose of the stop. The one extended stop that was not justified was due to the deputy failing to check back into service. The deputy acknowledged his failure on the TraCS forms. (See 25.g. and 25.h. for details of the extended stops). When we review the extended stops, we examine issues such as whether a crime was involved, whether an arrest made, whether property was seized, whether the vehicle was towed, or whether there were other extenuating circumstances that caused the delay.

Supervisors, during their review of their subordinates' traffic stops, should correct deficiencies or ensure that additional training is provided. Deputies accurately entered beginning and ending times of traffic stops in 99% of cases reviewed.

All traffic stops resulting in citations contained the time of issuance. We reviewed one stop where the deputy incorrectly documented the time of issuance on the citation. After he made the stop, the deputy entered a time of issuance several minutes prior to the stop time listed on the VSCF. For this review, the deputies accurately recorded the time of issuance in all but one case. The supervisors conducting the review of the deputies' traffic stops should be able to discover deputy input error *prior* to our reviews. The body-worn cameras have been fully implemented and will provide another tool for MCSO supervisors to monitor stop times of subordinates. MCSO accurately entered the time citations were issued in 63 of 64 cases, for a compliance rate of 98%.

MCSO is in compliance with this Subparagraph.

Paragraph 54.j. requires MCSO to document whether any inquiry as to immigration status was conducted and whether ICE/CBP was contacted, and if so, the facts supporting the inquiry or contact with ICE/CBP, the time supervisor approval was sought, the time ICE/CBP was contacted, the time it took to complete the immigration status investigation or receive a response from ICE/CBP, and whether ICE/CBP ultimately took custody of the individual.

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

We reviewed a traffic stop of a Latino by a deputy during nighttime hours where the deputy claimed the driver was failing to maintain his traffic lane. The subject was subsequently pulled over and the deputy approached the vehicle. The driver did not speak English, so the deputy contacted dispatch and requested that a Spanish-speaking deputy come to the scene and interpret. Dispatch advised no units were immediately available. The deputy then requested if a unit from another agency or Customs and Border Patrol (CBP) was available to respond, and Communications advised they would check. While waiting for a response, the deputy called a civilian to interpret for him. After the civilian interpreted, CBP arrived and took custody of the driver.

We found several issues with this case. We reviewed two minutes of the video recording immediately prior to the stop and never saw the driver cross the fog line as the deputy indicated in his report. The deputy stated the driver crossed the fog line at least three times. The deputy called a civilian to interpret when he had the Voiance Language Services line available. Prior to CBP taking control of the driver, the deputy tells the agent three times in a strong voice, "tell him he is free to go," knowing that CBP is going to detain the subject. Policy EB-1 and EA-11 prohibit deputies from transporting or delivering to ICE/CBP custody from a traffic stop, unless a request to do so has been voluntarily made by the individual.

CID personnel advised us on December 2, 2016 during a technical assistance visit that they found this stop problematic. MCSO advised us during our January 2017 site visit that the driver had already been deported when PSB received this case, and that the investigation is ongoing.

Paragraph 54.k. requires MCSO to document whether any individual was asked to consent to a search (and the response), whether a probable-cause search was performed on any individual, or whether a pat-and frisk search was performed on any individual. There was one case in our traffic stop sample of 105 with a person's search, so we pulled an additional 30 sample cases from the quarter involving only instances where the deputy indicated a search on the VSCF. In our review of the 31 cases where deputies documented a person's search, we noted one search that was for probable cause due to a strong smell of marijuana in the vehicle. In 24 cases, the searches were valid and incident to an arrest. The remaining six cases appear to be vehicle inventories conducted by the deputy when the vehicle is being towed and the violator is being released. Our review of the video recordings verified the vehicle inventories.

There continues to be much confusion among deputies in accurately documenting which types of searches they are conducting. We continue to find deputies indicating incident to arrest or probable cause searches when the search is a vehicle inventory if the vehicle is being towed. During supervisors' reviews of their subordinates' traffic stops, they should clarify the type of search with the deputy whenever they see a search documented on the VSCF, and provide the appropriate training when they continually find these deficiencies.

Policy GJ-3 is very specific and states that a warrantless search of a vehicle may be conducted when there is probable cause to believe that evidence or contraband is inside the vehicle. The policy requires that when a person consents to a vehicle search, the deputy should make a request for his/her signature on the form, thereby waiving his/her rights. We have yet to see a Consent to Search Form in the samples we review. We recommend that MCSO revisit the requirements of this section of the policy and require deputies to read the Consent to Search Form to the subject and require a signature from the individual for every request for consent to search unless the search is an actual search incident to arrest.

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

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 (our sample of 105), we noted seven cases where deputies made a criminal traffic arrest and seized the offending driver's license or license plate and placed it in evidence. Three of the cases involved white males, two cases involved Black males, one case involved a white female, and one case involved an Asian/Pacific Islander male. Deputies indicated in all cases on the Arizona Traffic Ticket and Complaint when they seized a driver's license or license plate. In one of the seven cases, deputies failed to indicate on the VSCF that these items were seized.

In our review of the 31 cases we reviewed for persons' searches, we found four cases that were narcotics arrests. The narcotics arrests involved a white female, Black male, a Latino, and a white male. In the narcotics cases, the deputies documented the seizures on the VSCFs. There were no other stops in the traffic stop sample where contraband or evidence was seized. MCSO's compliance rate is 91% for 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, a citation issued, a warning was given, or a release was made without a citation. MCSO is in compliance with this Subparagraph, with a compliance rating of 100%.

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

Phase 1: In compliance

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

Phase 2: In compliance

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

The unique identifier went live in September 2013 when the CAD system was implemented. This number provides the mechanism to link all data related to a specific traffic stop. The number is automatically generated by the CAD software and is sent to the deputy's MDT at the time the deputy advises Communications of the traffic stop. The unique identifier is visible and displayed at the top of the CAD printout and also visible on the Vehicle Stop Contact Form, the Arizona Traffic Citation, and the Warning/Repair form. We inquired how the CAD printout is coded if a deputy is dispatched as a back-up but is then cancelled prior to arrival. These situations occur occasionally, and for our assessment of numbers of personnel on the scenes of traffic stops, we requested clarification.

We visited District 1 during our January 2017 site visit, and there were no indications from any personnel that there were recurring issues with the unique identifier, including duplicates. Once the deputy scans the motorist's driver license, the system automatically populates most of the information into one or more forms required by the Order. If the data cannot be entered into TraCS from the vehicle (malfunctioning equipment), policy requires the deputy to enter the written traffic stop data electronically prior to the end of the shift. The start and end times of the traffic stop now auto populates 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.

To determine compliance with this requirement, we reviewed 105 traffic stop cases and reviewed the CAD printouts and the Vehicle Stop Contact Forms for all stops. We reviewed the Warning/Repair Forms, when applicable, for those stops where a warning was issued or the vehicle had defective equipment. The unique identification number assigned to each event was listed on correctly on all CAD printouts for every stop. We found two instances where the correct Event Numbers (unique identifiers) listed on the CAD printout did not match the same Event Numbers listed on the VSCF or the Arizona Traffic Compliant. In another case, the VSCF could not be located by MCSO, so we could not determine if the Event Number was consistent with the number generated by the CAD system. MCSO is in compliance with this Subparagraph, with a compliance rate of 98%.

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

Phase 1: In compliance

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

Phase 2: Not in compliance

To verify compliance for this Paragraph, we reviewed the monthly audits of the traffic stop data conducted by BIO on the samples we selected. While audits require in-depth analysis, quality control checks serve as more of an inspection or spot-check of the data. We also reviewed the BIO traffic stop audits for the months of October-December 2016 and found that the audits were thorough and captured the majority of deficiencies. During our review of the identical dataset we identified additional deficiencies, and brought them to the attention of CID while onsite; and they are contained in this report.

We received the protocol developed by MCSO's Technology Management Bureau 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 record 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 from modifying the data.

Outside of the TraCS application, Technology Management Bureau staff manage the servers and database that run the system; and consequently, the staff have access to the information in the system. Currently, there are a small number of users – the System Administrator, Application Development Supervisor, Reports Developer, and TraCS Administrator – who have access to this information.

On September 8, 2015, MCSO issued Administrative Broadcast 15-96, which addressed the security of paper traffic stop forms. The procedure requires that paper forms (prior to April 1, 2014) be kept in a locked cabinet box at the District. The protocol also addresses any traffic stop data that may be handwritten by deputies in the field if the TraCS system is nonoperational due to maintenance or lack of connectivity. Any personnel who require access to those files must contact the division commander or his/her designee who will unlock the cabinet. Once the deputy accesses his file, a TraCS file log must be completed and signed by the deputy. During our January 2017 site visit, we visited District 1 and inspected the written (hardcopy) files and the TraCS file log. All records were locked and secure. We conducted a random review of written traffic stop data (dating back to 2014) in District 1 to ensure the written (hardcopy) traffic stop data was maintained for five years. Staff were able to provide the all the appropriate documentation for every case we requested.

MCSO began auditing traffic stop data in January 2014; and beginning in April 2014, MCSO has conducted audits of the data on a monthly basis and provided those results to us. After the January 2014 audit, MCSO created new forms to collect, by hand, the data required by policy until full electronic data entry began on April 1, 2014. We reviewed BIO's monthly audits of the traffic samples from October 1, through December 31, 2016, and found them to be satisfactory. MCSO is also auditing the 105 traffic stop samples we request each reporting period. We recommend that BIO also audit the additional 30 sample pulls we request each reporting period of passenger contacts and persons' searches. The approved policy also requires regularly scheduled audits on a monthly, quarterly, and annual basis.

During the drafting of this report, MCSO discovered a serious flaw in its traffic stop data related to the variable that is used to identify the location of a vehicle stop. Consequently, MCSO is questioning the conclusions resulting from any analyses using this variable, including the conclusions in its last two annual reviews. This development will be discussed in detail in our next report, but since the discovery calls into question *the accuracy of the traffic stop data*, MCSO cannot remain in compliance with this Paragraph.

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

Phase 1: In compliance

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

- GJ-35 (Body-Worn Cameras), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: Not in compliance

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

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

The deputy will provide every person contacted on a traffic stop with an Arizona Traffic Ticket or Complaint (Citation), a Written Warning/Repair Order (Warning), or an MCSO Incidental Contact Receipt. There were three cases where a signature acknowledging receipt of a citation or warning should have been obtained by the deputy (MCSO policy requires the deputy to obtain a violator signature for both forms). In one case, a Latina driver was cited for speeding. In another case, a white male was issued a warning for failing to obey a stop sign. In another case, a white female was cited for a stop sign violation. In this case the deputy advised Communications that his scanner was inoperable and he was unable to capture the signature. The dispatcher logged this information in the CAD system.

To verify compliance that the violator received the required "receipt" from the deputy, a signature is required, or, if the violator refuses to sign, the deputy may note the refusal on the form. We are unable to verify that motorists have been issued a receipt without a signature on the form or the deputy advising of the refusal of the receipt from the driver. Placing "SERVED" in the signature box without any explanation does not comply with the requirement. For this reporting period, deputies advised that they were unable to scan violator signatures on the citation or the warning form on one occasion. MCSO's compliance for this portion of the Subparagraph is 98%. Deputies have made progress completing the VSCF, Arizona Traffic Complaint, and the Warning/Repair Form.

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

There were four instances in our review of 29 (30 requested) body-worn camera recordings where we could not verify if the stop times on the CAD printout matched the times on the BWC recordings. In the first, we noted the deputy either failed to activate the BWC, or there were technical issues with it. TASER Axon (manufacturer) provides a printout when the BWC is

activated listing the deputy's name, Event Number, and time of the activation. The deputy indicates on the VSCF that he activated the BWC. If MCSO addressed this issue, it was not included in the documentation provided. In the other cases, the deputies activated the body-worn camera after they advised Communications they were conducting the traffic stops. In one of these cases, the video recording indicates that the violator's vehicle had come to a complete stop, and the deputy did not activate the recording equipment until he exited his vehicle. The BWC automatically records the first 30 seconds of the stop prior to the deputy's activation. The device emits a loud tone (beep) upon activation so the deputy is aware that the recording equipment is in an operational mode. In these cases, we could not verify the stop times to see if they match the times indicated by the VSCF or the CAD printout. The compliance rate for utilizing the BWC to determine if deputies are accurately reporting stop length is 83%.

MCSO has rectified the verification of motorist receipts for traffic stops but additional effort needs to be put forth with deputies activating their BWC's when the decision to make the traffic stop has been made.

MCSO is not in compliance with this Paragraph.

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

Phase 1: In compliance

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

Phase 2: In compliance

To verify compliance for this Paragraph, we reviewed the applicable policies and met with Technology Management Bureau personnel to determine if any unauthorized access to the systems had occurred during the quarter. The Deputy Chief of the Technology Management Bureau advised during our January 2017 site visit that MCSO had no knowledge that any breeches to the systems occurred. The Deputy Chief went further by stating that the FBI had notified her that a technical audit would be conducted of MCSO's data systems during the last week of February 2017. The previous audit of the databases occurred in 2012. All databases containing specific data identified to an individual comply with federal and state privacy standards, and MCSO limits access to only those employees who are authorized to access the system.

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 (ASDPS), and the Arizona Criminal Justice Information System; and that any violation is subject to fine. No secondary dissemination is allowed.

Every new recruit class receives three hours of training on this topic during initial Academy training. We will continue to observe the security issues outlined in Paragraph 58.

MCSO is in compliance with this Paragraph.

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

Phase 1: Not applicable

Phase 2: In compliance

Electronic traffic stop data capture began on April 1, 2014. The forms created by MCSO capture the traffic stop details required by MCSO policy and Paragraphs 25 and 54 of the Order. BIO provided the traffic stop data, which included a spreadsheet of all traffic stops from October 1, through December 31, 2015, listing Event Numbers as described at the beginning of Section 7. We then requested a stratified sample from all traffic stops. All marked patrol vehicles used for traffic stops are now equipped with the automated TraCS system, and all Patrol deputies have been trained in TraCS data entry. MCSO has provided full access to all available electronic and written collected data since April 1, 2014. 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.

b. Electronic Data Entry

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

Phase 1: In compliance

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

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

Phase 2: In compliance

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

MCSO continues to conduct monthly traffic stop audits and forwards them for our review. Initially, the traffic stop data was captured on handwritten forms created by MCSO, completed by the deputy in the field, and manually entered in the database by administrative personnel located at each District. Now all traffic stop data is entered electronically, whether in the field or at MCSO Districts. Occasionally, connectivity is lost in the field due to poor signal quality, and citations are handwritten (paper). Policy dictates that the written traffic stop data created by the deputy be entered electronically by the end of the shift in which the event occurred. During our January 2017 site visit, we met with MCSO and the Parties, and reviewed the deficiencies BIO and our reviews discovered for this reporting period, along with the results of the Action Forms generated by BIO. We will continue to review the written traffic stop data at the Districts to ensure that it is electronically entered in the system by the end of the shift in which it was created.

We reviewed a printout of all vehicles assigned to Patrol dated January 30, 2017. There were a total of 254 vehicles assigned to the Districts. There were 184 marked vehicles equipped with the TraCS e-citation system. (All marked cars are TraCS-equipped.) There are 59 unmarked vehicles equipped with TraCS and 13 unmarked vehicles not equipped with TraCS. We inspected marked vehicles at District 1 to verify that MCSO vehicles used to conduct traffic stops on a routine basis are equipped with the ability to input traffic stop data electronically. Due to the size of the fleet, the number of marked and unmarked patrol vehicles fluctuates from month to month. MCSO deputies have demonstrated their ability to access and use TraCS, as evidenced by the fact that their total time on a traffic stop averages 15 minutes or less.

c. Audio-Video Recording of Traffic Stops

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

Phase 1: In compliance

- GJ-35 (Body-Worn Cameras), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: In compliance

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

Body-Worn Cameras were fully implemented and operational in May 2016 and the equipment has worked well. The BWC recordings are stored in a cloud-based system (evidence.com) that can be easily accessed by supervisors and command personnel. The retention requirement for the recordings is three years. Three of the Districts have experienced download issues that have placed a burden on supervisors and commanders when reviewing the recordings of their deputies' traffic stops. The Lakes Patrol Captain opted to issue two body-worn cameras to each of the District's deputies as a partial solution until the problems can be remedied.

The Deputy Chief of the Technology Management Bureau advised during our January 2017 site visit that some broadband issues still remain. She stated that the County has taken over the project, and is looking at the end of the year (2017) for a resolution to these ongoing issues. We also verified during our District visits that all Patrol deputies had been issued the body-worn cameras. Records indicate that MCSO began distribution of the body-worn cameras on September 14, 2015, and full implementation occurred on May 16, 2016. Every reporting period, we review a printout provided by CID that documents each deputy, by District, who has been issued a BWC.

MCSO needs to address the connectivity (broadband) issues in some of the outlying Districts.

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

Phase 1: In compliance

- GJ-35 (Body-Worn Cameras), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- Body Worn Camera Operations Manual, published December 22, 2016.

Phase 2: Not in compliance

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

To verify compliance for this Paragraph, we reviewed the body-worn camera recordings included in our monthly samples to ensure that MCSO follows the requirements of this Paragraph.

For our selection of a sample to review the body-worn camera videos, we used the same sample we select for the CAD audio request. We reviewed 29 of 30 cases we requested where body-worn camera footage was available. Twenty-five cases were in compliance with the deputy activating the video and audio recording equipment as soon as the decision to initiate the stop was made and continued recording through the end of the stop. There were three cases that did not meet the requirements of the Order. In two cases, the deputy activated the body-worn recording equipment well after the decision to make the stop had been made. In the third case, the vehicle had already come to a complete stop. In two of the above-listed cases, the same deputy failed to activate the BWC per policy. In another case, the deputy failed to activate the BWC. BIO reported these deficiencies in its monthly reviews of the traffic stop data.

MCSO has already discovered the value of body-worn cameras – including in instances where community members have made accusations against deputies and the recordings proved to be invaluable in resolving complaints. MCSO's compliance rate for this Paragraph is 83%.

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

Phase 1: In compliance

- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- GJ-35 (Body-Worn Cameras), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- Body Worn-Camera Operations Manual, published December 22, 2016.

Phase 2: In compliance

MCSO has developed and issued a protocol and policy that requires the original hardcopy form of any handwritten documentation of data collected during a traffic stop to be kept at the District level and filed separately for each deputy. When a deputy is transferred, his/her written traffic stop information will follow the deputy to his/her new assignment. During our visit to District 1, we inspected the hardcopy (paper) of several traffic stop cases from 2014 from a list we had prepared in 2015 to ensure that the hardcopies were kept on file for five years. The Technology Management Bureau maintains electronic traffic stop data, and we reviewed the bureau's protocol for maintaining the integrity of the data.

d. Review of Traffic Stop Data

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

Phase 1: Not in compliance

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

Phase 2: Not in compliance

To achieve Phase 2 compliance with this Paragraph, MCSO must demonstrate ongoing use of 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 bias-based problems. Paragraphs such as these are at the heart of the Orders. The interests of the community will remain ill-served if the MCSO's non-compliance continues.

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

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- GH-5 (Early Identification System), currently under revision.

Phase 2: Deferred

MCSO will achieve Phase 2 compliance with this Paragraph after successful implementation of the policy and the sustained organization of EIU.

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

Phase 1: In compliance

- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- GH-5 (Early Identification System), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: Not in compliance

MCSO released the first annual comprehensive evaluation in a report dated May 24, 2016 titled, "Preliminary Yearly Report for the Maricopa County's Sheriff's Office, Years 2014 – 2015. ASU's methodology mostly involved using ratios comparing deputies in a unit of analysis (i.e., organizational, by District, by beat) and identifying those deputies who were outliers during the July 2014-June 2015 period. Under the ASU methodology, outliers were defined as deputies whose behavior during a traffic stop (e.g., issuing a citation) was at least twice as high as the average behavior for all deputies in a similar unit of analysis. Other analyses used by ASU in the first annual report involved limited inferential analyses, using the Chi-Square test for independence between an event (being stopped, arrested, searched, etc.) and race/ethnicity.

MCSO released the second annual comprehensive evaluation in draft report on October 24, 2016. On December 30, 2016, we provided our comments on the draft report to MCSO, noting that there were two significant findings. The first finding from the inferential analysis is that there is a culture of racially biased policing that permeates MCSO. The second finding is that individual deputies are potentially engaging in racially biased policing when compared to the average behavior exhibited by their peers. We agree in principle with these findings, but expressed concerns about the scope of these results due partly to the assumption of independence of deputy appearances in the creation of the dataset, as well as the explanatory power of the inferential models. Another important finding highlighted in the second report is that racially biased policing had not changed over time for Latinos. A special analysis in the draft report that focused on the likelihood of an arrest or search of Latino drivers over the two years between FY 15 (2014-2015) and FY 16 (2015-2016) found no change in the likelihood (or probability) of Latinos being searched or arrested. This is a troubling finding, in that it shows no progress in changing the culture of racially biased policing, at least as it pertains to Latinos, in MCSO during these two years.

As was the case for the first annual report, the second annual report continued its use of ratio analysis that involves comparing individual deputy behavior during a traffic stop to the average behavior of a deputy's peers. This comparison was generally done at the beat, District, or organizational level. The merit of this methodology is in its ability to identify individual deputies whose behavior is considered extreme when compared to their peers. It gives MCSO a means to review traffic stops to determine whether deputies are potentially engaging in racially biased policing and to take corrective action. Under the hypothetical situation where racially biased policing may be suspected among all deputies, the ratio method enables supervisors to work with those deputies exhibiting the most extreme behavior. We believe that the use of the ratio methodology is a generally sound approach, substantiated by the research literature to identify specific deputies for review by supervisors for engaging in possible racially biased policing. However, we expressed some concerns about the ratio analysis.

The general idea behind the ratio analysis is to identify deputies whose individual behavior is so different from their peers (i.e., they are flagged by ASU as "outliers") that it warrants further review by their supervisors to determine if they are possibly engaging in racial profiling. We expressed our concern over what appeared to be a high number of outliers, and posited that it might be a function of the inclusion of deputies with few stops during the year under review. The draft report presents results showing the percentage of deputies whose citations exceed a ratio of 2 for beats. The largest percent is 12.4 percent of deputies in beats for Latino drivers followed by 11 percent for Blacks, 5.7 percent for Asians, 3.9 percent for Native Americans, 3 percent for whites, and 1 percent for unknown. For Latinos, the 12.4 percent represents 217 deputies, at least in terms of how ASU defines deputies.

What gave us cause for concern was how these percentages translated into the actual number of deputies identified as outliers during the year. For example, when we reviewed the data by beats, we determined that there were 424 individual deputies who issued one or more citations during the data year. When we looked at how many of these deputies had been identified as outliers in the ASU analysis (i.e., they had a ratio of two or greater more than one time), we found that 311 of them (73%) fell into this category. So, taken at face value, the draft report would lead us to conclude that almost three quarters of the 424 deputies who made at least one citation during the year would be identified as candidates for a follow-up supervisory review.

In exploring the difference in the percentages reported by race above and the percentage of all deputies who would be subject to a supervisory review, we determined that there was a very logical answer to the apparent discrepancy. Over the course of a year, a deputy might work in multiple beats. In fact, we calculated that the average number of beats worked over a year per deputy was five. So, according to the ASU methodology, a deputy may appear (is assigned to) in multiple beats over the course of the year. According to ASU's methodology, an individual deputy could be counted as many times as s/he appears in different beats (i.e., a deputy working in five beats is treated as five individuals).

So, to reconcile the percentages, the draft report's findings – that about 12 percent of deputies working in beats had ratios of two or more for Latino drivers – is correct. But, if we were to ask the question about how many individual deputies were flagged for citations with ratios of two or more during the year, our reporting of 73 percent is also correct. Simply stated, it is a denominator issue. We expressed our belief in our December 30, 2016 comments that that the

draft report must be written much more clearly so that the reader understands that it is 12 percent of the deputies in beats who are responsible for the high ratios found for, in this case, Latinos in comparison to their less active counterparts.

The second report greatly expanded the use of inferential methods, which could only be partially applied in the first report due to data limitations. The draft report notes how the use of inferential methods allow analyses of traffic stops to consider factors that might explain deputy behavior during a traffic stop. Such factors include stop location, time of day, deputy characteristics, high volume deputies, number of passengers, and so forth. In selecting the model for this analysis, ASU employs various versions of the hierarchical logistic regression model to test for six traffic stop outcomes (stops by race, arrest, search, seizures of contraband, warnings, and citations). This methodology is supported by the literature, which is adequately documented in the draft report. The draft report does a very good job of highlighting analyses related to racial disparities across the six outcomes and exploring the effects of time of day (veil of darkness), high volume deputies as a subset of deputies across the three outcomes (arrests, searches, seizures of contraband) and length of stop, determinants of the length of a stop, and temporal differences between data years (FY 15 and FY 16) in racial disparities for Latinos. The inferential modeling is what led to one of the report's main findings that racially biased policing exists organizationally. However, we expressed concern in our December 30, 2016 comments that this finding may be overemphasized due to the way the dataset and some measures were created.

Our December 30, 2016 comments noted that the regression models used in the inferential analysis do a very good job of identifying potential bias that exists organizationally. Because of the use of logistic regression models, their parameters are easily understandable, in that they present odds ratios for various elements of the traffic stop (the odds or likelihood of being arrested by race/ethnicity). In the models used by ASU, the models are run for the six outcomes discussed above where minorities are compared to whites. So, for example, ASU reports that the odds of Latino drivers being arrested were 1.6 times greater than for whites (and this odds ratio is statistically significant). Their models calculate such ratios for race/ethnicities, driver characteristics, deputy characteristics, and what is referred to as contextual characteristics – meaning variables reflecting MCSO's geographic organizational structure (in this case, Districts).

We expressed our concern that the second report would benefit from the inclusion of a discussion about how well the regression models fit the data (model fit). In simple regression analysis, the metric most often used is the R-Square statistic that tells the researcher about how much of the variance in the dependent variable (e.g., citation rates) is explained by the independent variables (e.g., traffic stop characteristics such as race/ethnicity of the driver). In logistic models, this simple statistic is not very useful. In fact, there is a debate in the literature about what statistics to use. The importance of knowing how well the model explains the data is critical, especially in this case since it is the logistic regression models that lead to the draft report's principal finding of organizational bias. Fortunately, in response to an information request, ASU provided an analysis that addressed this question. The information it provided used what it labeled a "random effects" analysis that looked at a 95 percent confidence interval for each deputy relative to three outcomes (arrests, searches, and contraband) for Latino drivers.

What ASU reports is extraordinary, in that the model shows that for Latinos, there were no deputies who fell outside the 95 percent confidence interval; this means that differences in outcomes are occurring uniformly for Latinos across deputies and the organization (strengthening the draft report's finding of organizational bias). We expressed our belief that the annual evaluation would benefit from the inclusion of a discussion about model fit.

Our December 30, 2016 comments also expressed that some of the results from the inferential analyses may be due to the way the data was compiled. By counting individual deputies, who work multiple Districts or beats, as if they were "independent" occurrences, the analyses may in fact be inflating the outcome of organizational bias when it is in fact a small proportion of deputies, working multiple locations, that may be the problem. ASU has included the measure of "high volume deputy" in the inferential models to denote those deputies who have made 16 traffic stops or more per month during the study period. However, we worried that this measure assumes that "high volume" goes hand in hand with potentially being more biased in the way one conducts traffic stops. This is like the assumption in the first annual report that we objected strongly to, whereby the analysis only included those deputies who had 10 or more stops per month were included in the analysis. During technical assistance meetings held at MCSO in late November, we discussed options that might be more feasible. For example, we discussed the creation of a measure from the ratio analysis regarding potential bias, or, the inclusion of a deputy specific measure to tap into bias potential, or, a measure differentiating that proportion of deputies who yielded a high number of "flags" in the ratio analysis. Investigating such options may allow for more confidence in the overarching conclusions.

Our December 30, 2016 comments also discussed the resolution of data issues that had seemingly plagued the first annual report. The first annual report found missing data by a deputy to range from 9.26 percent to 12.0 percent; this year's report showed a decline in the range, from 2.35 percent to 7.61 percent. As was the case with the first report, there were no months in which MCSO was beneath the report's self-stated gold standard of a five percent missing data threshold, but the missing data problems in the second year were for data categories that could be obtained elsewhere (e.g., missing ZIP code information). In addition, the issue of duplicate traffic stop events is also much less of a problem for the analysis in the second report compared to the first Report. ASU used data-cleaning procedures that we approved following the first report to address this problem.

One new problem that caused a two-week delay in the target release date for the second report had to do with missing GPS coordinates used to identify beats. MCSO reported during our October 2016 site visit that MCSO's data coding protocols resulted in problems where beats were not properly identified in the ASU analysis. MCSO apprised us during our October 2016 site visit that these problems have been resolved.

During our January 2017 site visit, we reviewed our comments with ASU, EIU, and the Parties. ASU addressed our comments and inquired about how best to incorporate our concerns in a new revised draft of the second evaluation. We stated that our comments related to methodological concerns were intended to be prospective and could be addressed in the third annual report. We stated our desire to finalize the second draft report as soon as practicable with minimal changes. Regarding changes to the second report, we agreed that ASU would add a series of footnotes that would address our concerns about on the proportion of flags for outliers we identified for

deputies in the beat analysis and would discuss changes to "nested models." ASU's second report would also have attached information about model fit (as an appendix) and would note that ASU will continue to explore ways to address this matter in the third report. Finally, since the second report would become public, it would drop references to deputy serial numbers. There was some final discussion about when the second report would become final. ASU suggested a target date of the end of February 2017. EIU's new draft EIS Project Plan has a target date of March 1, 2017.

However, this deadline has been delayed by MCSO because of the discovery of yet another serious data problem. MCSO reported in April 2017 that data it provided to ASU for the annual analyses was flawed. Information that was thought to represent a deputy's area of assignment (by District) reported within the TraCS database is not accurate. The District assignment information is entered manually – but due to constant movement of deputies throughout the organization, the information about a deputy's assignment to a District is inaccurate. The implications of these new data problems are that conclusions by ASU in their annual reports for Districts cannot be trusted. The finding of organizational-level bias in the second annual evaluation may still hold, as the analysis looking for potential bias at the organizational level would presumably be immune to data-coding problems, but this too is subject to a pending re-analysis of the traffic stop data by ASU.

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

a. racial and ethnic disparities in deputies', units' or the agency's traffic stop patterns, including disparities or increases in stops for minor traffic violations, arrests following a traffic stop, and immigration status inquiries, that cannot be explained by statistical modeling of race neutral factors or characteristics of deputies' duties, or racial or ethnic disparities in traffic stop patterns when compared with data of deputies' peers;

b. evidence of extended traffic stops or increased inquiries/investigations where investigations involve a Latino driver or passengers;

c. a citation rate for traffic stops that is an outlier when compared to data of a Deputy's peers, or a low rate of seizure of contraband or arrests following searches and investigations;

d. indications that deputies, units or the agency is not complying with the data collection requirements of this Order; and

e. other indications of racial or ethnic bias in the exercise of official duties.

Phase 1: In compliance

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

- GH-5 (Early Identification System), currently under revision.

Phase 2: Not in compliance

The EIU provides monthly analyses and documents describing the benchmarks used to set alerts for possible cases of racial profiling or other misconduct involving traffic stops. As reported in EIU's May 2016 report, EIU's process for analyzing traffic stop data for purposes of setting alerts for deputies potentially engaging in bias-based policing had been suspended while EIU implements new thresholds and the methodology for using them as described in our May 2016 guidance. Draft EIS Project Plan 3.0 notes that four of the 11 benchmarks identified below became operational as of December 22, 2016. The remaining benchmarks are now projected to be operational by February 28, 2017. Among other points, our comments below highlight the operational status of each of the 11 benchmarks.

Paragraph 67.a. identifies three benchmarks pertaining to racial and ethnic disparities. The first benchmark references disparities or increases in *stops for minor traffic violations*. The second benchmark addresses disparities or increases in *arrests following traffic stops*. The third benchmark addresses disparities or increases in *immigration status inquiries*. As part of our May 2016 guidance, we recommended that the threshold used for the first benchmark to detect racial or ethnic disparities for traffic stop violations use all traffic stop data (and that EIU end its earlier practice of selecting traffic stops for deputies making 10 or more stops); and instead employ "two-step ratio analysis methodology" (the two-step rule).

The first step of the two-step rule involves calculating the ratio where the numerator is traffic stops by race/ethnicity, except whites, for each deputy; and the denominator is traffic stops of whites for each deputy by level of analysis. We recommended that EIU set alerts for deputies at or above two standard deviations from the statistical mean calculated for the level of analysis.

The second step of the two-step rule involves calculating the ratio where the numerator is traffic stops by race/ethnicity, except whites, for each deputy; and the denominator is traffic stops for each deputy. We further recommended that alerts be set for deputies at or above two standard deviations of the statistical mean. We also recommended that EIU conduct its analysis for this threshold at the organizational level, by District, and by beat.

In August 2016, EIU proposed a definition of minor traffic stops to include traffic violations that are defined under the Arizona Revised Statutes (ARS) as a civil traffic violation or a petty offense. Non-minor traffic violations would be defined under ARS to include criminal traffic and criminal. (This definition is pertinent to Paragraph 67.e, discussed below.) During our October 2016 site visit, we approved the definitions of minor and non-minor traffic stops and instructed EIU to use the two-step rule described above for purposes of supporting EIU's monthly analysis of traffic stop data. These changes in definitions of traffic stops were incorporated into TraCS in November 2016. Regarding the second benchmark in Paragraph 67.a., pertaining to arrest following a traffic stop, our May 2016 guidance also recommended that EIU employ the two-step rule in the same manner previously described. Regarding the third benchmark in Paragraph 67.a., assessing immigration status, this benchmark is operational. EIU sets an alert whenever any immigration status inquiry occurs. EIU issued EIS Project Plan 2.0 for discussion during our January 2017 site visit, which includes a schedule of when it expects to operationalize these new thresholds. During our January 2017 site visit, MCSO

stated that the benchmarks for minor traffic stops and arrests following a traffic stop would be completed by January 31, 2017. However, in the revised draft EIS Project Plan 3.0 prepared in follow up to our January 2017 site visit discussion, that date for these two benchmarks was pushed back to February 28, 2017 to accommodate SPSS syntax problems associated with new fields in TraCS (corresponding to changes in such things like the new definitions incorporated into TraCS for minor and non-minor traffic stops).

Paragraph 67.b. identifies a benchmark pertaining to evidence of an extended traffic stop involving Latino drivers or passengers. For this benchmark, EIU had used the threshold whereby deputies were selected for further review if they have a two-minute or longer civil traffic stop averaged by race/ethnicity per deputy and calculated for those deputies who make a minimum of five traffic stops per race/ethnicity. Our May 2016 guidance instructed EIU to discontinue the use of this threshold, as it excluded those deputies who make fewer than five stops per race/ethnicity. The resolution of the matter of defining extended traffic stops began during our July 2016 site visit. We provided technical assistance in August 2016 to explore ways to distinguish logical reasons why a traffic stop might be extended and ways to incorporate that knowledge into TraCS. An ASU analysis identified four logical reasons for an extended traffic stop: the stop involved a tow; the stop involved training; the stop involved a DUI investigation; or the stop encountered technological problems (e.g., a computer problem).

During a September 15, 2015 conference call (following up on our August 2016 technical assistance visit) held with ASU and EIU, we raised a fifth possible reason for a stop being extended: language problems. The results of ASU's analysis and the technical assistance resulted in a modification to TraCS that would include individual checkboxes for the five reasons for the extended stop (tow, DUI, language, training, and technology); and a separate text field in TraCS to allow a deputy to enter in other reasons. This solution was finalized during our October 2016 site visit and changes to TraCS were completed in November 2016. The target date for this benchmark to become operational is February 28, 2017. Once these changes are implemented and deputies have been trained to the new TraCS form, and EIU has adopted the two-step rule for its monthly analysis of traffic stops for extended stops, MCSO will achieve compliance with Paragraph 67.b.

Paragraph 67.c. identifies three benchmarks. The first benchmark pertains to the rate of *citations*: MCSO is required to identify citation rates for traffic stops that are outliers when compared to a deputy's peers, using the two-step process previously described. According to the draft EIS Project Plan 2.0 that was provided to us prior to our January 2017 site visit, the projected date of completion for this benchmark was January 31, 2017. Draft EIS Plan 3.0 shows this target date to be February 28, 2017 to accommodate SPSS syntax problems associated with new fields in TraCS. The second benchmark pertains to *seizures of contraband*: MCSO is required to identify low rates of seizures of contraband following a search or investigation. The third benchmark is like the second, but it pertains to *arrests following a search or investigation*. According to the draft EIS Project Plan 2.0 that was provided to us prior to our January 2017 site visit, these two benchmarks have been completed and are operational. Once the benchmark for the rate of citations is implemented, MCSO will achieve compliance with Paragraph 67.c.

Paragraph 67.d. establishes a benchmark pertaining to agency, unit, or deputy noncompliance with the data collection requirements under the First Order. This benchmark requires that any cases involving noncompliance with data collection requirements results in an alert in EIS. EIU published an Administrative Broadcast on November 28, 2016 instructing supervisors how to validate data in TraCS in those cases involving duplicate traffic stop records to deliver timely data validation for our review. The EIS Project Plan 3.0 reports that MCSO began the data validation process on December 1, 2016. Therefore, MCSO is in compliance with Paragraph 67.d.

Paragraph 67.e. allows for other benchmarks to be used beyond those prescribed by Paragraph 67.a.-d. MCSO is modifying two thresholds related to search rates for traffic stops and passenger contacts to reflect the two-step process described earlier. According to EIS Project Plan 3.0, the projected date of completion for this benchmark was January 31, 2017. Draft EIS Plan 3.0 reports the target date for this benchmark to become operational to be February 28, 2017 to accommodate SPSS syntax problems associated with new fields in TraCS. In addition to these two benchmarks, EIU is also developing a third benchmark for Paragraph 67.e. for non-minor traffic stops. As is the case with the other two benchmarks for this Paragraph, the target date for implementation of this benchmark is February 28, 2017. Once the benchmarks are implemented, MCSO will achieve compliance with Paragraph 67.e.

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

a. the justification for the Significant Operation, the process for site selection, and the procedures followed during the planning and implementation of the Significant Operation;

b. the effectiveness of the Significant Operation as measured against the specific operational objectives for the Significant Operation, including a review of crime data before and after the operation;

c. the tactics employed during the Significant Operation and whether they yielded the desired results;

d. the number and rate of stops, Investigatory Detentions and arrests, and the documented reasons supporting those stops, detentions and arrests, overall and broken down by Deputy, geographic area, and the actual or perceived race and/or ethnicity and the surname information captured or provided by the persons stopped, detained or arrested;

e. the resource needs and allocation during the Significant Operation; and

f. any Complaints lodged against MCSO Personnel following a Significant Operation.

Phase 1: In compliance

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

Phase 2: In compliance

MCSO's last significant operation, Operation Borderline, occurred from October through December 2014. Operation Borderline was a drug interdiction effort described more completely in our prior reports. We were also advised of an operation that MCSO participated in during October 2016. Following our request for information, MCSO produced several reports regarding Operation Gila Monster, which ran from October 17-23, 2016. The operation was conducted in conjunction with the Customs and Border Patrol, but involved only six MCSO personnel (five sworn and one reserve deputy). This operation was aimed at drug interdiction near Gila Bend, Arizona. A total of 12 arrests were made and over 1,000 pounds of marijuana confiscated. This operation did not meet the requirements for prior notification of the Monitor. Synopses of the Incident Report arrests were provided by MCSO.

We also evaluated Phase 2 compliance through document requests fulfilled by MCSO and personal interviews during our site visits. The Chiefs of Investigations and Patrol submitted documents attesting to the lack of any Significant Operation activity on the part of MCSO personnel for the months of October, November, and December. The Chief of Investigations noted in the October document submittal that they had been asked for information pertaining to Operation Gila Monster, and had provided additional documentation to show that this operation did not meet the definition of a Significant Operation. As noted earlier in Paragraphs 36-40, we are satisfied with the explanation and documents produced as a result of this request.

In addition, during our January 2017 site visit, BIO staff and command personnel in Districts 1 and 4 confirmed that their deputies did not participate in any Significant Operations during October through December 2016.

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

Phase 1: Not in compliance

- GH-5 (Early Identification System), currently under revision.

Phase 2: Not in compliance

MCSO has continued to make a number of improvements to EIS that make information to supervisors more accessible for routine review of their subordinates. These range from the creation of an interface between remote databases that incorporate aspects of data referred to in Paragraph 75, to additional fields that allow supervisors to document their monthly review of subordinates (Paragraph 81.c.), as well as the ability of supervisors to note when they reviewed the EIS records of subordinates who transfer to their units (Paragraph 81.g.). MCSO continues to work on the latest revisions to GH-5 (Early Identification System) and has not yet developed and delivered comprehensive EIS training for supervisors.

MCSO has been working with CI Technologies to bridge remote databases that contain information about arrests, searches, and seizures; as well as information relevant to patrol activities of deputies that is not captured within the EIS environment. The interface currently being pilot-tested will allow supervisors to readily access information about their subordinates' activities to ensure that they are acting within the bounds of the Court Order and not targeting particular groups or ethnicities for undue enforcement. While supervisors currently have access to this information through various platforms, the interface will allow all of the varied materials to be viewed in the EIS database. During our January 2017 site visit, MCSO provided demonstrations of the interface.

In addition, we spoke to the District Captain and supervisors of District 1, the test site for the interface; they reported that they were evaluating the effectiveness of the interface and compiling recommended modifications to EIU. MCSO plans to incrementally modify the interface based upon District 1's experience and then disseminate the interface to each District. The target date for completion of the interface for the organization as a whole is May 31, 2017. MCSO made substantial progress between our October 2016 and January 2017 site visits. MCSO is also working on monthly reporting structures that will summarize aspects of the new EIS data fields for District supervisors and command staff. Alert investigations will also be triggered for those deputies who exceed the thresholds being created for these recently incorporated data. MCSO is continuing to work with ASU to develop the software language to produce these reports as efficiently as possible. Slight delays have occurred, as ASU and EIU are refining the software syntax language based upon preliminary analyses conducted on data from December 2016. MCSO has kept us apprised of the progress and issues MCSO has encountered.

MCSO and ASU have also been working to produce the required quarterly reports for several months. We have reviewed several methodologies and presentation formats proposed for these analyses. During our January 2017 site visit, we requested some additional refinements; and MCSO is expected to report on these prior to our next site visit. MCSO has set a target date of June 1, 2017 for complete incorporation of all EIS requirements for the quarterly report. Like the monthly analyses, these quarterly reports will be instrumental for field supervisors to evaluate the activity of their subordinates in an efficient and timely fashion.

MCSO also notified us on November 18, 2016 that the new version of EI Pro had been installed. This newest version of EI Pro allows supervisors to search some of the records of their subordinates that are outlined in Paragraph 75: 1) 75.d. Criminal and Civil Proceedings; 2) 75.f. Arrest without Probable Cause; 3) 75.i. Decline of Prosecution for Maricopa Superior Courts; 4) 75.j. Disciplinary Actions; 5) 75.m. Training History; and 6) 75.n. Supervisory Notes. MCSO demonstrated these additional capabilities during our January 2017 site visit.

MCSO also began using the "Review" and "Discuss" fields in TraCS in June 2016. The Review field allows supervisors to note the date when they finished the initial review of individual traffic stops conducted by their subordinates. The Discuss field affords supervisors the ability to indicate when (date and time) they reviewed the traffic stop contacts of their subordinates with them. MCSO introduced these new fields to the organization through an Administrative Broadcast, as EIS training is still under development.

BIO began conducting audits of these fields in July 2016. Supervisors have 72 hours from citation issuance to conduct their review of the traffic stop forms to ensure completion and accuracy, and must conduct a discussion of traffic stops with their deputies at least once per month. Not unexpectedly, the initial audits showed a slow transition in the use of these fields as some supervisors were continuing to use Supervisory Notes in Blue Team to acknowledge their review and discussion. By October and November 2016, BIO audits of reviews showed that 92% and 96%, respectively, of supervisors were reviewing their subordinates' traffic stops within the 72-hour timeframe, and 85% and 91% of supervisors were conducting their discussion of these stops with their subordinates within 30 days of the stop. Organizationally, these are positive improvements. However, each month, BIO shows that some supervisors in particular Districts do not conduct, or document, their reviews and discussions within the timeframes specified. BIO sends out Action Forms to the command staff of Districts failing to meet these standards. We have requested and reviewed several of these BIO Action Forms. Command staff have held training discussions with the supervisors of the affected Districts. BIO and EIU are also developing a Blue Team process to expedite and capture the transmittal of these forms to and from the Districts. EIU is also developing a means to set alerts on supervisors who repeatedly fail to meet the required timelines for discussion and review of their subordinates' traffic stops.

BIO also conducts audits of Supervisory Notes for the performance evaluations of supervisors for their subordinates and to ensure that supervisors are reviewing the video from two randomly selected traffic stops of their subordinates each month. The overall organizational compliance of these audits for October to December 2016 ranges from 92% to 95%. Each month, however, BIO has sent out Action Forms to District command staff regarding supervisors who have not met these requirements. We have reviewed several Action Forms and are satisfied that captains and lieutenants are counseling the supervisors under their command to ensure that they are adequately overseeing their deputies and accurately documenting these supervisory actions. As noted above, BIO and EIU are creating a Blue Team process to expedite these notifications to District Captains and developing an alert process to identify supervisors who repeatedly do not meet these standards. We will evaluate these efforts in future reporting periods. BIO also added the bimonthly supervisor review of EIS data to the Supervisory Note Inspection Audit in December. This dimension follows from the introduction of a new field in EIS that affords supervisors the ability to note the date that they review their subordinates' EIS data (Paragraph 81.c. noted above). Since this is a new feature within EIS, the compliance rate of 68% is not surprising. BIO included in its monthly report a description of how District command staff may improve the compliance of their supervisors with these new tools.

Finally, BIO conducts a quarterly audit of Supervisory Notes that examines supervisors' discussions with their subordinates about discriminatory or bias-based policing in accordance with Paragraph 22 and CP-8 (Preventing Racial and Other Biased-Based Profiling). Supervisors in each District are randomly selected. In six of the seven Districts, the BIO audit shows 100% compliance; but in District 3, the audit showed that one supervisor failed to conduct these discussions or failed to note these discussions in the proper field. BIO sent an Action Form to the command staff of District 3, and we will review this in our next report.

The EIS also generates alerts each month when tracked behavior reaches a threshold set by EIU staff. In October and December, 65,286 and 327 alerts were generated, respectively. These numbers have fallen appreciably from prior reporting periods as a result of changes that the EIU has sought regarding tracked behavior. EIU evaluates all alerts and marks those as "false" or "roll them in to existing alerts" when they repeat prior alerts or are triggered by behaviors that should not be evaluated together. These alerts are not sent to supervisors for review, but they are retained in the database. We examine those alerts not sent to supervisors each month and agree with the determination of EIU staff that there is no need to forward these for supervisory review.

Following this review, EIU sends out alert investigations to District supervisors using Blue Team. EIU attaches all documentation related to the alert that a supervisor might need to evaluate and discuss the situation with his/her subordinate. When a supervisor logs in to Blue Team, s/he receives a notice that a new investigation has been assigned. Supervisors are prompted to conduct an investigation of the alert, including the conversation they have with their subordinate; and to detail in Blue Team what actions they took and how the investigation was closed. These reports go through the chain of command, and each person must approve the actions of the immediate supervisor or return them for additional processing. Each month, we review the closed investigations and request a random sample of 15 for closer examination. In most cases, we concur with the actions of supervisors who have counseled, rode with, or suggested additional training for their subordinate. Recently, we have noted that more lieutenants and captains are returning these investigations to supervisors for a more thorough discussion of the investigation conducted.

During this reporting period, we found three cases in which it was not clear why the supervisor took the actions s/he did. During our January 2017 site visit, we asked EIU to examine these three cases. In each instance, EIU was able to show something in the EIS that justified the steps taken by supervisors – but acknowledged that the closing comments of supervisors were inadequate. EIU and the Training Division are developing curriculum for supervisors to more completely explain the actions they take with monthly alert investigations. This training should be completed by September 30, 2017. We will continue to conduct our reviews and request clarifications as the need arises.

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

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

Phase 1: Not in compliance

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

Phase 2: Not in compliance

MCSO is making strides toward a more complete implementation of EIS processes. The revisions to GH-5 (Early Identification System) have clarified alert investigations, intervention options for supervisors and duties of the chain of command among other issues. First-line supervisors can now request that a "discretionary" alert be set for a subordinate in Blue Team if they believe that the actions of a subordinate require further investigation. The proposed changes also make clear what intervention options the supervisor has when conducting alert investigations, including coaching which had existed, ambiguously, in several policies previously. Most importantly, the publication of GH-5 will clearly delineate the responsibilities and processes for supervisors and command staff in the use of the EIS. Training to this policy, and the myriad of changes to EIS over the past year, is scheduled to begin in July 2017. Both the revised policy and the training should alleviate some of the inconsistencies noted previously regarding supervisory review, alert investigations, and the advantages to a fully functioning EIS.

Over the past year, MCSO and ASU have been working to improve the methodologies and definitions employed in the analysis of traffic patrol data to be used in monthly, quarterly, and annual reports. The data problems and prior methodologies have caused delay of the annual and quarterly reports and discontinuation of the traditional monthly reports. These issues have taken time to rectify but we are anticipating the resumption of monthly data reports, the initiation of quarterly reports, and a more comprehensive response to the findings of the annual reports.

When the First Annual Traffic Stop Report was presented in draft form in early 2016, we noted that the analysis appeared to indicate that there were a number of deputies whose actions were

considered to be far outside the norm ("outliers") for citation rates, incidental contacts, or searches by race; however, the monthly reports of the same traffic stop data rarely yielded any alerts. As a result, we requested that EIU conduct an audit of the outliers found in the initial ASU analysis and examine how many of those deputies had triggered alerts in the EIS. This audit report indicated that very few "outliers" from the ASU analysis triggered alerts in EIS, even when deputies were found to be outliers in several different analyses in the annual report. For that reason, the existing alert processes stemming from the monthly traffic patrol data were suspended until new methodologies could be developed. The first monthly report based on these new methods is being refined and will be evaluated in our future reports.

ASU provided a final version of the First Traffic Stop Annual Report, 2014-2015, on May 25, 2016. While there were several significant issues from this report that are applicable to this Paragraph, the most important was that prior to consultation with us or the Parties, MCSO used the "analysis" from the final report to initiate a supervisor review process for those deputies found to be outliers in the report. Our own review of the supervisor reports provided by MCSO indicated that over 90% of the supervisor investigations were inadequate. Following several in-depth discussions, including those during our October site visit, as well as conference calls, MCSO requested technical assistance to develop a better process to redo the review process for the First Traffic Stop Analysis as well as prepare for the Second Traffic Stop Analysis which was issued in draft form in October 2016.

Over the past several months select members of the Monitoring Team, Plaintiffs, Plaintiff-Intervenors, and MCSO have collaboratively been developing analytic strategies and supervisory processes to more efficiently respond to the findings of the annual reports. We have held four face-to-face meetings and numerous conference calls to refine these processes. Our efforts have yielded an improved automated and manual process of discerning which outliers need to be investigated more thoroughly by a line supervisor. In this way, supervisors should not be overwhelmed with having to evaluate those cases where there are not enough traffic stops to support or refute potential biased policing. We have also produced a set of guidelines and document requirements for both EIU and the supervisor. EIU will take on the responsibility of generating all of the documentation that a supervisor might need to conduct a thorough investigation. This frees the supervisor from having to search multiple databases. The goal is to build a foundation of information that makes the supervisory review process more transparent for the deputy as well as the supervisor. We are optimistic that these first interventions will provide information that will allow us to refine the processes and documents that have been developed if that is deemed necessary.

Finally, the initial technical assistance project emanating from the annual reports has led to the initiation of a checklist for monthly alert investigations that supervisors are responsible for. As noted in our prior reports the staff of the EIU has done a tremendous job in transitioning the monthly alert process from an email system to one that is housed in Blue Team. Moreover, they have efficiently reduced the number of alerts supervisors must investigate by insuring that the alerts are not duplicative, inconsistent or fit some other "false" criteria. We concur with the decisions of EIU based upon our review of alerts not sent to supervisors each month. However, we have repeatedly found in the sample of closed alert investigations we review each month that some supervisors are not providing sufficient detail to ensure that they conducted a thorough

review or engaged in a discussion with the deputy. In these cases, EIU procures additional information that explains the steps of the supervisor. Our concern is that no one in the chain of command, or EIU, requested that information prior to our review. The publication of the monthly checklist, in addition to the upcoming EIS training, should reduce the occurrence of incomplete reports.

The more transparent documentation being provided by MCSO has improved our ability to evaluate the activity of MCSO personnel. In addition, the request for technical assistance has allowed MCSO, Plaintiffs, Plaintiff-Intervenors, and us to develop strategies and documents that will increase and improve the usefulness of EIS in the future. As these processes are put into place, EIU will be communicating with line supervisors to ensure that the EIS is used for maximum effect and efficiency.

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

Phase 1: Not applicable

Phase 2: In compliance

MCSO has provided us with access to all existing data. During our February and April 2016 site visits, MCSO briefed us on the annual review of data being conducted by MCSO's contract partner, ASU. On May 25, 2016, we received the final version of the First Annual Traffic Stop Report, covering the data period of July 1, 2014-June 30, 2015. On October 24, 2016, we received a draft of the Second Annual Traffic Stop Report, covering the data period of July 1, 2015-June 30, 2016. During our January 2017 site visit, MCSO apprised us of some ongoing difficulties with SPSS syntax that were causing inconsistencies in the results of the new monthly traffic stop data analysis. At each turn, MCSO has sought our input and proposed changes to their methodologies where appropriate.

With the publication of the First "Yearly Report for the Maricopa County Sheriff's Office, Years 2014-2015" by ASU on May 25, 2016, the limitations of the existing databases and methodologies used during the analysis have become apparent. Throughout the summer, we assisted EIU/ASU with the creation of new data checking and cleaning processes. Moreover, several of our comments to the first annual report have led to the development of different analytic strategies for the second annual report. In addition, MCSO has requested and received technical assistance (discussed in Paragraph 70) to develop a supervisory review process to respond to the findings of the traffic stop annual reports.

As noted in Paragraph 70, the Blue Team process set up by EIU for tracking the alert status of cases of concern has improved our ability to review and comment on the supervisory processes that exist in MCSO. EIU is also looking to implement a checklist for the responsibilities of supervisors regarding the monthly alert investigations assigned to them in Appendix B. of GH-5 (Early Identification System). This, along with EIS training, should improve the quality of the reports being written by supervisors.

MCSO now has several months of experience using two new TraCS fields that allow supervisors to acknowledge review of traffic stops of their subordinates and the date of the discussion that occurs between supervisors and subordinates about those stops. The audits by BIO for these two fields, referred to in Paragraph 69, show significant improvement in supervisor completion since June 2016. Yet, we find each month that BIO sends out several action forms to District command staff because not all supervisors are using the EIS tools as expected and required. These action forms – whether they are due to traffic stops, Patrol Supervisory Notes, body-worn camera review, etc. – may bring to the attention of immediate supervisors problems that they must attend to, but they do not seem sufficient to curtail these lapses from occurring in subsequent months. We have suggested several alternatives during our site visit meetings. During our January meeting, EIU and BIO proposed incorporating action forms into the Blue Team system. This would automate the process much more efficiently and also track which supervisors, if any, are repeatedly falling short of their supervisory responsibilities. EIU has proposed setting alerts for supervisors who receive action forms for repetitive failures to use the EIS tools as expected. We will evaluate these proposals as they arise. It is important to recognize that EIU and BIO staff have repeatedly sought ways to overcome problems that arise as a result of data analysis or audits and inspections.

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

Section 8: Early Identification System (EIS)

COURT ORDER IX. EARLY IDENTIFICATION SYSTEM ("EIS")

a. Development and Implementation of the EIS

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

Phase 1: Not in compliance

- GH-5 (Early Identification System), currently under revision.

Phase 2: Not in compliance

The Early Identification Unit (EIU) continues to work with us, the Parties, and EIU's private contractors to modify and improve the EIS through policy revision; database interfaces; analyses; and the development of methodologies for annual, monthly, and quarterly reports. We have noted technological issues in the past that have impeded the ability of MCSO to fully operationalize the EIS. Over the past several months, we have witnessed more willingness on the part of MCSO to enlist resources to overcome both technical and methodological problems addressed in our reports and discussed during our site visits. As a result, we have coordinated meetings during both our October 2016 and January 2017 site visits, as well as conference calls between site visits, to develop a plan to address all the deficiencies of the EIS database, policy, and analytic methodologies. A portion of these efforts have resulted in the creation of an EIS Project Plan by MCSO that outlines the changes intended and the target date for completion of these tasks. As a result of comments to the original plan, MCSO modified this plan twice in two months. Each version of this plan has provided specific information about how the proposed changes will improve the EIS as a whole. Some of the most significant pieces of the plan involve the addition of information to the EIS data through interfaces with remote databases. These will be discussed more completely in response to Paragraph 75. Other issues have already been addressed in preceding Paragraphs on analytic methodologies, thresholds and policy revision.

BIO personnel have conducted monthly and quarterly audits to assess how well supervisors are utilizing EIS information and tools. In general, these audits have shown a fluctuating pattern of use among supervisory personnel whether the activity is performance evaluations, review and discussion of traffic stops, Patrol or body-worn camera reviews. In cases where a supervisor fails to employ the EIS as prescribed BIO sends out an Action Form to notify the immediate supervisor to take some remedial action or conduct training at the District level. We have been critical of this approach since we have observed that the issues are only temporarily fixed or we see similar patterns in other Districts. During our January 2017 site visit, EIU and BIO staff

proposed the incorporation of BIO Action Forms into the Blue Team software. This will allow EIU/BIO to more easily track whether particular problems are found within Districts or among a subset of supervisors. EIU is also proposing to set alerts for those supervisors who repeatedly appear to be flagged by these Action Forms. We will evaluate this proposal when it is completed, but we are encouraged that staff in these units have developed an approach to a persistent problem.

BIO also conducts quarterly audits regarding CP-8 (Preventing Racial and Other Biased-Based Profiling) by inspecting the Supervisory Notes in Blue Team. Based upon a sample drawn at our direction for evaluation of several Paragraphs, BIO looks for instances in which supervisors describe the briefings they conduct for their subordinates. During the fourth quarter of 2016, BIO found that 25 of 29 deputies in the sample experienced discussions regarding MCSO's "zero tolerance policy" for discriminatory policing. The four remaining deputies were all from District 3. This is the second successive quarter in which deputies in District 3 received no reinforcement prohibiting biased policing from their supervisors. BIO and EIU staff reiterated that this situation is exactly why they want to automate the Action Forms in Blue Team. With the proposed modifications it will be easier to track and hold District supervisors and command staff accountable for a variety of supervisory responsibilities.

EIU has created a much more efficient alert investigation process for supervisors in Blue Team. Transmitting the alert through Blue Team starts the 14-day window for completion of the alert investigation. The report written by the supervisor is also transmitted through the chain of command via Blue Team. Each level of command can approve, amend, or return the alert if they feel more needs to be developed or described by the supervisor. In the random sample of 15 cases we review each month, the majority of supervisors provide enough information to understand the process they went through. In a small proportion of cases, one of the command level supervisors requests additional processing. In these instances, the line supervisor adds the information that was lacking from the original report. In at least one instance each month, a supervisor does not clearly describe how s/he investigated the alert, whether the supervisor had a conversation with the deputy in question or closed the alert with the comment that "no further action is required" without explaining the reasoning behind this statement. No one in the chain prevents these closed alerts from moving forward. In these instances, we have requested additional material from EIU; and generally, we receive adequate information to understand why the supervisors took the actions they had. As a result of these repeated requests, EIU is now creating a checklist for the monthly alert investigations to ensure that supervisors clearly describe the actions they took and provide the justifications for these actions.

The First Traffic Stop Annual Report conducted by ASU was completed in May 2016. This report examined data on the incidence and rates of traffic stops, citations, incidental contacts, warnings, arrests as well as searches, and seizures by race/ethnicity. One aspect of this analysis is that it allows MCSO to identify deputies who disproportionately stop racial and ethnic minorities regarding each of the law enforcement functions enumerated. If a deputy appeared in the analysis as an outlier, someone who deviated from the normal standard of his/her colleagues on any of these measures, MCSO initiated a supervisory review process without the input of us or the Parties. The results of this process were that no supervisor found a significant problem with the actions of his/her subordinate. In reviewing the supervisor reports, we believe that over 90% of them lacked a substantial investigation and were closed prematurely.

Both we and the Parties were extremely critical of the outcome of the process set up by MCSO. As a result, MCSO requested technical assistance to redo the supervisory processes related to the First Traffic Stop Annual Report. Our technical assistance started prior to our October site visit through conference calls, and continued during our site visit with in-person meetings with EIU/BIO personnel that will oversee the new processes being created. Subsequently, we held two two-day technical assistance visits to further refine these processes. The Parties participated in the most recent visit, as well as several ensuing conference calls and a four-hour meeting during our January 2017 site visit. Out of this project, we envision a new way of discerning which outliers require additional investigation, how EIU can facilitate these investigations, a supervisory guide to conduct these investigations and mechanisms to ensure that command staff review and approve the reports and actions of the line supervisors. All of the documents are nearing completion and MCSO has estimated that they can begin the first annual alert processes in the coming months. We will report further on these processes in future reports. However, we are pleased that MCSO requested the technical assistance and encouraged by the collaborative way the technical assistance project has evolved.

The concerns with addressing outliers are even more pivotal now that the Second Traffic Stop Annual Report draft was released in October 2016. The additional analyses included in the Second Annual Report indicated that organizational-wide bias may exist in addition to bias among specific deputies. The technical assistance project discussed above is focused solely on individual deputy behavior. We and the Parties have been engaged in a discussion with MCSO regarding the best way to respond to the organizational findings.

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

Phase 1: Not in compliance

- GH-5 (Early Identification System), currently under revision.

Phase 2: Deferred

The EIU has come together well to this point. A lieutenant coordinates the unit, with three sergeants working on investigations, one analyst and one administrative staff member under the auspices of BIO. During our October site visit, we learned that both EIU and the Technology Management Bureau had been approved to hire five new staff: three in the Technology Management Bureau and two in EIU. The timeline for these hires has not yet been determined internally. We suggested that due to the importance of EIS, that a target date of December 31, 2016 seemed most appropriate. Technology Management Bureau representatives believed that their process would not be completed until well after the beginning of 2017, due to the very competitive market that exists for people with the necessary qualifications of the bureau. EIU personnel stated that they would attempt to expedite the processes of hiring, but that they were not in complete control of searches conducted by the Human Resources Department. We advised both units' representatives to keep us informed of their progress and request extensions, if necessary.

EIU staff continues to conduct data analysis using data they have compiled from sources across the organization – including CAD, RMS, Blue Team, TraCS, EIPro, and others. We have been critical of the thresholds and benchmarks that EIU had been employing from the summer of 2014 because they were not grounded in theory/practice and could not be supported statistically. Following the publication of the First Traffic Stop Annual Report, we began working with MCSO and ASU to develop new processes to clean the organizational data, as well as improve the methods used to analyze the data for the monthly, quarterly, and subsequent annual reports. These new processes have resulted in a more comprehensive analytic strategy being employed in the Second Traffic Stop Annual Report, which was produced as a draft in October 2016 and published on March 1, 2017. The monthly analytic methods are nearing completion. ASU found inconsistencies in the software syntax that created anomalies in the data analysis. These are being fixed, and MCSO is planning to publish the first new monthly traffic data analyses shortly. Finally, the Parties agreed upon the methods for the quarterly analyses during our January 2017 site visit; and the target date for inclusion in EIS is June 1, 2017. We will comment on the specifics of each analysis as they are published.

EIU personnel also regularly monitor alerts that are triggered by the thresholds they have set. MCSO has provided us with monthly reports of how these alerts are being handled. In addition, EIU has improved the alert transmission process with District supervisors by incorporating the alert investigations into the Blue Team system. As a result of prior criticisms that a small proportion of alerts are not being handled or closed properly, EIU is creating a more rigorous checklist for supervisors to use in their investigation. This should standardize the process and allow for minimal divergence. We will evaluate these as they become available.

Finally, EIU and BIO personnel have been instrumental in requesting technical assistance for the supervisory responses to the Traffic Stop Annual Reports, as well as assistance in developing new analytic strategies for the monthly and quarterly analyses. However, we are encouraged that MCSO has made significant strides over the past several months in relation to EIS data elements and related processes of supervisor use of the EIS system.

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

Phase 1: Not in compliance

- GH-5 (Early Identification System), currently under revision.

Phase 2: Not in compliance

When the EIU was developed in 2013-14, there was no standing policy defining the unit's responsibilities. Therefore, EIU personnel at the time created measures to conduct monthly analyses looking for "outliers," "potential questionable behavior," and "racial profiling." For an extended period of time, we asked for documentation to support the measures and types of analyses being conducted. Ultimately we concluded, and have repeated since the beginning of 2015, that the processes employed by MCSO remain largely "qualitative" since they rely heavily on judgments of EIU personnel and there is little information as to how these thresholds were developed nearly two years ago. The First Traffic Stop Annual Report was published by ASU in May 2016. Many of the unsubstantiated rules employed by MCSO were also used in the analysis presented by ASU in this report. For that reason, among others, we were critical of the methods and measures used in the first annual report.

One of our major concerns with the monthly reports generated by EIU has been that relatively few deputies actually reach the thresholds EIU has employed, further calling the value of these into question. Moreover, MCSO was directed to evaluate whether the outliers in the preliminary analysis of ASU, presented in February 2016, had triggered alerts in the EIS. The result of this investigation was that very few of the deputies found to be outliers in the ASU analysis had triggered any relevant alert in the EIS during the same time period. This defies the very purpose of an alert system.

For that reason, we had provided MCSO and ASU with a recommended method of analyzing data that is more statistically grounded and methodologically sound. Following the publication of the First Annual Report, MCSO and ASU have been working to propose new protocols and benchmarks for all the analysis related to EIS. EIU also requested technical assistance in August 2016 to assist in this process. The first result was the publication of a draft of the Second Traffic Stop Annual Report in October 2016. This report included more sophisticated analyses and has proven to be much more rigorous than the first annual analyses. We will comment in more detail now that the final version of the annual report is published. Second, MCSO has proposed different analytic methods for the monthly and quarterly analyses. We held additional conference calls and technical assistance meetings during our January 2017 site visit. MCSO is producing the first monthly traffic stop analyses since they were discontinued in May 2016. The analytic methods proposed for the quarterly report will initially mirror those of the annual report but following the publication of the first quarterly analysis in the spring of 2017 EIU is planning to modify these to make them more useful and less repetitive for the organization as a whole. We will evaluate each of these publications as they become available.

EIU personnel are also working with other MCSO units, as well as software vendors, to ensure that all data reflected in Paragraph 75 will be included in the relational database. MCSO initially produced a timeline in December 2016, and has resulted in two revisions since that time. The EIS Project Plan V.3. lays out activities ranging from policy publication to training for EIS to inclusion of data elements in EIS. The last element of implementation – training of all personnel – is slated to be completed by September 30, 2017. We will discuss MCSO's adherence to these target dates in upcoming reports.

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

a. all misconduct Complaints or allegations (and their dispositions), excluding those made by inmates relating to conditions of confinement or conduct of detention officers (i.e., any complaint or allegation relating to a traffic stop shall be collected and subject to this Paragraph even if made by an inmate);

b. all internal investigations of alleged or suspected misconduct;

c. data compiled under the traffic stop data collection and the patrol data collection mechanisms;

d. all criminal proceedings initiated, as well as all civil or administrative claims filed with, and all civil lawsuits served upon, the County and/or its Deputies or agents, resulting from MCSO Patrol Operations or the actions of MCSO Patrol Operation Personnel;

e. all arrests;

f. all arrests in which the arresting Deputy fails to articulate probable cause in the arrest report, or where an MCSO Supervisor, court or prosecutor later determines the arrest was not supported by probable cause to believe a crime had been committed, as required by law;

g. all arrests in which the individual was released from custody without formal charges being sought;

h. all Investigatory Stops, detentions, and/or searches, including those found by the Monitor, an MCSO supervisor, court or prosecutor to be unsupported by reasonable suspicion of or probable cause to believe a crime had been committed, as required by law;

i. all instances in which MCSO is informed by a prosecuting authority or a court that a decision to decline prosecution or to dismiss charges, and if available, the reason for such decision;

j. all disciplinary action taken against employees;

k. all non-disciplinary corrective action required of employees;

l. all awards and commendations received by employees;

m. Training history for each employee; and

n. bi-monthly Supervisory observations of each employee.

Phase 1: Not in compliance

- GH-5 (Early Identification System), currently under revision.

Phase 2: Not in compliance

This Paragraph outlines the minimum requirements of the database to ensure that bias and profiling do not go unnoticed. However, not all required information is currently stored in a useable format within EIS. Nor does the EIS, as currently configured, meet the definition commonly accepted as a relational database that allows users to easily search for specific items without having to read each individual entry. While significant progress has been made over the past several months, there remains much left to do. Since this database is a crucial aspect of a functional Early Identification System, we have been working closely with MCSO to achieve compliance. During our October site visit, we, the Parties and MCSO agreed to a set of target dates for the inclusion of the following data elements into EIS. In December 2016, MCSO produced the EIS Project Plan, laying out the requirements for this Paragraph, policy revisions, analytic methodologies, training, and an EIS Operations Manual. MCSO specified how it would come into compliance in sufficient detail and provided target dates for that compliance. We have now received a third version of the EIS Project Plan and have questioned the reasoning for some of the target dates. However, this is the most complete description we have seen and are optimistic that these dates are attainable during the next several months. In fact, MCSO has met and exceeded some of the target dates in the original version of the Project Plan.

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

MCSO has been working with CI Technologies to provide that immediate access to both open and closed complaints. We were notified in July 2016 that the supervisors could now view closed complaint summaries, but there was some work to be done to allow access to open complaints. EIU has been working with PSB for several months to provide enough information in the summary to make the issues of each complaint understandable. Second, it took some time to create the rules about access due to the fact that some investigations may also implicate supervisors who should not have purview over those particular open cases. Most of these issues had been resolved by our January 2017 site visit. MCSO demonstrated what supervisors could view. However, in discussing the documentation that might follow a complaint, it became apparent that what is viewable depends upon who enters the information into the system. We recommended to MCSO that this information should be standardized, and that PSB should create a checklist that will be attached to each complaint. Additionally, we suggested that each complaint should provide a better description of the allegation than just the label alone since some allegations may span a variety of behaviors. MCSO is working on these modifications.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.b. requires that the database include "all internal investigations of alleged or suspected misconduct." Similar to the above discussion of complaints, internal investigations exist in the IAPro system – a management system used by EIU, PSB, and CID to track and analyze information inclusive of internal complaints and outcomes. However, for privacy concerns, there must be limited access to this information. As discussed in Subparagraph 75.a., supervisors can now view synopses of completed investigations. This was demonstrated during our January 2017 site visit. However, as noted above, the synopses themselves must provide more detail than the allegation alone – and there should be a standardized checklist for attachments to each complaint, as the information available should not rely upon who enters the information into the system.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.c. requires that the database include "data compiled under the traffic stop data collection and the patrol data collection mechanisms." In Paragraph 54, we describe how MCSO created several electronic forms to capture all relevant data related to traffic stops: Vehicle Stop Contact Forms and Supplemental Sheets, the Incidental Contact Receipt, and the Written Warning/Repair Order. During the first year of these electronic forms, both we and MCSO found data problems. Over time, most of these issues were addressed by requiring that the fields of these forms be made mandatory before a form can be closed. Most recently, MCSO programmed CAD to populate the traffic stop beginning and end times to alleviate the problem of extremely long traffic stops that were not being properly closed. In addition, MCSO – in conjunction with ASU, us, and the Parties – has created a checklist of reasons that will appear as a drop-down menu for deputies to explain why a stop might be extended. Further, new thresholds and methodologies are under development for the monthly and quarterly analysis of traffic data. The data for this subparagraph went in to the production environment on January 12, 2017 and became automated on January 19, 2017. MCSO was able to demonstrate this view during our site visit. During our future site visits, we will verify that individual line supervisors can view and search this field.

As noted below in Subparagraphs 75.e. and 75.h., MCSO is currently pilot-testing Incident Report memorialization in selected Districts and units across the organization. Until such time as these processes are complete, MCSO will not meet the "patrol data collection mechanisms" required by this Paragraph. MCSO has provided updates on the obstacles encountered during the pilot-testing and has actively pursued solutions to these issues.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.d. requires that the database include "all criminal proceedings initiated, as well as all civil or administrative claims filed with, and all civil lawsuits served upon, the County and/or its Deputies or agents, resulting from MCSO Patrol Operations or the actions of MCSO Patrol Operation Personnel." According to EIU, this information is evaluated and processed by the Legal Liaison Section of MCSO and entered into the system. Summaries of this information are available in the EIS database for review by supervisors. EIU noted, however, that there is no automatic link with other law enforcement agencies in the area; therefore, if an employee is arrested, the code of conduct policy requires that the deputy self-report those instances. Failure

to self-report would result in discipline depending upon the circumstances involved. During recent site visits, EIU personnel and District supervisors demonstrated the ability to review this information for us. The introduction of the new EI Pro software on November 8, 2016 afforded supervisors the ability to search fields of data using a variety of query techniques. MCSO was able to demonstrate these functions during our January 2017 site visit. We will verify that line supervisors in the field can demonstrate these functions during our future site visits.

MCSO is in compliance with this Subparagraph.

Paragraph 75.e. requires that the database include "all arrests." All arrests are not currently included in the EIS database, but they exist in the Jail Management System, which is not directly linked to EIS. The Technology Management Bureau and EIU have been working with CI Technologies to create the interface that would pull specific data elements for each "arrest" into EIS. These data elements were approved by us and the Parties during the summer of 2016, and MCSO began pilot-testing the interface in District 1 on January 3, 2017. MCSO's plan is to incrementally release the interface ability to each District; evaluate what issues may arise and once success is achieved, move to the next District. It is estimated that this process will be complete for the organization as a whole by May 31, 2017. MCSO was able to demonstrate the functionality of this field. During our visit to District 1, we learned that District 1 was pilot-testing this field and that District 1 personnel were in regular contact with EIU staff regarding issues they would like to see improved. We will continue to evaluate the functionality of this field during our future site visits.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.f. requires that the database include "all arrests in which the arresting Deputy fails to articulate probable cause in the arrest report, or where an MCSO Supervisor, court or prosecutor later determines the arrest was not supported by probable cause to believe a crime had been committed, as required by law." EIU already captures this information through Incident Report Memorialization. Supervisors must file these reports by the end of the shift in which they are recognized. These notes currently exist in Blue Team as Supervisory Notes to the actions of their subordinates. These notations are manually entered by supervisors when discovered by them personally, and they are incorporated into Blue Team when MCSO is notified by prosecutors or courts that probable cause did not exist for an arrest that was not discovered by the immediate supervisor. On November 8, 2016, MCSO informed us that the newest version of EI Pro had been pilot-tested and put into production for the entire organization. This version of EI Pro allows supervisors to search fields of information using key words and phrases. MCSO met the target date for the functionality of this field.

During our January 2017 site visit, MCSO demonstrated the ability of supervisors to search this field. This was corroborated during our site visit to District 1. Arrests for which the prosecutor or a court determines a lack of probable cause are discussed in Subparagraph 75.i., below.

MCSO is in compliance with this Subparagraph.

Paragraph 75.g. requires that the database include "all arrests in which the individual was released from custody without formal charges being sought." According to EIU, the ability to capture this information depends upon what actually occurred within the context of the

interaction. If the suspect was taken into physical custody but released prior to booking, there would be a JMS record as indicated in Subparagraph 75.e. above. Therefore, MCSO could use the interface described earlier to pull the relevant data elements into EIS. However, if the incident does not rise to the point of physical custody and detention, then it would likely yield an Incident Report, covered under Subparagraph 75.f. above or an Investigatory Stop under Subparagraph 75.h. to follow. EIU is working to coordinate these processes with the assistance of the Technology Management Bureau and CI Technologies. The introduction of the new EI Pro software in November 2016 provides supervisors with the ability to search this field within EIS. MCSO has met the target date for this field. MCSO demonstrated the ability to search this field during our January 2017 site visit. EIU is still manually entering these data until the full functionality of the interface is complete. This is a temporary process that will be automated subsequently. Since there are so few cases that meet this criteria, EIU staff will continue to manually enter this information until that time.

MCSO is in compliance with this Subparagraph.

Paragraph 75.h. requires that the database include "all Investigatory Stops, detentions, and/or searches, including those found by the Monitor, an MCSO supervisor, court or prosecutor to be unsupported by reasonable suspicion of/or probable cause to believe a crime had been committed, as required by law." If the incident does not involve a traffic stop, it should be documented in an Incident Report, which is scanned into FILEBOUND. At present, the FILEBOUND system does not communicate with EIS. The Technology Management Bureau, EIU, and CI Technologies have been developing an interface among several remote databases and EIS. This interface allows agreed-upon data elements to be pulled from the remote databases and incorporated into EIS. The interface is being pilot-tested in District 1. MCSO plans to expand the interface incrementally to other Districts as they achieve success in each phase of pilot-testing. The target date for full completion of these tasks is May 31, 2017.

MCSO has made revisions to EA-3 (Field Interviews), which specifies the responsibility of MCSO personnel in different types of search events. Searches captured on VSCFs were placed in production on January 19, 2017. Incident Report searches are scheduled to be included in the EIS by May 31, 2017 as noted earlier in Subparagraph 75.e. and Non-traffic Contact Form (NTCF) searches will be automated by April 30, 2017. We will verify that supervisors have the ability to search this field during our future site visits.

MCSO is not in compliance with this Subparagraph.

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

searchable by supervisors. MCSO demonstrated this ability during our January 2017 site visit. MCSO has also been working with the local Justice Courts to enter information relevant to this Paragraph and began production processed on January 12, 2017. MCSO continues to work with the Arizona Office of Courts to gain access to Municipal Court dispositions. The target date for the inclusion of these dispositions in EIS is April 25, 2017. We will evaluate the sufficiency of these fields during our next site visit. MCSO has made steady progress incorporating the information from these remote courts.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.j. requires that the database include "all disciplinary action taken against employees." MCSO currently tracks disciplinary actions in the IAPro system. MCSO has revised its policies to now include "coaching" in GH-5 (Early Identification System) as non-disciplinary action (see Subparagraph 75.k. below). MCSO introduced a new version of EI Pro in November 2016, which allows this and other fields to be searched by supervisors. MCSO demonstrated this ability during our January 2017 site visit. The ability to search these fields was also corroborated during our site visit to District 1 in January.

MCSO is in compliance with this Subparagraph.

Paragraph 75.k. requires that the database include "all non-disciplinary corrective action required of employees." MCSO believes that at present, Supervisory Notes fulfill this requirement along with the bimonthly reviews of a deputy's performance. These notes typically describe the discussions that supervisors and subordinates have about the work of a deputy. Most do not rise to the level of discipline, but there are times where Supervisory Notes are used to further examine the activity of deputies. On November 8, 2016, MCSO notified us that with the production of the most recent version of EI Pro, Supervisory Notes are now searchable through key words and phrases. MCSO demonstrated this ability during our January 2017 site visit. MCSO has also included in the latest version of GH-5 (Early Identification System) "coaching" as a non-disciplinary action that supervisors can employ. Once training to EIS is complete, MCSO will be in compliance with this Subparagraph.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.l. requires that the database include "all awards and commendations received by employees." The EIU has completed its work with the Compliance Division and revised the awards policy. GC-13 (Awards) was published on August 27, 2016. With this publication, EIU was able to create categories for awards or commendations within EIS. With the introduction of the newest version of EI Pro, these fields are also searchable by supervisors. MCSO reported during our October 2016 site visit that it has manually entered all awards and commendations back to January 1, 2016. During our January 2017 site visit, MCSO demonstrated the ability to search this field.

MCSO is in compliance with this Subparagraph.

Paragraph 75.m. requires that the database include the "[t]raining history for each employee." MCSO uses a Skills Manager System (SMS) that is operated by the Training Division. According to the Technology Management Bureau, the SMS will not communicate with EIS. EIU took the initiative to retrieve the history of deputies from SMS and enter them into EIS manually. EIU started this process beginning with the training that began on October 1, 2016. EIU plans to bring the EIS up-to-date and then begin to work backwards to January 1, 2016 for all deputies. The introduction of the newest version of EI Pro has also made this field searchable. MCSO demonstrated the ability to search this field during our January 2017 site visit.

MCSO is in compliance with this Subparagraph.

Paragraph 75.n. requires that the database include "bi-monthly Supervisory observations of each employee." Currently, the supervisors memorialize their meetings with employees in Supervisory Notes in Blue Team. The newest version of EI Pro was introduced on November 8, 2016. This version of EI Pro allows supervisors to conduct searches of this field. MCSO demonstrated this ability during our January 2017 site visit, and the search function was also demonstrated at District 1.

BIO conducts monthly audits of Patrol Supervisory Notes and the Review and Discuss fields in TraCS. In Paragraphs 69-70, we note several fluctuations in supervisors' use of these tools. BIO is currently sending out Action Forms to alert command staff in the respective Districts about these trends. While the command staff response to these Action Forms has resulted in additional training and counseling at the Districts, we continue to see several instances of insufficient use of these tools in several Districts. We believe that, with the finalization of the revisions to GH-5 (Early Identification System) and the development of training to EIS, these fluctuations will be mitigated. BIO and EIU have are also working to incorporate BIO Action Forms into Blue Team. This will allow the Action Forms to be tracked. EIU is also proposing to set alerts in instances when supervisors repeatedly fail to use EIS tools as expected. These alert investigations will be transmitted through Blue Team as described elsewhere in this report. We are confident that these strategies will improve the evaluation of MCSO supervisory personnel. The overall organizational compliance of the Supervisory Note audits for October to December 2016 ranges from 92% to 95%. The level compliance found for the Review and Discuss audits during this same time period ranged from 85% to 92%. MCSO is also in the process of developing the EIS lesson plan, which will reinforce the timelines that supervisors must meet in performing these oversight requirements.

MCSO is not in compliance with this Subparagraph.

A relational database is often defined as a collection of data items organized as a set of formally described tables from which data can be accessed or reassembled in many different ways without having to reorganize the original database tables. The above discussion of the data elements shows that MCSO is closer to compliance today than it has been in the past. According to the latest version of the EIS Project Plan, the target date for the inclusion of all data elements required by this Paragraph in EIS will be May 31, 2017. MCSO is finalizing a new version of GH-5 (Early Identification System) regarding EIS and EA-3 (Field Interviews). These policies will specify how these data and systems are to be used by all MCSO personnel.

The introduction of the newest version of EI Pro, on November 8, 2016, improved the ability of supervisors to search particular fields relevant to Paragraph 75. This is a significant advance. Once the interface process that connects remote databases to EIS is complete MCSO will meet the basic definition of a relational database. We will verify all of the search functionality outlined above and anticipate being able to do so in future reporting periods.

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

Phase 1: Not in compliance

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

Phase 2: Not in compliance

For traffic stops, MCSO meets these requirements in several ways. For instance, EIU had found during the monthly alert analysis of TraCS data that deputies were erroneously marking race as "unknown." As a result, in October 2015, EIU required that a deputy enter his/her best estimate of perceived race for each traffic stop interaction. The integrity analyses conducted by our personnel have shown that this information is rarely missing from the TraCS data supplied by MCSO. However, concerns have been raised that deputies may be misidentifying the race or ethnicity of drivers and passengers. We raised these issues during our January 2017 site visit, and several options were proposed. We will continue to evaluate the introduction of these solutions as they are introduced. Second, there was a problem uncovered in the First Traffic Stop Annual Report regarding extended traffic stops, some in excess of 900 minutes. MCSO initially proposed to have CAD populate the end time for traffic stops to alleviate the problem of traffic stops that were not properly concluded. After further discussion and investigation, it was concluded that CAD should populate both the start and stop times of traffic stops to minimize mistakes of individual deputy error. Moreover, MCSO – in coordination with us, ASU, and the Parties – a has developed a drop-down menu for deputies to select from if they are on a traffic stop for an extended period of time. These are typically drunk driving arrests or instances where a vehicle has to be towed. Over the past three years, MCSO has been swift to find solutions to problems that have arisen with the traffic stop data. The analyses conducted by EIU, and audits of BIO, have proven beneficial in uncovering some anomalies that can be addressed through technical modification. We will continue to work with MCSO to ensure compliance.

However, as we noted in several Subparagraphs above – 75.e.g. (all arrests in differing contexts), and 75.h. (investigatory stops) – MCSO is still working to incorporate the necessary information in EIS to fully meet the requirements of this Paragraph. MCSO – in conjunction with CI Technologies – has developed an interface between remote databases that house this information and EIS. MCSO began testing this interface in District 1 on January 3, 2017. MCSO plans to incrementally provide access to all subsequent Districts to the interface as each step is successfully completed. The target date for full implementation of the interface is May 31, 2017. MCSO demonstrated the functionality of the interface during our January 2017 site visit. We also spoke to command staff in District 1 who explained how they are pilot-testing the interface. District 1 personnel are sending comments and recommendations to EIU on a regular basis. While modifications may be required, this is a significant advance from where MCSO was six months ago.

MCSO also developed an EIS Project Plan in December 2016 that outlines what needs to be completed to make the EIS fully functional. The Project Plan specifies projects related to data access, policy revision, operations manual creation and methods used to analyze data for monthly, quarterly and annual reports. The Project Plan has already undergone two revisions. We are encouraged by the effort extended by MCSO to complete the EIS tasks in a timely fashion. Since the interface is still under pilot-testing and development, and the required policies have not been published and trained to, MCSO is not in compliance with this Paragraph.

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

Phase 1: Not applicable

Phase 2: In compliance

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

During our July and October 2016 site visits, the Chief of Patrol noted that with the movement of a majority of the organization to the 4-10 shift, MCSO has just enough vehicles to accommodate the overlapping shifts. During our January 2017 site visit, MCSO advised us that there had been no instances in which deputies did not have a TraCS-equipped vehicle available to them. We corroborated this during our visits to District 1 in January 2017.

With the introduction of body-worn cameras, Lakes Patrol command staff informed us that uploading of cameras had become problematic due to connectivity issues. In response, they developed alternatives for their deputies: First, they provided each deputy with a second body-worn camera so that one could be uploading while the other is in service; second, they offered to provide deputies with uploading terminals at their residence; and third, for those deputies who did not want to upload camera footage from their residence, they created "sharing agreements" with Districts to allow deputies from Lakes to drop off their cameras following their shift for uploading. Given these options, they have not had difficulties in finding ways to ensure that deputies have uploading stations at their disposal.

In addition, the Deputy Chief of the Technology Management Bureau provided a letter in response to our document request that comprehensively shows the deployment of personal computers and printers across the Districts and specialty units. During inspections of Districts during our January 2017 site visit, we verified the availability of replacement vehicles equipped with TraCS and computers at each of the District offices should vehicle systems fail. The letter from the Deputy Chief is also a testament to the security of the system. At present, it appears that the technology and equipment available in the agency meets the requirements of the Order.

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

Phase 1: Not in compliance

- GH-5 (Early Identification System), currently under revision.

Phase 2: Not in compliance

Prior to the publication of GH-5, the Deputy Chief of the Technology Management Bureau provided a letter in response to Paragraph 78. On the second page of this memorandum, there is a description of the security of the database and server. This information has been reiterated in the revised EIS policy. MCSO has also included specific statements in the policy that limit access to individual deputy information to appropriate supervisory/administrative personnel. In addition, the policy states that personal information will be maintained in the database for at least five years following an employee's separation from the agency. The policy also explicitly stipulates that all other information will be retained in EIS indefinitely for purposes of aggregate statistical analyses. These statements meet the requirements of the Order.

In both Subparagraphs 75.a. and b. we presented the ongoing issues surrounding ongoing internal and external investigations. MCSO is working to address these issues. In particular, PSB is concerned that supervisors who may be implicated in an investigation should not have purview over those open investigations. Second, MCSO is developing mechanisms to ensure that supervisors have access to a standard set of documents when they review both closed and open investigations. Concerns such as these indicate how important security of the system is to MCSO.

MCSO has also been working with a contract partner, ASU, to ensure that the traffic stop data is in a format that allows for aggregate statistical analysis to be conducted. We have noted, particularly in Paragraphs 64-67, the problems that have arisen in conducting the first and second annual review of traffic stop data as well as the monthly and quarterly data analysis. In addition, we have noted the limitations of information available in several Subparagraphs of Paragraph 75 above. MCSO is currently pilot-testing an interface that links remote databases with EIS. The target date for completion of the interface is May 31, 2017. At that time, we will evaluate the security and retention of data relevant to this Paragraph.

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

Phase 1: Not in compliance

- GH-5 (Early Identification System), currently under revision.

Phase 2: Not in compliance

MCSO does not have a fully "integrated" database. MCSO has made several modifications to TraCS over the past several months to achieve a more effective system of data collection that can also be used for data analysis. Many of the problems that hampered the TraCS system came to light during the analysis leading up to the First Traffic Stop Annual Report. As a result, MCSO – in conjunction with us and the Parties – has changed the manual entry of traffic stop, start and end times to an automated process using CAD information. Second, MCSO developed a drop-down checklist for deputies to describe why their traffic stops might be extended (tow operations, DUI arrests, etc.). This should alleviate many of the inconsistencies found in the

data during the analyses prior to the publication of the First Traffic Stop Annual Report. In December 2016 MCSO produced an EIS Project Plan that specifies projects and sub-projects to make the EIS system fully functional. The Project Plan also outlines issues of policy publication, operation manual development and methods of analysis to be used in the annual, monthly and quarterly reports. As noted in our discussion of Paragraph 75 requirements MCSO has begun pilot-testing of the interface that connects several remote databases with EIS. MCSO plans to incrementally introduce the interface across Districts as each new project proves successful. District 1 staff are currently working with EIU to provide feedback regarding the operation of the interface. Full implementation of the interface is targeted for May 31, 2017. MCSO also introduced a new version of EI Pro on November 8, 2016. Supervisors can now search all fields of data that are present in EIS.

In the meantime, EIU and BIO personnel have pulled together data to conduct analyses, audits, and inspections. As we have noted above these audits provide invaluable information about the activity of deputies and supervisors. We have also argued that when deficiencies are noted in BIO audits and inspections that sending out Action Forms to command staff is not sufficient to promote a positive change in the organization. As a result, BIO and EIU staff are working to include Action Forms in the Blue Team software. This will allow both units the ability to better track deficiencies found. EIU has also proposed to set alerts for supervisors who repeatedly fail to use the EIS tools as directed in policy. This should improve accountability across the organization. We will evaluate these changes to the system as they are introduced. EIU and BIO have repeatedly proposed solutions to problems discovered as a result of the ongoing audits and reports they produce.

EIU and BIO personnel have also actively sought technical assistance over the past several months. In May 2016, we provided MCSO with recommendations about how to conduct monthly, quarterly and annual analyses. In August 2016, MCSO requested assistance in developing several of these tools. As a result, MCSO is projected to release new monthly traffic stop reports that are statistically and methodologically grounded. We have already seen how the technical assistance has improved the analysis in the draft of the Second Traffic Stop Annual Report. The publication of this report occurred on March 1, 2017.

EIU personnel have incorporated the alert investigation process by District supervisors into the Blue Team system. This has created a more transparent and accountable process for tracking behaviors that might be problematic. The findings from these investigations require approval from several levels of command before they are closed. We have raised concerns that not all supervisors completely and accurately close these investigations. Many times, command staff send these investigations back for additional detail or work. However, each month, there appears to be at least one case where it is not clear that the supervisor provided enough information or conducted a satisfactory investigation of the alert. EIU is developing a supervisor checklist to accompany the alert. This checklist should help ensure that all necessary information is completed to initiate action or close the investigation. We are optimistic that this will alleviate the problems observed in the past. Both EIU and BIO have been receptive to our concerns and taken the initiative to ameliorate these issues.

b. Training on the EIS

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

Phase 1: Not in compliance

- GH-5 (Early Identification System), currently under revision.

Phase 2: Not in compliance

MCSO routinely memorializes who has received training and when. The Skills Manager System (SMS), operated by the Training Division, however, does not communicate with the EIS. As a result, EIU personnel are manually inputting information from the SMS into EIS. EIU personnel began inputting training data that occurred on, or after, October 1, 2016. Following the completion of that process, EIU will then work backward to incorporate training material dating back to January 1, 2016 for each deputy.

MCSO has placed training curriculum development for EIS on hold several times due to the major revisions for GH-5 (Early Identification System) that are underway. MCSO provided the EIS Project Plan, which covers training, in December 2016. MCSO projects that EIS training should be initiated by July 1, 2017 and concluded by September 30, 2017. We will evaluate curriculum development in future reports, as well as the delivery of training throughout the summer of 2017.

c. Protocol for Agency and Supervisory Use of the EIS

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

a. comparative data analysis, including peer group analysis, to identify patterns of activity by individual Deputies and groups of Deputies;

b. identification of warning signs or other indicia of possible misconduct, including, but not necessarily limited, to:

i. failure to follow any of the documentation requirements mandated pursuant to this Order;

ii. racial and ethnic disparities in the Deputy's traffic stop patterns, including disparities or increases in stops for minor traffic violations, arrests following a traffic stop, and immigration status inquiries, that cannot be explained by statistical modeling of race neutral factors or characteristics of Deputies' specific duties, or racial or ethnic disparities in traffic stop patterns when compared with data of a Deputy's peers;

iii. evidence of extended traffic stops or increased inquiries/investigations where investigations involve a Latino driver or passengers;

iv. a citation rate for traffic stops that is an outlier when compared to data of a Deputy's peers, or a low rate of seizure of contraband or arrests following searches and investigations;

v. complaints by members of the public or other officers; and

vi. other indications of racial or ethnic bias in the exercise of official duties;

c. MCSO commander and Supervisor review, on a regular basis, but not less than bimonthly, of EIS reports regarding each officer under the commander or Supervisor's direct command and, at least quarterly, broader, pattern-based reports;

d. a requirement that MCSO commanders and Supervisors initiate, implement, and assess the effectiveness of interventions for individual Deputies, Supervisors, and units, based on assessment of the information contained in the EIS;

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

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

g. a process for prompt review by MCSO commanders and Supervisors of the EIS records of all Deputies upon transfer to their supervision or command;

h. an evaluation of whether MCSO commanders and Supervisors are appropriately using the EIS to enhance effective and ethical policing and reduce risk; and

i. mechanisms to ensure monitored and secure access to the EIS to ensure the integrity, proper use, and appropriate confidentiality of the data.

Phase 1: Not in compliance

- GH-5 (Early Identification System), currently under revision.

Phase 2: Not in compliance

In the absence of comprehensive training EIU, BIO, and individual supervisors have shown the ability to conduct comparative analysis of deputies, squads, and Districts employing the traffic data incorporated into EIS. EIU has routinely conducted monthly analyses looking for racial bias and profiling. While informative, these analyses have resulted in very few alerts being sent for further investigation to be conducted by supervisors. We have been critical of these analyses and reports for well over a year. Once we received comprehensive data in December 2015, we provided MCSO and its subcontractor with a methodology that is more statistically grounded and will allow a more complete analysis of deputy activity. The First Traffic Stop Annual Report was published in May 2016. Unfortunately, ASU adopted many of MCSO's standards. For instance, the comparison of deputies was limited to those who had "10 or more stops per month" during the period. We provided ASU and MCSO with our evaluation of the report; and based upon these comments, and several discussions during our July 2016 site visit, MCSO and ASU began revising the methods and protocols they use for the monthly data analysis.

MCSO requested technical assistance in August 2016 to refine the methods they would use in the monthly reports. During our January 2017 site visit, we again met to provide technical assistance, and MCSO provided its proposed format for the monthly data report. While it was comprehensive, we were concerned that a statistically complex presentation would not be understood or well-received by deputies and supervisors. We recommended a simpler approach of graphs and dialogue; and for those deputies who have triggered alerts, EIU would describe the outlier value in a way that both the deputy and supervisor can use more productively. The target date for production of the new monthly data report has been postponed due to a problem with the data pulling process by MCSO, which is currently undergoing revision. During our January 2017 site visit, we also discussed the quarterly reports, which have not yet been issued. All Parties commented on the proposed format of the report. The methods for the first quarterly report will mirror those included in the Second Annual Report. Once that is published, we will discuss what modifications might make sense to ensure that each report is distinctive and useful for the organization as a whole.

MCSO has also introduced two fields in TraCS that directly impact the ability of supervisors to oversee the activity of their subordinates. One field is for "review" of traffic stop information within 72 hours of the stop. The second field, "discuss," is for supervisors to note when they discussed the traffic stops deputies make with them. The "review" field should also improve the data quality included in VSCFs, since one role of the supervisor is to ensure that deputies have completed all boxes of that form accurately.

BIO has now generated several months of reports for both the "review" and "discuss" fields. For the period of October through December, we saw supervisor review rates range from 96%

to 79%; and for discussions of traffic stops, a range from 85% to 91%. BIO has sent Action Forms to District command staff for those supervisors who failed to use the EIS tools. In the past, our critique of this process is that while command staff take action to improve supervisory oversight, we continue to see fluctuations such as these for a variety of audits and inspections: Supervisory Notes; Incident Report inspections; anti-profiling reinforcement during briefings; and others. BIO and EIU proposed to integrate the Action Forms into Blue Team. This will allow both units to track the issuance of Action Forms. EIU is also planning to develop alerts for supervisors who receive repeat Action Forms for the same incident. In this way, all levels of supervisors are held more accountable.

For the past several months, we have also reviewed a random sample of alert investigations conducted by supervisory staff as directed by EIU. In the majority of cases, we have found that supervisors appropriately conducted and closed the alert investigations. Some of these investigations led to additional personal training or coaching, while others were closed after the supervisor found no pattern of bias or concern. In several investigations we reviewed, we could not determine whether the supervisor had adequately conducted an investigation before the alert was closed. While we have requested and received more complete information on these cases it shows a fault in the process. EIU is developing a checklist to accompany the alerts so that supervisors are prompted to review all relevant materials and document how they conducted the investigation. We will evaluate this when it is produced.

Paragraph 81.a. requires that MCSO's EIS protocols include "comparative data analysis, including peer group analysis, to identify patterns of activity by individual Deputies and groups of Deputies." The EIU conducts monthly analysis looking for racial bias and profiling in accordance with Paragraphs 65, 66, 67 and 74. Over the past year, we have been critical of the thresholds that EIU was using in these monthly reports. As a result, MCSO discontinued its traditional analysis in June 2016. Since that time MCSO has been working with ASU to develop new methods and protocols. As noted above, we have participated in two technical assistance meetings regarding the monthly data analysis. These new reports are currently in progress and we will review them when published. MCSO has also requested technical assistance to develop supervisor intervention strategies in response to findings in the annual report that deputies are acting outside the norm of their peers for several patrol activities.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.b. requires that MCSO's EIS protocols include "identification of warning signs or other indicia of possible misconduct." The latest version of GH-5 (Early Identification System), which is currently under revision, will provide significant direction for employees and supervisors alike to understand what type of behaviors will be viewed as problematic. EIU collects a host of indices electronically that most individual supervisors would never be able to track themselves. Supervisors are directed to actively oversee their subordinates' performance through mechanisms such as the EIS Dashboard, where they can not only see if an employee has reached a threshold, but can track how close the employee may be to the myriad of thresholds and check in with the employee before a trigger event occurs. MCSO also began using two new fields in TraCS on June 1, 2016. The review field allows supervisors to note when they verified that the traffic stop forms of their subordinates include all the appropriate

information in the correct boxes. This review, by policy, must occur within 72 hours. Recent analyses by BIO suggest that supervisors are not always meeting this requirement.

A second audit by BIO evaluates the timeliness of supervisors' discussion of traffic stops with deputies. The Discuss audits are lagged a month since supervisors have 30 days to discuss traffic stops with their subordinates. The response to the introduction of this new field remains positive. However, the supervisors in several Districts continue to fail to use these fields as directed by policy. The typical response to these supervisory lapses is an Action Form sent to the District command staff by BIO. While the response to these action forms is always positive, the trends do not appear to be responsive. BIO and EIU are proposing to incorporate Action Forms into Blue Team so that they are trackable and subject to alert thresholds in the future. We will evaluate these processes as they are developed.

As noted in Paragraphs 69, 70 and 81.a., we have been critical of EIU's monthly analyses looking for racial bias and profiling. We have provided MCSO with a recommended methodology and participated in two technical assistance meetings to provide feedback on methods being considered and format of the report itself. MCSO has provided a target date of February 28, 2017 for the renewed publication of the monthly traffic stop analyses. We will evaluate these as they are produced.

MCSO has also been working with CI Technologies on an interface between remote databases that store information on arrests, investigatory stops and the like. The interface is now being pilot-tested in District 1. District 1 staff are assisting EIU with comments and recommendations to improve the interface. When this process is complete MCSO will incrementally provide the interface to the other Districts. MCSO has targeted May 31, 2017 as the completion date for the interface. Once in place, the EIU will have to develop a strategy to analyze these fields in much the same way as they have compared citation rates and passenger contacts.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.c. requires that MCSO's EIS protocols include "MCSO Commander and Supervisor review, on a regular basis, but not less than bimonthly, of EIS reports regarding each officer under the Commander or Supervisor's direct command and, at least quarterly, broader, pattern-based reports." BIO has recently added the "Bi-monthly review of EIS data to the monthly "Supervisory Note Inspection Report." The January 2017 report of December 2016 data was the first time this has been included in the Supervisor Note report. During this first month of tracking, the supervisor compliance rate was 69%. BIO sent out Action Forms to two Districts in which the supervisors failed to document these reviews. We have been critical of BIO Action Forms in the past. While these typically result in command staff taking corrective action, it does not seem to alleviate the fluctuating use of EIS tools by supervisory personnel across the organization. EIU and BIO have begun introducing the Action Forms into Blue Team. This will allow both Units to track the Action Forms. EIU is developing an alert that will flag supervisors who repeatedly fail to use the same EIS tools over time. We will evaluate these processes as they are put into place.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.d. requires that MCSO's EIS protocols include "a requirement that MCSO Commanders and Supervisors initiate, implement and assess the effectiveness of interventions for individual Deputies, Supervisors, and units, based on assessment of the information contained in the EIS." MCSO first published GH-5 (Early Identification System) in November 2015, but the policy is currently under revision. Most significant for this Paragraph is the development of Appendix B "Early Identification Alert Response Form." This form provides a template for supervisors to follow while conducting an alert investigation. Most importantly, it requires the supervisor to note when an intervention is put into place and what the outcome of the intervention was. This form will be saved within EIS and can be searched and tracked for future reference. We will evaluate the implementation of this form following publication of GH-5.

MCSO is not in compliance with the Subparagraph.

Paragraph 81.e. requires MCSO's EIS protocols include "identification of a range of intervention options to facilitate an effective response to suspected or identified problems. In any case where a Supervisor believes a Deputy may be engaging in racial profiling, unlawful detentions or arrests, or improper enforcement of Immigration-Related Laws or the early warning protocol is triggered, MCSO shall notify the Monitor and Plaintiffs and take reasonable steps to investigate and closely monitor the situation, and take corrective action to remedy the issue. Interventions may include but are not limited to counseling, Training, Supervisor ride-alongs, ordering changes in practice or procedure, changing duty assignments, Discipline, or other supervised, monitored, and documented action plans and strategies designed to modify activity. All interventions will be documented in writing and entered into the automated system." The current versions of GC-17 (Employee Disciplinary Procedure) and GH-5 (Early Identification System) provide a wide range of options for supervisor interventions, as well as practical guidelines about how to employ those options. As noted above, the revised version of GH-5 includes Attachment B, "Early Identification Alert Response Form." This form specifies the responsibility of supervisors and serves as a checklist of processes the supervisor should utilize. In addition, the form requires supervisors to note the type of intervention they are recommending for a deputy, when the intervention occurred, and an evaluation of the intervention outcome. This form will be searchable in EIS and available for future investigations. In addition, these forms must go through the chain of command and can be returned to supervisors for additional processing if necessary. Once the policy is published, we will evaluate how well supervisors use these new intervention tools.

Under the previous Supervisors' Manual for EIS, the old threshold for bias-related incidents was two occurrences within a 12-month rolling period. We advised MCSO that each incident of such conduct should trigger an alert and that both Monitor and Parties need to be notified. EIU is planning to create a new EIS Operations Manual that will include a description of thresholds. We also reviewed for this Paragraph two alerts from December 2016 involving the low rate of seizures following searches. According to the supervisor review, these were not abnormal situations and involved non-Latino drivers.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.f. requires that MCSO's EIS protocols include "a statement that the decision to order an intervention for an employee or group using EIS data shall include peer group analysis, including consideration of the nature of the employee's assignment, and not solely on the number or percentages of incidents in any category of information recorded in the EIS." MCSO took this into account in GH-5 (Early Identification System), currently under revision. EIU is planning to develop an EIS Operations Manual following the publication of GH-5. EIU has advised that the EIS Operations Manual will include directions for this Subparagraph, including the consideration of an employee's assignment in setting thresholds.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.g. requires that MCSO's EIS protocols include "a process for prompt review by MCSO Commanders and Supervisors of the EIS records of all Deputies upon transfer to their supervision or command." MCSO has noted the need for a prompt review in both the "Supervisor" and "Command Staff Responsibility" sections of GH-5 (Early Identification System). Our review during District visits over the past six months have shown a lack of uniformity in how supervisors review the historical information of deputies transferring into their units. In discussions with the Chief of BIO during our January 2017 site visit, we learned that command staff regularly receive documents for review of those persons transferring to their Unit; however, these are hardcopy processes that are not automated. These documents are kept at both the District and Human Resources. In addition, line supervisors, as specified in GH-5) are required to document their EIS review of a transferee within 14 days. We will request a selection of Supervisory Notes of supervisors who have experienced a recent transfer into their unit.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.h. requires that MCSO's EIS protocols include "an evaluation of whether MCSO Commanders and Supervisors are appropriately using the EIS to enhance effective and ethical policing and reduce risk." BIO conducts monthly audits of Patrol Supervisory Notes and quarterly inspections of Incident Reports to assess whether supervisors are adequately using EIS supervisory tools. We have noted in several Paragraphs the fluctuating use of EIS tools by supervisory staff. EIU and BIO have begun the process of including BIO Action Forms into Blue Team. This will make the forms trackable. In addition, EIU is planning to set alerts for supervisors who receive Action Forms for the same incident type over a set period of time. We believe this will increase the accountability of supervisory oversight. BIO also produced the Third Quarterly Incident Inspection Report on December 1, 2016. MCSO improved its overall compliance rate to 96.3%. Although this is a high rate of compliance, BIO sent out 30 Action Forms as a result of deficiencies they noted during Incident Report inspection. We will request several of these for review and report our evaluation in future reports. The introduction of BIO Action Forms in Blue Team should make these easier to track.

We anticipate that the completion of training to EIS in September 2017 should improve the performance of supervisors.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.i. requires that MCSO's EIS protocols include "mechanisms to ensure monitored and secure access to the EIS to ensure the integrity, proper use, and appropriate confidentiality of the data." MCSO has addressed the security and integrity of data in GH-5 (Early Identification System), as well as instituted facility inspections throughout the Districts – including the security of terminals, access to information, and mobile displays. Further, we regularly inspect facilities during site visits. During our October 2016 and January 2017 site visits, we did not observe any abnormalities, and each District maintained the security of VSCFs in a locked file as we recommended in the past.

MCSO is in compliance with this Subparagraph.

MCSO is meeting some requirements of Paragraph 81: security; evaluation of supervisory use of EIS; search functions within EIS; and the ability of EIU and BIO to conduct monthly analyses on existing data. However, MCSO also needs to attend to the areas where it falls short: the development of statistically grounded tools to investigate racial bias and profiling; assessment of the effectiveness of interventions; and evaluation of comparative analytic methods that do not rely upon arbitrary thresholds. Many of these issues are addressed in the EIS Project Plan that was first published in December 2016. According to the Plan, we should expect a new version of the Monthly Traffic Analyses once software syntax issues are corrected and the Second Traffic Stop Annual Report was published on March 1, 2017. These will be significant tools for supervisors with which to evaluate their subordinates. In addition, MCSO has sought out technical assistance for both supervisory intervention processes related to the Annual Report and methodological input to be used in the Monthly Traffic Analyses. We are satisfied that MCSO is committed to improving all aspects of EIS that the agency can control; we have also observed how MCSO has negotiated with other entities (Municipal and Justice Courts) to access data for EIS that the agency does not control. We will continue to work with MCSO in developing supervisory processes that meet the requirements of the Order.

Section 9: Supervision and Evaluation of Officer Performance

COURT ORDER X. SUPERVISION AND EVALUATIONS OF OFFICER PERFORMANCE

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

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

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedure), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: Not in compliance

During our January site visit, we met with the Deputy Chief of Patrol and other MCSO command staff regarding the status of ongoing projects related to compliance with this Order. As it relates to the Patrol Activity Logs (PALs), MCSO finalized the enhancements that had been in development for the past year in December 2016. The PALs now capture supervisory reviews on the PAL face sheet. The information includes the supervisor's serial number, and the date and time of review. MCSO also instituted a new radio code for supervisors to use when conducting administrative investigations.

During our District site visits, some commanders have expressed some concerns over completing administrative investigations. They are worried that if supervisors are assigned too many administrative investigations, or assigned cases with multiple witnesses, the work required would prevent supervisors from having enough time to carry out their primary duties. If the new radio code is used correctly, the tracking of time spent on administrative investigations will allow command staff to ascertain how much time supervisors are spending on investigations and assess whether a supervisor has been tasked with too many or too complex investigations. A commander's careful review may also identify a supervisor's lack of knowledge or skill that may be remedied through training.

The other PAL enhancement that was implemented was the documentation of supervisor-deputy contacts in the field, on deputy PALs. We believe that the accurate tracking of supervisor-deputy field contacts is essential in assessing whether or not enough on-scene supervision is taking place. Administrative Broadcasts explaining the new enhancements were drafted by MCSO for dissemination. In our reviews of PALs for the fourth quarter, we noted the use of the community-policing radio code by several deputies. On some PALs, particularly those from District 6, deputies documented community-policing activities with sufficient details. However, on most PALs reviewed there was insufficient detail on community-policing events for us to discern the type of activity taking place. We understand that District Captains have reminded personnel of the need to provide sufficient details in community-policing events, but so far it has not filtered down to the deputy level. During our January 2017 site visit and meeting regarding this Paragraph, we reminded MCSO that the Office needs to document Patrol Activity Log requirements and procedures in policy.

During our January 2017 site visit, we interviewed supervisors and commanders from two Districts to determine if there was compliance with MCSO policies and the requirements of the Order. We met with the District 6 Commanding Officer, a lieutenant, and a sergeant; we interviewed a deputy as well. Queen Creek is a contract city, and the hours of operation for the District office mirror the Town's operational hours, which are Monday through Thursday, from 0700 to 1800. The District 6 command staff was intimately aware of the crime and quality of life issues in the District. Most crimes committed in the jurisdiction are property-related, and can fluctuate with the seasons. During the hot summer months there are a number of residents who leave town for extended periods, and many return to find their homes and vehicles burglarized. Queen Creek is located in-between populated residential areas and the Phoenix business center. Many commuters traverse through Queen Creek to and from work. As a result, the Sheriff's Office routinely receives a number of traffic-related complaints.

District 6 has taken a proactive community-policing approach. Its team comprised of one sergeant and three deputies regularly interacts with residents to address crime concerns and quality of life issues. District 6 has also initiated an innovative program in which its community policing team welcomes all new residents of Queen Creek with a meeting and "welcome package" with information related to the Town and its services. We believe programs such as these bring law enforcement and communities together, and encourage residents to interact with MCSO and be part of the public safety mission.

One advantage that the District has is the use of a full-time crime analyst, paid for by the Town. A crime analyst can provide valuable information that can be used to proactively address crime concerns and quality of life issues. During our District 6 site visit, the District Captain advised us that they had recently lost their crime analyst, but they are actively recruiting a replacement.

We met with the District Captain – as well as three lieutenants and a sergeant – of Lake Patrol. The Commander was very well-versed in the requirements of the Order. We discussed crime concerns in the District, which is mainly a recreational area. The most common types of crimes are property crimes; the District has had a recent rash of thefts of parking vending machines. These vending machines are commonly referred to as "Iron Rangers." Requests for service tend to vary with the season, and Lake Patrol usually has higher call-outs for search-and-rescues in the winter.

We inquired if the District had experienced any difficulty in managing administrative investigations. MCSO advised us that in some cases, internal investigations can be overwhelming, and supervisors may benefit from additional training. The PSB commander has assigned a PSB investigator as a trainer/mentor to each District. Most questions or concerns on policies and procedures can be resolved at the District level. The Lake Patrol Commanding Officer suggested that this mentoring could even be taken a step further – and PSB investigators could go on ride-alongs with District supervisors. We believe this type of innovative thinking is productive and should be encouraged.

Supervisors from both District 6 and Lake Patrol suggested that the functionality of the PALs could be improved by adding a dashboard function that provides a global view of which PALs have been approved and which are pending. Since this feature is to enhance the search capabilities of the system and does not impact on compliance requirements for this Paragraph, we noted it in our reports, but will defer to MCSO to assess its feasibility.

We reviewed a representative sample of 88 Incident Reports for **October 2016,** for the randomly selected date of October 10, 2016. We found no significant issues, as all Incident Reports were reviewed and memorialized within the required seven days, and 10 of 11 vehicle crash reports were reviewed within the required timelines. All arrests reports were reviewed within the required 72 hours. We conducted a quality check on a 10% random sample of the reports we reviewed; and with the exception of minor spelling errors, we found no significant deficiencies.

We reviewed a representative sample of 84 Incident Reports for **November 2016,** for the randomly selected date of November 15, 2016. In 81 of the 84 Incident Reports, we verified that the reports had been reviewed and memorialized by a supervisor within the required timelines. All arrest reports were reviewed and signed by supervisors within the required 72 hours. We conducted a quality review on a 10% random sample of the reports we reviewed, and did not find any significant deficiencies.

We reviewed a representative sample of 84 Incident Reports for **December 2016,** for the randomly selected date of December 9, 2016. Eighty-three of 84 reports were submitted on time and reviewed and signed by supervisors within the required time constraints. All arrest reports were reviewed and signed by supervisors within 72 hours. MCSO provided us with a printout of vehicle crash reports that documented supervisory approval, we did not note any issues. We conducted a quality review on a 10% random sample of the reports we reviewed, and did not find any significant deficiencies.

Paragraph 83 requires that supervisors ensure that deputies actively work to engage the community to increase public trust and safety. In addition to reviewing documentation provided

by MCSO regarding their community policing efforts, we reviewed Patrol Activity Logs to verify that these activities are taking place. During our January 2017 site visit, we again provided feedback to MCSO staff as to the amount of detail that deputies are including in their community-policing events. With the exception of the sample of PALs we reviewed from District 6, most PALs reviewed lacked sufficient detail related to community-policing events.

For each month of the quarter, the Monitoring Team selected a supervisor and a squad of deputies. We requested several documents, including Patrol Activity Logs, for each deputy. We reviewed PALs for each month of the quarter to assess if the PALs were turned in by the end of each shift, and if supervisors had been reviewing each PAL. MCSO began documenting supervisory reviews of PALs in December. For the month of December, 34 of 35 deputies' Patrol Activity Logs had documentation of supervisory review; and five of seven supervisors' Patrol Activity Logs had documentation of command level review. However, for the months October and November, we were unable to confirm supervisory reviews of Patrol Activity Logs.

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

Phase 1: In compliance

- GB-2 (Command Responsibility), most recently amended on January 31, 2017.

Phase 2: In compliance

To verify Phase 2 compliance with this Paragraph, we reviewed monthly rosters and shift rosters for the fourth quarter of 2016. We also reviewed the October, November, and December 2016 Patrol Bureau shift roster inspection summaries, which discuss the results of BIO's examination of every MCSO shift roster during those months to verify that shifts did not exceed the 1:10 supervisor:deputy ratio. The BIO inspection summary dated November 28, 2016, noted that there was 100% compliance in October. The BIO inspection summary dated December 15, 2016 noted that the compliance rate was 99.90%. District 3 had no shift roster for one squad, for one date in November. All remaining Districts were in 100% compliance. The BIO inspection summary for December, dated January 17, 2017, noted four deficiencies, for a 99.58% compliance rate. Districts 1 and 2 failed to complete shift rosters for one squad in their respective Districts, in one of the days of the month reviewed. District 3 failed to complete shift rosters for two different squads, on two different dates. BIO Action Forms were issued for the above-named deficiencies.

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

During our January 2017 site visit, we visited and interviewed commanders from District 6 and Lake Patrol. These two Districts generally have supervisor:deputy ratios of 1:5 or fewer.

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

Phase 1: In compliance

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

Phase 2: Not in compliance

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

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

For October, MCSO submitted the September traffic stops for each deputy, by District. The total number of traffic stops for each District were: District 1, 53; District 2, four; District 3, 19; District 4, three; Lake Patrol, 23; District 6, 154; and District 7, 49. There were a total of 305 traffic-related events in September for all Districts, and sergeants discussed 245 of those with the deputies who conducted them, for a compliance rate of 80.32%.

For November, MCSO submitted the October traffic stops for each deputy, by District. The total number of traffic stops for each District were: District 1, eight; District 2, 49; District 3, one; District 4, 50; Lake Patrol, four; District 6, seven; and District 7, 14. There were a total of 133 traffic-related events in October for all Districts, and sergeants discussed 127 of those with the deputies that conducted them, for a compliance rate of 95.48%.

For December, MCSO submitted the November traffic stops for each deputy, by District. The total number of traffic stops for each District were: District 1, 35; District 2, 19; District 3, five; District 4, 15; Lake Patrol, four; District 6, 72; and District 7, 74. There were a total of 224 traffic-related events in November, and sergeants discussed 221 of those with the deputies who conducted them, for a compliance rate of 98.66%.

We recognize MCSO's effort to meet Phase 2 compliance with this Paragraph, as our reviews of the traffic-related events that occurred in October and November indicate compliance rates of 95.48% and 98.66%, respectively. As our findings are based on the average of the total monthly compliance numbers for the reporting period, the traffic-related events that occurred in September, when factored in, bring the total compliance rate to 91.49%.

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

Phase 1: In compliance

- GB-2 (Command Responsibility), most recently amended on January 31, 2017.

Phase 2: Not in compliance

To assess Phase 2 compliance with this Paragraph, we reviewed a sample of daily shift rosters for the three months of the reporting period. For October, we reviewed Districts 1 and 2; for November, we reviewed Districts 3 and 4; and for December, we reviewed Districts 6 and 7, and Lake Patrol. Monthly and daily rosters indicate that deputies are assigned to and work the same schedules as their supervisors.

MCSO deputies' and sergeants' activities are captured in Patrol Activity Logs (PALs). We selected a random sample of one day per month, and one squad per District, for review. For October, we requested PALs for seven sergeants and 29 deputies. We received and reviewed PALs for 20 deputies and six sergeants. We noted a total of five field supervisor-deputy contacts for the selected dates. Three supervisors did not have any field contacts with deputies. For November, we requested PALs for 34 deputies and seven sergeants. We received and

reviewed all requested PALs, and we noted a total of 12 field supervisor-deputy contacts; two supervisors did not show any field contacts with deputies on the selected dates. For December we reviewed PALs for 33 deputies and seven sergeants, and noted six field supervisor-deputy contacts on the supervisor's PALs for the selected dates. Three supervisors did not show any field contacts with deputies. In December, MCSO began to capture supervisor-deputy contacts in deputies' Patrol Activity Logs. We noted a total of 17 supervisor-deputy field contacts.

We recognize MCSO's significant efforts to keep the supervisor:deputy ratio at or below 1:8. We also acknowledge the work that MCSO has put in to enhance the functionality of the Patrol Activity Logs. In December, MCSO completed pending enhancements to the PALs that will capture data necessary to verify Phase 2 compliance. However, we must factor in the two other months in assessing compliance for this reporting period. For the selected date samples in December, there were 17 supervisor-deputy field contacts captured in deputy PALs, and six documented field contacts in supervisors' PALs. For October and November, there were five and 12 supervisor-deputy field contacts recorded, respectively. Considering that there are seven supervisors and an average of 25-30 deputies on duty for each date selected, the field contacts in October and November are below expectation. In addition, a number of supervisors had no field contacts on the dates reviewed.

MCSO took a significant step forward in the last month of the quarter as it pertains to documentation that deputies are receiving adequate on-scene supervision. We believe that the addition of documentation of supervisor-deputy field contacts in deputy PALs is a positive step. As stated previously in our reports, although direct supervisors should be responsible for providing the largest share of direction and guidance, active field supervision may also come from other supervisors and commanders; these contacts were not previously captured in deputies' PALs.

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

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedure), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: Not in compliance

Consistent with our methodology, we requested the names of all deputies and supervisors who were evaluated during this reporting period. From the lists of employees submitted, we requested a representative sample. We received and reviewed performance evaluations submitted for six deputies and nine supervisors who received evaluations in **October 2016**. All of the deputies' EPAs reviewed were of acceptable quality. Three of the six deputies' Employee Performance Appraisals (EPAs) were well-written and contained examples of behaviors documented during the rating period that supported the ratings. Only one of the nine supervisors' EPAs contained all of the required elements and documented specific behaviors that supported the ratings. Five of the nine supervisors' EPAs documented observed behaviors to support the ratings, but only one had all the required elements, as previously stated. Seven of the nine supervisors' EPAs rated the supervisors on the quality and effectiveness of their supervision. Only one of the nine supervisory appraisals included comments related to the supervisors' ability to identify and respond to misconduct, and rated the supervisor on the quality of their reviews.

We received and reviewed Employee Performance Appraisals submitted for six deputies and 11 supervisors who received performance evaluations in **November 2016.** Five of the six deputy Employee Performance Appraisals were of acceptable quality; one contained very general comments and lacked supporting documentation for the ratings. One higher-ranking supervisor's EPA was very brief, very general in nature, and did not document any specific dimensions. One of the 11 supervisors' appraisals was very well-written and the ratings were supported by Blue Team note entries; it included all of the required dimensions. Two of the 11 supervisors' Employee Performance Appraisals reviewed rated the employees on the quality of their supervisory reviews; 10 appraisals rated supervisors on the quality and effectiveness of their supervision; five EPAs rated the supervisor's ability to identify and respond to misconduct. One supervisor did not have any direct reports.

We received and reviewed performance evaluations submitted for seven deputies and 12 supervisors who received appraisals in **December 2016.** One of the seven deputies' EPAs reviewed was of very good quality and contained documentation to support the ratings. Four of the seven EPAs had specific comments to support the ratings; the remaining three lacked substance. Five supervisors' EPAs were extremely well-written, and the ratings were supported by specific comments – but the raters did not address all required dimensions. None of the supervisors' EPAs contained all the required rating dimensions. All of the supervisors' EPAs rated supervisors on the quality and effectiveness of their supervision. Two of the 11 EPAs rated the supervisors on the quality of their reviews. Five of the 11 EPAs rated supervisors on their ability to identify and respond to misconduct.

Commanders have not consistently evaluated the quality and effectiveness of supervision, and the quality of supervisory reviews, and have not evaluated supervisors' ability to identify and respond to misconduct in EPAs. We believe that these issues will be addressed with the implementation of the new EPA format. MCSO has advised us that the agency's goal is to start EPA training in March 2017, and have the new EPA process in place by July 1, 2017.

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

Phase 1: In compliance

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

Phase 2: In compliance

MCSO removed the enforcement of human smuggling laws from the mission statement of the Anti-Trafficking Unit, and no other specialized units have this mission as part of their duties. MCSO does not have any specialized units that enforce immigration-related laws. We continue to monitor arrests and detentions as part of our review process to ensure that MCSO is in compliance with its own directives on this issue.

For October, November, and December, we received lists containing all incidents involving MCSO arrests and criminal citations. For each respective month, we requested a random sampling of arrests and criminal citations. In total, we reviewed 61 incidents involving arrest and 80 incidents involving criminal citations. We also reviewed a random sample of 254 Incident Reports for this reporting period. We found no evidence of enforcement of immigration-related laws.

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

Phase 1: In compliance

- EA-11 (Arrest Procedures), most recently amended June 15, 2016.
- GC-17 (Employee Disciplinary Procedure), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

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

Phase 2: In compliance

We requested to inspect all reports related to immigration status investigations, any immigration-related crime, or incidents or arrests involving lack of identity documents. The Incident Reports submitted covered the period from October 1 to December 31, 2016. Any incident wherein a deputy requests supervisory permission to contact Immigration and Customs Enforcement (ICE) or Customs and Border Patrol (CBP), to ascertain the legal status of an individual involved in a stop, detention, or any incident being investigated by MCSO, would fall under the reporting requirements of this request. No cases involving immigration status investigations or immigration-related crime were reported.

MCSO informed us of an incident involving a traffic stop on October 15, 2016, where MCSO requested the assistance of Customs and Border Patrol (CBP), who subsequently took the driver into custody. The incident began as a traffic stop wherein the driver allegedly failed to drive his vehicle in a designated lane. After initiating the stop, the deputy discovered that the driver did not speak English and did not have a driver's license. The deputy did not speak Spanish, so he requested a unit to assist with the interpretation. No Spanish-speaking MCSO personnel were available, and the deputy requested assistance from CBP. A CBP agent responded and assisted with the interpretation. The deputy issued the individual three civil citations and advised the CBP agent that the individual was free to go. In fact, the individual was not free to go, as CBP took him into custody on the spot. There were several issues of concern identified with this stop, and PSB is currently investigating the case. We will report on the outcome once the investigation is completed and we have reviewed it.

For this reporting period, MCSO submitted eight other incidents as responsive to this Paragraph. We reviewed all of them, and found no other issues of concern. Four incidents involved individuals who were driving without valid licenses or with suspended licenses, three incidents were related to credit card or check fraud, and one involved a DUI.

We also received a booking list and a criminal citation list for each month of the reporting period. From each list, we selected a 10% random sample of incidents. In total, we reviewed 61 incidents resulting in arrest and 80 incidents involving criminal citations. None of the incidents involving arrest or criminal citations we reviewed as part of our Paragraph 93 assessment involved any immigration issues, identity fraud, or lack of identity documents.

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

Phase 1: In compliance

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

Phase 2: Not in compliance

We reviewed 35 incidents involving traffic stops for **October 2016.** There were five arrests and 15 citations issued for speeding. All arrests were for criminal citations resulting from driving with suspended registrations or suspended license plates. Two drivers were cited for driving with suspended licenses. Five incidents involved individuals who were cited for having suspended registrations or suspended license plates. The rest were minor moving traffic violations. All of the 35 Vehicle Stop Contact Forms we reviewed noted the serial number, date, and time of supervisory review. Twenty-seven of the 35 VSCFs were reviewed within the required 72 hours, for a compliance rate of 77.14% for this specific sample of 35. For the month of October, MCSO submitted a spreadsheet documenting each VSCF by District, for a total of 194 VSCFs. We reviewed the data for October and the compliance rate for timely supervisory reviews of VSCFs was 85.81%.

We reviewed 35 incidents involving traffic stops for **November 2016.** Sixteen of the thirty-five traffic stops were related to speeding. Six citations were issued for expired license plates or suspended registrations. The remaining violations were issued for minor moving traffic infractions. There were no criminal citations or traffic-related arrests. Thirty-four of the 35 stops had Vehicle Stop Contact Forms. Thirty-three of the 35 Vehicle Stop Contact Forms were reviewed by supervisors within the required 72 hour period, for a 94.28% compliance rate for this specific sample of 35. For the month of November, MCSO submitted a spreadsheet documenting each VSCF by District, for a total of 242 VSCFs. We reviewed the data, and the compliance rate for timely supervisory reviews of VSCFs in November was 94.21%.

We reviewed 35 incidents involving traffic stops for **December 2016.** Twenty of the 35 traffic stops were related to speeding violations. Three citations were issued for expired license plates or suspended registrations. Out of 35 traffic stops, none resulted in arrest. Thirty-four of the 35 stops had Vehicle Stop Contact Forms; one attempted traffic stop resulted in the driver fleeing, and the deputy elected not to initiate a pursuit. High-speed pursuits often endanger the public; we believe the action taken was appropriate. Thirty-three of the 35 Vehicle Stop Contact Forms were reviewed by a supervisor within the required 72 hours, for a 94.28% compliance rate for this specific sample of 35. For the month of December, MCSO submitted a spreadsheet documenting each VSCF by District, for a total of 146 VSCFs. We reviewed the data, and the compliance rate for timely supervisory reviews of VSCFs in December was 84.18%.

For the months of October, November, and December, the compliance rates were 85.81%, 94.21%, and 84.18%, respectively. This brings the average compliance rate to 88.06% for the quarter. MCSO was not able to attain a sufficient and consistent compliance rate to meet the requirements of this Paragraph.

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

Phase 1: In compliance

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

Phase 2: Not in compliance

We reviewed traffic stop data reported by MCSO for its **October** inspection. The Monitoring Team randomly selected 35 traffic-related events, which BIO then audited for compliance. Of the 35 traffic-related events, MCSO reported that 25, or 71%, had no deficiencies. The Monitoring Team reviewed the same traffic-related events, independent of BIO's audits, as part of our compliance audit of Paragraphs 25 and 54. We reviewed a spreadsheet documenting each VSCF by District, for October, to determine if supervisors were reviewing VSCFs within the required 72 hours. We reviewed 194 VSCFs and determined that supervisors had completed timely reviews in 85.81% of the cases.

In reviewing the 35 traffic-related incidents for this audit, MCSO listed 17 points in their Matrix Procedures. There were four open, non-validated forms in the TraCS system. BIO determined that there was a 71% compliance rate for October, a decrease of 6% from the September compliance rate of 77%.

We reviewed the reported corrective actions for October 2016. MCSO submitted 72 Supervisory Notes. Eight of the Supervisory Notes had no identifiable corrective actions, and there were eight Supervisory Notes related to deputies on leave. We determined that 56 of the 72 were actual corrective actions related to traffic stops. Seventeen of the corrective actions were related to the use of body-worn cameras; in most instances, the problems stemmed from late activations of the cameras. Sixteen of the Supervisory Notes were related to incorrect or missing information on VSCFs, citations, or written warnings. Fifteen of the issues identified were related to procedural errors or deputy safety during traffic stops. The remainder of the Supervisory Notes pertained to issues related to CAD and Patrol Activity Logs.

We reviewed traffic stop data reported by MCSO for its **November** inspection. The Monitoring Team randomly selected 36 traffic-related events, which BIO then audited for compliance. Of the 36 traffic-related events, MCSO reported that 32, or 89%, had no deficiencies. This was an 18% increase from their October compliance rate of 71%. BIO found four open, non-validated forms for this reporting period. Each form is required to be validated. We reviewed a spreadsheet documenting each VSCF by District, for November, to determine if supervisors were reviewing VSCFs within the required 72 hours. We reviewed 242 VSCFs and determined that supervisors had completed timely reviews in 94.21% of the cases.

For November, MCSO reported 26 corrective actions. We reviewed all Supervisory Notes and 22 of the 26 were actual corrective actions; there were no corrective actions identified in three of the Supervisory Notes, and one was related to a technical problem with TraCS. Of the 22 relevant actions, 15 were related to camera and recording issues, and four were related to inaccurate or missing information on VSCFs, citations, or written warnings. Three corrective actions were related to procedural violations.

We reviewed traffic stop data reported by MCSO for its **December 2016** inspection. The Monitoring Team randomly selected 35 traffic-related events, which BIO then audited for compliance. Of the 35 traffic-related events, MCSO reported that 29 or 83% had no deficiencies, a 6% decrease in compliance from November.

MCSO also discovered during its inspection that there were six open, non-validated forms for September in the TraCS system. Each form is required to be validated. BIO recommended that supervisors review the updated Body Worn Camera Policy. Many of the corrective actions reviewed have been related to late activation or improper positioning of the cameras.

For December, MCSO reported 55 corrective actions. There were nine Supervisory Notes where no corrective actions were identified. We reviewed all Supervisory Notes, and 23 of the 55 were related to video cameras or recording issues. Fourteen of the supervisory actions were related to procedural violations during traffic stops, and eight were related to missing or inaccurate information on VSCFs, citations, or written warnings. One corrective action was generated for a traffic stop where the deputy failed to notify the supervisor that the driver did not have an identity document.

We reviewed a spreadsheet documenting each VSCF by District, for December, to determine if supervisors were reviewing VSCFs within the required 72 hours. We reviewed 146 VSCFs and determined that supervisors had completed timely reviews in 84.18% of the cases.

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

Phase 1: Not in compliance

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

Phase 2: Not in compliance

During our January 2017 site visit, we met with MCSO to receive an update on the progress of the new Employee Performance Appraisal protocol and training. The Monitoring Team reviewed the EPA lesson plan and returned it to MCSO with comments and suggestions. MCSO advised us that EIS training has been delayed. The EPA course of instruction will be taught independently of EIS, not jointly as previously reported, beginning in March 2017. The anticipated date of completion is still June 30, 2017. The projected rollout date for the new EPA format is July 1, 2017.

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

Phase 1: In compliance

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

Phase 2: In compliance

We reviewed a representative sample of 87 Incident Reports for **October 2016,** for the randomly selected date of October 10, 2016. In two incidents, only the property receipts were submitted. Eighty-three of the 85 Incident Reports reviewed were turned in by the end of the shift. All reports were signed by a supervisor within the required seven days. All Incident Reports involving arrests or criminal citations were reviewed and signed by supervisors within the required 72 hours. Ten of the 11 vehicle crash reports were reviewed and signed within the required timelines. We conducted a quality review on a 10% random sample of the reports we reviewed, and noted some spelling errors but no significant deficiencies related to quality.

We reviewed a representative sample of 83 Incident Reports for **November 2016,** for the randomly selected date of November 15, 2016. All Incident Reports were turned in by the end of the shift, and 82 of 83 reports were reviewed and signed by supervisors within the required seven days. All Incident Reports involving arrest were reviewed and memorialized within the required 72 hours. Nineteen of 20 vehicle crash reports were reviewed within the required time constraints. We conducted a quality review on a 10% random sample of the reports we reviewed. We did not note any significant deficiencies related to quality.

We reviewed a representative sample of 84 Incident Reports for **December 2016,** for the randomly selected date of December 9, 2016. Eighty-three of 84 Incident Reports were turned in by the end of the shift. Eighty-three of 84 Incident Reports were signed by supervisors within the required seven days. All arrest reports were reviewed and signed by supervisors within the required 72 hours. All 20 vehicle crash reports were reviewed and signed by supervisors within the required time constraints. We conducted a quality review on a 10% random sample of the reports we reviewed and noted no significant deficiencies.

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

Phase 1: In compliance

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

Phase 2: In compliance

We requested all Incident Memorialization Forms (IMFs), for the reporting period. MCSO's submission consisted of 13 Incident Memorialization Forms, provided as proof of compliance with Paragraph 94, for the reporting period from October 1, to December 31, 2016.

For October, MCSO submitted seven Incident Memorialization Forms (IMFs). Three Incident Memorialization Forms were generated for poorly written probable cause statements. One incident involved a traffic stop and a written warning erroneously noting a criminal violation instead of a civil infraction. Three IMFs were issued for late Incident Reports. All identified deficiencies were reviewed by command personnel, and were addressed through coaching.

We reviewed the October Inspections Report for County Attorney Turndowns (2016-0128). BIO reviewed all turndowns by the County Attorney's Office and found no deficiencies in the 43 cases it reviewed. Independently, we reviewed the documentation provided by MCSO, as it relates to this Paragraph, and found no issues of concern. For October we reviewed 20 arrest reports and 25 incidents involving criminal citations. We found one criminal citation that had weak probable cause, and another incident involving arrest that had a probable cause statement that was borderline insufficient. These two incidents have been exceptions, as MCSO has significantly improved the quality of arrest reports in the past year.

For November, MCSO submitted five Incident Memorialization Forms. One incident involved a deputy who issued a civil citation for a felony instead of physically arresting and booking the subject. One IMF was issued for a deputy who failed turn in a report by the end of the shift. One IMF was related to an incident where the deputy wrote the wrong statute on the arrest report. One IMF was generated for a deputy who responded to the scene of a vehicle crash, but on the crash report he wrote the same information for both vehicles. One Incident Memorialization Form was related to a theft report that had numerous errors. All of the submitted Incident Memorialization Forms documented timely command review and corrective actions.

We reviewed the November Inspections Report for County Attorney Turndowns (2016-0145). BIO reviewed all turndowns by the County Attorney's Office and found one case in which the deputy failed to articulate sufficient probable cause for the arrest. This was one case that apparently slipped by the chain of command, as we were not able to find an Incident Memorialization Form related to this arrest. We reviewed 20 arrest reports and 21 criminal citations for November and found that most arrest reports contained all the necessary information and were generally well-written.

For December, MCSO submitted one Incident Memorialization Form. This incident involved an arrest where the deputy failed to articulate sufficient probable cause. We requested additional information on this incident. There were no other entries for the month. We reviewed the December Inspections Report for County Attorney Turndowns (2017-0009). BIO reviewed all turndowns by the County Attorney's Office and found no deficiencies. Independently, we reviewed the documentation provided by MCSO, as it relates to this Paragraph, and found no issues of concern. For December, we reviewed a random sample of 21 incidents involving arrest, and 34 incidents involving criminal citations. Other than a late review of one incident involving a criminal citation, we found no deficiencies.

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

Phase 1: Not in compliance

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

Phase 2: Not in compliance

We reviewed Employee Performance Appraisals for 31 supervisory and command personnel who received Employee Performance Appraisals during this reporting period. Twenty-eight of the 31 appraisals contained comments related to the quality and effectiveness of supervision. Ten of the 31 appraisals contained comments regarding the supervisor's demonstrated ability to identify and effectively respond to misconduct. Five of the 31 appraisals rated the supervisors on the quality of their reviews. One of the supervisors whose Employee Performance Appraisals were reviewed had no direct reports. The quality of supervisory reviews, a mandated area of assessment of this Order, was added to the revised performance appraisal process. Most of the EPAs for supervisors and commanders that we have reviewed have included comments and ratings on the quality of supervision, but failed to assess the employees' ability to rate their subordinates' performance.

MCSO has revised GC-4 (Employee Performance Appraisals) to address the requirements of this Paragraph, but the revised policy is still pending publication. We have reviewed lesson plans pertaining to the new EPA process and returned them with comments and suggestions. MCSO informed us during our January 2017 site visit that it plans to start EPA training in March 2017; the new EPA format is tentatively scheduled to be in place by July 1, 2017.

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

Phase 1: In compliance

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

Phase 2: In compliance

We requested all Incident Memorialization Forms for this reporting period. MCSO's submission consisted of 13 Incident Memorialization Forms (IMFs), provided as proof of compliance with this Paragraph, for the reporting period from October 1 to December 31, 2016.

For October, MCSO submitted seven Incident Memorialization Forms (IMFs). Three corrective actions were generated for poorly written probable cause statements. One incident involved a traffic stop and a written warning that was erroneously marked as a criminal violation instead of a civil infraction. Three corrective actions were issued for late Incident Reports. All identified deficiencies reviewed had associated corrective actions and were reviewed by command personnel within the required timelines.

For November, MCSO submitted five Incident Memorialization Forms. One incident involved a deputy who issued a civil citation for a felony instead of physically arresting and booking the subject. One corrective action was issued for a deputy who failed turn in a report by the end of the shift. One corrective action was related to an incident where the deputy wrote the wrong statute on the arrest report. Another corrective action was generated for a deputy who responded to the scene of a vehicle crash, but on the crash report he wrote the same information for both vehicles. Another corrective action was related to a theft report that had numerous errors. All of the submitted Incident Memorialization Forms that identified deficiencies had associated corrective actions and documented timely command review.

For December, MCSO submitted one Incident Memorialization Form. This IMF was related to an Incident Report for destruction of jail property, which the supervisor determined was a "subpar" report. The Incident Report was not included with the submission, and the Incident Memorialization Form did not identify any corrective actions. We have requested additional information on this incident.

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

Phase 1: Not in compliance

- GH-5 (Early Identification System), currently under revision.

Phase 2: Not in compliance

During our July 2016 site visit, we met with MCSO and discussed the proof of compliance requirements for this Paragraph. MCSO personnel advised us that they would document the required periodic reviews on Blue Team notes until a more efficient methodology is developed.

During our October 2016 site visit, MCSO advised us that the documentation regarding compliance with this Paragraph is collected in Blue Team, in free-form text, and is not searchable. As part of its September document provision, MCSO submitted a memorandum that stated, "MCSO does not uniformly and consistently collect the requested data. The issue will be addressed in EIS Policy GH-5, which is currently in the review/approval process. MCSO plans on capturing this information as soon as possible."

During our January 2017 site visit, MCSO informed us that it had added the functionality to search EIS/Blue Team for specific keywords. This will enable MCSO to search the database for documentation to provide as proof of compliance with this Paragraph.

d. Regular Employee Performance Review and Evaluations

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

Phase 1: Not in compliance

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

Phase 2: Not in compliance

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

We met with MCSO staff during our January 2017 site visit, and they informed us that training for the new EPA format is still scheduled to begin in March 2017. However, the training will consist solely of the EPA training, as the EIS training has been delayed. The projected date for completion of the training and implementation of the new EPA system continues to be July 2017.

During this reporting period, the revised GC-4 policy was not published, and the Employee Performance Appraisals that were completed under the existing format, particularly those pertaining to supervisors, did not document the evaluation of rating dimensions that are required by this Order.

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

Phase 1: Not in compliance

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

Phase 2: Not in compliance

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

During our January 2017 site visit, MCSO informed us that the projected training for the new EPA format is still on track to begin in March 2017. The training will consist solely of the EPA training, as the EIS training has been delayed. The projected date for completion of the training and implementation of the new EPA system continues to be July 2017.

During this reporting period, the Employee Performance Appraisals that were completed under the existing format, particularly those pertaining to supervisors, did not meet the requirements of this Order.

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

Phase 1: Not in compliance

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

Phase 2: Not in compliance

We reviewed Employee Performance Appraisals for 31 supervisors and commanders who received EPAs during this reporting period. Twenty-eight of the 31 appraisals contained comments related to the quality and effectiveness of supervision. Ten of the 31 appraisals contained comments regarding the supervisors' demonstrated ability to identify and effectively respond to misconduct. Five of the 31 appraisals rated the supervisors on the quality of their reviews. One of the supervisors whose Employee Performance Appraisals we reviewed had no direct reports. The quality of supervisory reviews, a mandated area of assessment in this Order, was added to the revised performance appraisal process. The new EPA form will have a mandatory rating dimension that specifically addresses this requirement.

The revised GC-4 (Employee Performance Appraisals) addresses the required dimensions, but the revised policy has not been published or trained on. EPA training is scheduled to begin in March 2017, and the new EPA format is scheduled for implementation by July 2017. The Employee Performance Appraisals reviewed for this reporting period did not address the requirements of this Paragraph.

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

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

Phase 1: In compliance

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

MCSO removed the enforcement of human smuggling laws from the mission statement of the Anti-Trafficking Unit, and no other specialized units have this mission as part of their duties. Based on these policy modifications, MCSO is in Phase 1 compliance with this Paragraph.

Phase 2: In compliance

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

For each month of the fourth quarter, we received a list of all incidents involving MCSO jail bookings, and a list of criminal citations. For each month, we requested a random sampling of arrests and criminal citations. We reviewed 61 incidents involving arrest and 80 incidents resulting in criminal citations for this reporting period. We found no evidence of enforcement of immigration-related laws. We will continue to monitor arrest reports and criminal citations for compliance.

Section 10: Misconduct and Complaints

COURT ORDER XI. MISCONDUCT AND COMPLAINTS

a. Internally-Discovered Violations

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

Phase 1: Not in compliance

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

Prior to the Second Order issued on July 20, 2016, MCSO was in compliance with Phase 1 of this Paragraph. Changes are now required to numerous policies to comply with the Second Order. MCSO has made proposed revisions to these policies, and many are still in some phase of the draft review process.

Phase 2: Not in compliance

During our reviews to assess Phase 2 compliance with this Paragraph, we have reviewed hundreds of misconduct investigations involving MCSO personnel. Many of them have been internally generated investigations, indicating that MCSO supervisory personnel are identifying potential misconduct. However, many of the actual investigations of this misconduct still fall short of compliance.

During this reporting period, we reviewed 81 administrative misconduct investigations and three criminal misconduct investigations submitted by MCSO in compliance with Paragraph 32. All of these investigations involved either sworn personnel or volunteer personnel assigned to a District or the Enforcement Support Bureau. Twenty-eight of the administrative investigations were generated internally. Twelve had at least one allegation sustained. Discipline for sustained violations ranged from a written reprimand to an 80-hour suspension.

In addition to the internally generated investigations we reviewed under Paragraph 32, we reviewed an additional 28 internally generated misconduct investigations. Two of these investigations involved sworn (non-Patrol) personnel, 16 involved Detention personnel, and 10 involved civilian personnel. Of the 28 cases we reviewed, we found four that we do not believe were properly investigated, four where proper findings were not reached, and four cases where we believe the discipline assessed was not appropriate. We also found procedural and formatting errors in the completed investigations.

While it is apparent that misconduct is being internally identified, and addressed, we continue to have concerns with the quality of some investigations, as well as the findings and, in some cases, disciplinary decisions. We will continue to meet with those personnel responsible for the completion of misconduct investigations during our site visits to make them aware of our concerns regarding internal investigations. We will provide them with specific case examples from this reporting period that illustrate these concerns.

b. Audit Checks

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

Phase 1: Not in compliance

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

Phase 2: Not in compliance

Over our last several site visits, MCSO has raised the prospect of shifting integrity testing responsibilities from PSB – as originally envisioned – to BIO. The Order does not require that any particular organizational component fulfill all of the requirements in Paragraph 103, nor does it require that the same component conduct the various checks. Following our January 2017 site visit, we agreed with BIO that it could assume responsibility for the "regular, targeted, and random integrity audit checks" required by this Paragraph.

For this reporting period, BIO submitted several completed inspections in support of the "regular" and "random" elements of this Paragraph. The inspections examined, for example, Supervisory Notes, County Attorney turndown dispositions, and employee email usage; we reviewed these reports and believe that they comport with the Paragraph 103 requirement for "regular" and "random" integrity audit checks. BIO is still developing its plans for the "targeted" requirement of this Paragraph. BIO's initial efforts will be focused on drafting an integrity audit section of the BIO Operations Manual that guides how BIO will conduct "targeted" integrity audits.

c. Complaint Tracking and Investigations

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

Phase 1: In compliance

- GH-2 (Internal Investigations), currently under revision, though the policy currently in effect meets the requirements of this Paragraph. The policy includes specific language that requires deputies to cooperate with administrative investigations, including appearing for an interview when requested by an investigator and providing all requested documents and evidence. A checklist that requires this information be included in all administrative investigations conducted on or after June 1, 2016 is currently in effect and all supervisory personnel who conduct administrative investigations have been trained on this checklist.

Phase 2: In compliance

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

Effective June 1, 2016, all administrative investigations are required to utilize these forms. This requirement is consistently being met, and the checklists have been included in administrative investigations forwarded for our review.

During this reporting period, 119 of the total administrative investigations reviewed were completed on or after June 20, 2016. In all but two of the cases, the required format was used; and in all but five of the cases, the required checklist was used. We are encouraged by MCSO's compliance with the requirement to utilize these forms when conducting misconduct investigations. As with the prior reporting period, we found no concerns with deputies appearing for interviews, providing information requested, or cooperating with the investigation. There were no instances noted where a supervisor failed to facilitate a deputy's attendance at a required interview.

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

Phase 1: In compliance

- GH-2 (Internal Investigations), currently under revision, though the policy currently in effect meets the requirements of this Paragraph.

Phase 2: Not in compliance

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

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

During our reviews for this reporting period, we noted that in all sustained cases completed after July 20, 2016, the PSB Commander determined the preliminary discipline range for the violations. We found these preliminary decisions to be generally consistent with the Discipline Matrices currently in use. We also found that the discipline history, past complaints, performance, and performance evaluations were included in the documents considered for final discipline findings. We did not, however, find that traffic stop and patrol data, or training records were consistently included in the documentation provided.

During our reviews for this reporting period, we noted that in all sustained cases completed after July 20, 2016, the PSB Commander determined the preliminary discipline range for the violations. We found these preliminary decisions to be generally consistent with the Discipline Matrices currently in use. We also found that the discipline history, past complaints, performance, and performance evaluations were included in the documents considered for final discipline findings. We did not, however, find that traffic stop and patrol data, or training records were consistently included in the documentation provided.

During our January 2017 site visit, we discussed with PSB personnel our continuing concerns with how the required information is used to make disciplinary decisions. We again provided examples of cases where we do not believe, based on our reviews, that PSB appropriately considered all factors at the time the final disciplinary decision was made.

We will meet with PSB and Compliance Division personnel during our next site visit to discuss cases investigated during this reporting period where concerns regarding the consideration of employee work history exist.

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

Phase 1: Not applicable

Phase 2: In compliance

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

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

Section 11: Community Engagement

COURT ORDER XII. COMMUNITY ENGAGEMENT

a. Community Outreach Program

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

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

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

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

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

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

On April 4, 2014 an amended Order (Document 670) gave us the requirement to hold public meetings. During this reporting period, we held one community meeting, on October 18, 2016, in MCSO Patrol District 3, at Youngtown Town Hall, located at 12030 N. Clubhouse Square in Youngtown. The meeting was held from 6:30 p.m. until 9:00 p.m. Approximately 19 community members attended this meeting, including the Youngtown Mayor, Vice Mayor, and a few Town Council members.

Monitoring Team representatives welcomed the attendees and advised them that, before the close of the meeting, there would be an opportunity for them to ask questions and offer comments. We introduced representatives of the ACLU of Arizona, the Community Advisory Board, the U.S. Department of Justice, and MCSO who were in attendance.

A Monitoring Team representative provided an update of recent Court activity in the *Melendres* case, including a summary of the additional requirements contained in the Second Order, which was issued in July 2016. The representative pointed out that the additional requirements cover areas including misconduct investigations and supervision, that the Monitor now oversees and conducts investigations of all complaints against MCSO employees, and that the Monitor can now impose discipline if the misconduct involves members of the Plaintiffs' class.

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

A representative of the ACLU of Arizona presented an overview and history of the *Melendres* litigation, an explanation the ACLU's role in the reform process, and the role of the Community Advisory Board (CAB). She noted that the community meetings provide an important forum for community members to ask questions and provide input regarding what is occurring in the community and about the monitoring process. She stated that the October 2013 Court Order directed remedies, the appointment of the Monitor and Monitoring Team, and a review and/or update or creation of policies and procedures and their implementation by MCSO. She pointed out that, as Plaintiffs' attorneys, the ACLU of Arizona is closely involved in, and provides input on, the reform process.

A representative of the Department of Justice (DOJ) followed, explaining DOJ's role as a Plaintiff-Intervenor in the *Melendres* case. He discussed DOJ's role in the reform process and explained that, as a Plaintiff-Intervenor, DOJ works closely with the Plaintiffs' attorneys.

Next, an MCSO representative introduced members of the CID and PSB and other MCSO employees in attendance. He said that MCSO and the Monitoring Team are working together collaboratively to implement the reforms directed by the Court. He said that he recently viewed two body-worn camera videos and was proud of how the deputies interacted with community members. He concluded by saying that MCSO personnel were at the community meeting to hear the attendees' comments, concerns, and/or complaints about MCSO; and informed the community members in attendance that the MCSO representatives would be available during and after the meeting to listen to and address the input from the attendees.

Monitoring Team representatives explained to the meeting attendees that the requirements of both the First and Second Orders encompass sound police practices and policies that are common in other law enforcement agencies around the country. We explained that we evaluate MCSO's compliance with the Orders' requirements by reviewing reports, examining data, and visiting deputies in the field. We stated that, while MCSO has been slow in implementing its Supervisory Training, it finally began in June, following completion of instructor training.

We also made it clear that MCSO did not have the authority to enforce immigration laws, except to the extent that it is enforcing Arizona and federal laws. We also pointed out that the Order prohibits the use of saturation patrols and that, in the 32 months that we have been working with MCSO, MCSO has not employed saturation patrols.

Before opening the meeting for comments and questions, we concluded our presentation by emphasizing the importance of hearing from the community members. Questions and comments from the attendees included positive comments regarding the law enforcement support provided by MCSO, which operates under a contract with Youngtown; and questions about the consequences of the outcome of civil cases against MCSO. We responded to all inquiries, as did Plaintiffs' and Plaintiff-Intervenors' representatives, or members of MCSO, as appropriate.

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

Approximately 19 community members attended the meeting in Youngtown. The meeting allowed ample opportunity for attendees to ask questions or offer comments. Community members asked questions and offered comments, many of which were supportive of MCSO. A key objective of the meeting was to let those in attendance know that the Monitor has the authority, granted by the Court, to receive complaints about any activity involving MCSO personnel and ensure that an investigation is adequately conducted. We made complaint forms available for this purpose. After the meeting, all Monitoring Team personnel remained behind to individually answer questions, and did so until the last attendee left the building.

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

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

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

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

Our selection of the venue for the meeting was based on accessibility, adequate meeting space, adequate parking, and ease in locating the meeting site. We widely publicized the meeting in Youngtown. Advertisements, in both English and Spanish, appeared in print media with the widest circulation in the Youngtown area in which the meeting was held. These ads were also included in the media outlets' Facebook pages and websites. We also ran extensive radio spots in Spanish and English, and distributed flyers in the vicinity of the meeting venue. The ACLU of Arizona also submitted the notice of the meeting to numerous online calendars and its local media contacts.

b. ~~Community Liaison Officer~~ Monitor

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

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

a. to coordinate the district community meetings described above in Paragraphs 109 to 112;

b. to provide administrative support for, coordinate and attend meetings of the Community Advisory Board described in Paragraphs 117 to 111; and

c. to compile any Complaints, concerns and suggestions submitted to ~~CLO~~ him by members of the public about the implementation of this Order and the Court's order of December 23, 2011, and its findings of fact and conclusions of law dated May 24, 2013, even if they don't rise to the level of requiring formal action by IA or other component of the MCSO, and to respond to Complainants' concerns;

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

[e. [REMOVED] to compile concerns received from the community in a written report every 180 days and share the report with the Monitor and the Parties.]

At the community meeting in Youngtown, we and the Plaintiffs' representatives explained the breadth of the Order to the community members in attendance. The MCSO representative thanked the community members for attending the meeting, and stated that MCSO wished to hear the community members' comments and complaints. Members of the PSB attended the meeting to receive any complaints from attendees.

To facilitate a dialogue, we invited community members to ask any questions of these representatives directly, and gave them an opportunity to comment on the information provided by these representatives. We provided community members with forms to document any concerns or complaints about MCSO. After the meeting, members of the Monitoring Team remained and spoke to several attendees who voiced their compliments, concerns, and opinions regarding MCSO's operations.

c. Community Advisory Board

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

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

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

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

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

Members of the Monitoring Team frequently communicate with CAB members to assist in scheduling CAB meetings, identifying appropriate meeting venues, and providing appropriate logistical support. During this reporting period, CAB members did not conduct public or private meetings with other community representatives to discuss the quality of law enforcement support provided by MCSO, and the relationship between community members and MCSO.

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

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

Second Supplemental Permanent Injunction/Judgment Order

Section 12: Misconduct Investigations, Discipline, and Grievances

COURT ORDER XV. MISCONDUCT INVESTIGATIONS, DISCIPLINE, AND GRIEVANCES

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

A. Policies Regarding Misconduct Investigations, Discipline, and Grievances

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

Phase 1: Not applicable

Phase 2: Deferred

MCSO provided us with the following:

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

- EA-2 (Patrol Vehicles), most recently amended December 8, 2016.
- GC-12 (Hiring and Promotion Procedures), currently under revision.
- GH-5 (Early Identification System), currently under revision.
- GJ-26 (Sheriff's Reserve Deputy Program), currently under revision.
- GJ-27 (Sheriff's Posse Program), currently under revision.
- CP-3 (Workplace Professionalism), most recently amended on December 15, 2016.
- CP-5 (Truthfulness), most recently amended on December 21, 2016.
- CP-11 (Anti-Retaliation), most recently amended on December 1, 2016.
- GH-2 (Internal Investigations), currently under revision.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Body-Worn Camera Operations Manual, most recently amended on December 22, 2016.
- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- GG-1 (Peace Officer Training Administration), currently under revision.
- GG-2 (Detention/Civilian Training Administration), currently under revision.
- GB-2 (Command Responsibility), most recently amended on January 31, 2017.
- GJ-24 (Community Relations and Youth Programs), most recently amended on January 7, 2017.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.
- Maricopa County Complaint Intake Testing Program, currently under revision.
- Training Division Operations Manual, currently under revision.

A majority of the above documents were provided within one month of the entry of the Order. The Monitoring Team and the Parties conducted an initial review and returned the revised documents, with additional recommendations, to MCSO for additional work. By the end of the reporting period, a total of 10 internal policies and manuals were approved by our Team and formally published by MCSO. MCSO continues to revise the remaining 19 internal policies and manuals related to misconduct investigations, employee discipline, and grievances. Those remaining policies and manuals identified by MCSO were in some phase of review by our Team, the Plaintiffs, and/or the Plaintiff-Intervenors at the end of the reporting period. Most of the original 29 policy and manual drafts have undergone multiple rounds of review. In addition to ongoing document exchange of revisions and recommendations, our Team initiated meetings with the Plaintiffs and Plaintiff-Intervenors during our January 2017 site visit for the specific purpose of discussing content and progress of policy and manual revisions. We met with

representatives of MCSO who are integral to the development of the policies and manuals directly associated with the Second Order. Our Team continues to closely engage MCSO to ensure the final policies and manuals will incorporate all of the requirements of the Second Order.

This Paragraph implies that the review process and final adoption of the updated policies would take two months to complete, assuming that the new or revised policies were provided within one month of the Second Order's issuance. The sheer volume of policies, as well as the extensive modifications they contain, rendered that target date unachievable. This is due, in large measure, to researched and well-considered recommendations by the Parties, and robust discussion about policy language, application, and outcomes during our site visit meetings. While we acknowledge the work resulting in the publication of the 10 policies and manuals during this reporting period, and appreciate that many of the policies have required several iterations, we note that there are a combined 19 policies and manuals still being revised pursuant to our and the Parties' comments. On October 25, 2016, MCSO's attorneys requested – and were ultimately granted – an extension from the Court to finalize the revised policies.

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

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

a. Conflicts of interest in internal affairs investigations or in those assigned by the MCSO to hold hearings and make disciplinary decisions shall be prohibited. This provision requires the following:

i. No employee who was involved in an incident shall be involved in or review a misconduct investigation arising out of the incident.

ii. No employee who has an external business relationship or close personal relationship with a principal or witness in a misconduct investigation may investigate the misconduct. No such person may make any disciplinary decisions with respect to the misconduct including the determination of any grievance or appeal arising from any discipline.

iii. No employee shall be involved in an investigation, whether criminal or administrative, or make any disciplinary decisions with respect to any persons who are superior in rank and in their chain of command. Thus, investigations of the Chief Deputy's conduct, whether civil or criminal, must be referred to an outside authority. Any outside authority retained by the MCSO must possess the requisite background and level of experience of internal affairs investigators and must be free of any actual or perceived conflicts of interest.

b. If an internal affairs investigator or a commander who is responsible for making disciplinary findings or determining discipline has knowledge of a conflict of interest affecting his or her involvement, he or she should immediately inform the Commander of the Professional Standards Bureau or, if the holder of that office also suffers from a conflict, the highest-ranking, non-conflicted chief-level officer at MCSO or, if there is no non-conflicted chief-level officer at MCSO, an outside authority. Any outside authority retained by the MCSO must possess the requisite background and level of experience of internal affairs investigators and must be free of any actual or perceived conflicts of interest.

c. Investigations into an employee's alleged untruthfulness can be initiated by the Commander of the Professional Standards Bureau or the Chief Deputy. All decisions not to investigate alleged untruthfulness must be documented in writing.

d. Any MCSO employee who observes or becomes aware of any act of misconduct by another employee shall, as soon as practicable, report the incident to a Supervisor or directly to the Professional Standards Bureau. During any period in which a Monitor is appointed to oversee any operations of the MCSO, any employee may, without retaliation, report acts of alleged misconduct directly to the Monitor.

e. Where an act of misconduct is reported to a Supervisor, the Supervisor shall immediately document and report the information to the Professional Standards Bureau.

f. Failure to report an act of misconduct shall be considered misconduct and may result in disciplinary or corrective action, up to and including termination. The presumptive discipline for a failure to report such allegations may be commensurate with the presumptive discipline for the underlying misconduct.

g. No MCSO employee with a rank lower than Sergeant will conduct an investigation at the District level.

Phase 1: Not in compliance

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

Phase 2: Not in compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 140 completed misconduct investigations conducted by MCSO personnel. Of those completed investigations, 134 were administrative investigations (IA) and six were criminal investigations (CIA). One-hundred-and-nineteen of the 134 investigations were completed by MCSO after the issuance of the Second Order. Of those 119, 47 investigations resulted from complaints that were made to MCSO *after* the issuance of the Second Order and 72 investigations resulted from complaints that were made *prior* to the issuance of the Second Order. The 72 complaints that were made prior to the Second Order were completed after the issuance of the Second Order, resulting in some segments of each investigation and/or the discipline process being subject to the Order. The pool of cases we reviewed facilitated a broad spectrum of compliance evaluation, whereas, consideration of allegations and investigations that had been initiated and completed only after the issuance of the Second Order would have provided an exceptionally limited accumulation of completed cases. As time expands from the July 20, 2016 issuance of the Second Order, our Team anticipates the ability to conduct compliance review on misconduct investigations that were initiated and completed entirely after the Second Order was issued.

During this reporting period, we reviewed 119 closed misconduct investigations that were completed after the issuance of the Second Order. The case reviews included 65 complaint investigations conducted by PSB investigators, and the balance of the complaint investigations we reviewed were conducted by District, Division, Detentions, Communications, and/or Court Services personnel. Sixty-six of the 119 completed (after July 20, 2016) misconduct investigations were generated because of external complainants, and 53 were generated by internal complaints. Five of the 140 complaints were generated by a third party.

Paragraph 167.a.i-iii. prohibits any employee with any conflicts of interest from participating in, holding hearings on, or making any disciplinary decisions in a misconduct investigation. During this reporting period, an investigator(s) recognized a potential conflict of interest, and appropriate notifications were made, in three of 119 completed misconduct investigations.

Paragraph 167.b. requires that if the internal affairs investigator or a commander responsible for making disciplinary decisions identifies a conflict of interest, appropriate notifications must be made immediately. Our review of 119 misconduct investigations completed after July 20, 2016 revealed one instance where a conflict of interest by an MCSO member responsible for disciplinary decisions was identified. Moreover, the PSB Commander has identified conflicts of interest in a number of cases identified in the Court's May 2016 Findings of Fact, and these cases have been properly outsourced to another law enforcement agency and a private vendor for investigation.

Paragraph 167.c. requires that investigations into truthfulness be initiated by the Chief Deputy or the PSB Commander. There were seven completed misconduct investigations completed after July 20, 2016 where a truthfulness allegation had been authorized by the Chief Deputy or the PSB Commander. Additionally, of the 119 total completed investigations, our Team identified four completed investigations where, due to statements made or documents written by four Principals – two civilian Detention personnel, a Detention sergeant, and a Detention lieutenant – investigations for untruthfulness misconduct should have been initiated by MCSO. None of the four completed investigations provide any indication that untruthfulness investigations, resulting from the original misconduct investigations, were initiated.

Paragraph 167.d. requires that any MCSO employee, who observes or becomes aware of misconduct by another employee, shall immediately report such conduct to a supervisor or directly to PSB. During the period in which the Monitor has authority to oversee any operations of MCSO, any employee may also report alleged misconduct to the Monitor. Of the 119 completed cases (after July 20, 2016) our Team reviewed for this reporting period, there were 49 investigations when an employee reported such conduct. There were no clear indications or misconduct investigations that, of the cases completed during this period, any employee failed to report misconduct they had observed or become aware of to a supervisor, PSB, or the Monitor.

Paragraph 167.e. requires that when supervisors are made aware of an act of misconduct, the supervisor shall immediately document and report the information to PSB. There were no misconduct investigations completed after July 20, 2016 and reviewed during this reporting period that were initiated based on alleged misconduct brought forward to a supervisor by an employee and the supervisor failing to document and report the information to PSB.

Paragraph 167.f. provides for the potential for a disciplinary sanction or other corrective action if an employee fails to bring forth an act of misconduct. There were no indications in any of the 119 investigations completed after July 20, 2016 that the investigation was based on an employee who failed to bring forward any alleged acts of misconduct.

Paragraph 167.g. requires that all misconduct investigations conducted at the District level be conducted by a sergeant or higher-ranking officer. All District-level cases that were completed after July 20, 2016 and reviewed during this reporting period complied with this requirement. Additionally, during our October 2016 and January 2017 site visits, we specifically requested a meeting with all District Captains and members of the MCSO executive staff for the purposes of, in part, emphasizing the Second Order requirement that District-level investigations of minor misconduct must be conducted by an MCSO sergeant or higher in rank.

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

Phase 1: Not in compliance

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

- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 119 misconduct investigations that were completed during this reporting period.

PSB accepted and investigated one internal complaint, associated with an allegation of retaliation, after the issuance of the Second Order. The complaint was directly associated with this Paragraph. Our Team reviewed the case and concurred with the finding of unfounded.

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

Phase 1: Not in compliance

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

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 119 misconduct investigations that were completed during this reporting period.

As we documented in the previous Paragraph, PSB accepted and investigated one internal complaint regarding an allegation of retaliation, after the issuance of the Second Order.

During our January 2017 site visit, we made a site visit documentation request for compliance information that corresponds to this Paragraph and Paragraph 168. Our Team has also submitted an ongoing monthly document request for the same material.

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

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 119 completed misconduct investigations conducted by MCSO personnel.

Our Team reviewed completed investigations generated by allegations from five third-party complainants and no anonymous complainants. We have not become aware of any evidence that MCSO has refused to accept and complete investigations in compliance with the requirements of this Second Order Paragraph. Moreover, none of the 119 completed misconduct investigations during this reporting period represented allegations that anonymous or third-party complaints had not been appropriately accepted and investigated.

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

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 119 misconduct investigations conducted by MCSO personnel and completed during this reporting period.

We determined that five of the 119 completed investigations involved complainants who sought to withdraw their complaints; or were unavailable, unwilling, or unable to cooperate. MCSO completed each of the five investigations and reached a finding. We also determined that 14 of the 119 completed investigations involved circumstances where the principal resigned or retired. MCSO completed all 14 of the investigations and reached a finding. Of the 119 completed investigations we evaluated for compliance, none were prematurely terminated.

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

Phase 1: Not in compliance

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

Phase 2: Not in compliance

To assess Phase 2 compliance with this Paragraph during this reporting period, we reviewed 119 completed misconduct investigations conducted by MCSO personnel.

Our Team identified two completed investigations where the principals intentionally withheld evidence or information from the internal affairs investigator. In both cases, the principal was criminally investigated and either resigned prior to the imposition of discipline or was terminated from employment. Moreover, our Team identified four completed investigations where, due to statements made or documents written by four Principals, investigations for untruthfulness misconduct should have been initiated by MCSO. None of the four completed investigations provided information that untruthfulness investigations, resulting from the original misconduct investigations, were initiated.

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

Phase 1: Not in compliance

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

Phase 2: In compliance

During our January 2017 site visit, we met with PSB representatives regarding policy updates and status. PSB command personnel reaffirmed for our Team members that the current process to ensure compliance with this Paragraph is that when the promotion list is established for Detention or sworn personnel, PSB receives the promotion list of candidates. Prior to any finalized promotion, PSB conducts a disciplinary check in the automated system (IAPro). The

results of the check are provided to attendees at the promotion meeting as part of the promotional consideration process. Additionally, the PSB Commander attends the promotion meetings for both Detention and sworn promotion candidates. Regarding the hiring of personnel from a civilian employment position to a sworn employment position, a thorough background investigation is completed. The background process involves an updated review of the candidate's PSB files, which is completed by Pre-employment Services. The candidate's background from his/her original hire into a Detention position is refreshed when s/he is considered for the sworn position. We have a standing monthly document request to MCSO to ensure we are made aware of any circumstance associated with compliance of this Second Order Paragraph. We have not learned – or been in receipt – of any written justification whereby a principal or an applicant in an ongoing serious misconduct investigation has been promoted or hired during this reporting period.

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

Phase 1: Not in compliance

- GC-12 (Hiring and Promotional Procedures), currently under revision.

Phase 2: Deferred

As of August 1, 2016, MCSO began submitting advance notice of transfers of personnel to and from the Professional Standards Bureau, the Bureau of Internal Oversight, and the Court Implementation Division. During this reporting period, MCSO summited the resumes and disciplinary history of four employees for approval. The Monitoring Team reviewed the documentation submitted for each employee to ensure that each met the requirements of this Paragraph. We approved all of the submitted transfers based on the information provided. During our January 2017 site visit, the Monitoring Team audited the files of two of the employees transferred and verified the accuracy of the information submitted for each employee. The personnel files of the other two employees had previously been reviewed during our October site visit.

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

Phase 1: Not in compliance

- GH-5 (Early Identification System), currently under revision.

Phase 2: Not in compliance

MCSO has not provided proof of compliance with this Paragraph. In its submission documents for September, MCSO submitted a memorandum that stated, "MCSO does not uniformly and consistently collect the requested data. The issue will be addressed in EIS Policy GH-5, which is currently in the review/approval process. MCSO plans on capturing this information as soon as possible." During this reporting period, we did not receive any proof of compliance with this Paragraph.

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

Phase 1: Not in compliance

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

Phase 2: Not in compliance

We reviewed Employee Performance Appraisals for 31 supervisors and commanders who received EPAs during this reporting period. The requirements of this Paragraph were not consistently addressed in the Employee Performance Appraisals reviewed for this reporting period.

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

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 119 misconduct investigations that were completed during this reporting period.

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

B. Misconduct-Related Training

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

a. investigative skills, including proper interrogation and interview techniques, gathering and objectively analyzing evidence, and data and case management;

b. the particular challenges of administrative law enforcement misconduct investigations, including identifying alleged misconduct that is not clearly stated in the complaint, or that becomes apparent during the investigation;

c. properly weighing the credibility of civilian witnesses against employees;

d. using objective evidence to resolve inconsistent statements;

e. the proper application of the appropriate standard of proof;

f. report-writing skills;

g. requirements related to the confidentiality of witnesses and/or complainants;

h. considerations in handling anonymous complaints;

i. relevant MCSO rules and policies, including protocols related to administrative investigations of alleged officer misconduct; and

j. relevant state and federal law, including Garrity v. New Jersey, and the requirements of this Court's orders.

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- GC-17 (Employee Disciplinary Procedures), currently under revision.

Phase 2: Not in compliance

Our Team created the lesson plan and supporting documentation for this training. During this reporting period, we provided MCSO with these documents for review. MCSO did not provide misconduct investigative training during this reporting period.

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

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.

Phase 2: Deferred

The initial misconduct investigative training was not developed and delivered during this reporting period. The training required by Paragraph becomes applicable one year after the initial misconduct investigative training is offered.

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

Phase 1: Not in compliance

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

Phase 2: Not in compliance

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

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

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- GC-17 (Employee Disciplinary Procedures), currently under revision.

Phase 2: Not in compliance

During this reporting period, MCSO did not provide training on how to properly handle civilian complaint intake, including how to provide complaint materials and information, and the consequences for failing to take complaints. The relevant polices are still under revision.

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

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- GC-17 (Employee Disciplinary Procedures), currently under revision.

Phase 2: Not in compliance

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

C. Administrative Investigation Review

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

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

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.

Phase 2: Not in compliance

To determine Phase 2 compliance with this Paragraph for this reporting period, our Team reviewed 119 completed misconduct investigations conducted by MCSO personnel.

Our Team determined that there were 20 cases (17%) where the findings reached were not based on an appropriate standard of proof – i.e., we did not agree with the investigative findings. Our review established that there is no one primary reason for why inappropriate findings were made in these cases. For example, some cases were poorly and inadequately investigated, and the finding could not be justified based on the quality of the investigation, and reasonably potential facts that were not investigated. Some cases included video evidence that contradicted the finding. Other cases represented facts that were collected by investigators that supported a finding different than what was determined. Additional cases apparently utilized evidence such as reports or video that was not provided to the Monitoring Team for review. We reviewed completed misconduct investigations where reasonably potential policy violations existed but were not investigated, or where a less serious policy violation was applied over a more serious and consequential policy violation. At least three completed cases involved matters of untruthfulness by four principals, to include a sergeant and a lieutenant, but the likelihood of untruthful statements or untruthful documentation by the principals were not adequately identified, and/or appropriately investigated.

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

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed a total of 119 misconduct investigations conducted by MCSO personnel and completed during this reporting period.

Our Team determined that, of 47 investigations that were initiated after the issuance of the Second Order on July 20, 2016, none of the investigations represented an unreasonable delay in notifying PSB. In addition, none of the 119 completed investigations – a combination of completed cases that were initiated before and after the issuance of the Second Order – were conducted for purposes of investigating a principal for unnecessary delay in reporting misconduct to PSB.

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

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

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

Upon our inquiry, PSB confirmed that civil notice claims are now entered into the tracking system. The IAPro system integrates exceptionally well with the MCSO EIS and Blue Team technology systems. The system can be accessed remotely. Our Team representative was impressed with the lieutenant's capability to customize the software to the needs of MCSO. Additionally, PSB has hired a management analyst dedicated to the administration of the centralized tracking system. The documentation that is provided to the Monitoring Team, and the direct user access that one Team member has to the centralized numbering and tracking system, indicates the system possesses the functionality as required by the Paragraph and is being utilized according to the requirements of the Paragraph. The Paragraph requirement regarding ongoing assessment is conducted by BIO on a semi-annual basis.

Our Team identified 11 investigations during this reporting period where a unique identifying number was not provided to the external complainant. These 11 completed investigations were initiated after the issuance of the Second Order. This is likely due to a variety of reasons, to include completed documentation that was not provided to us, and an absence of training. We bring attention to completed investigations where an investigation was initiated based either entirely or partly on a third-party complaint, but the complainant did not receive a unique identifying number. As we review and evaluate larger quantities of cases that are initiated after the Second Order, the percentage of external complainants that are being provided a unique identifying number is increasing.

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

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.

Phase 2: In compliance

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

During our January 2017 site visit, a Monitoring Team member inspected the file rooms where hardcopies of investigations are kept. Criminal and administrative investigation files are kept in separate rooms and access to these rooms is restricted. A random review of internal administrative and criminal case files confirmed that PSB maintains files as required. A Monitoring Team member also has access to IAPRO and confirmed that case files are maintained in an electronic format.

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

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 119 misconduct investigations that were conducted and completed by MCSO personnel during this reporting period.

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

To assess Phase 2 compliance with this Paragraph, we reviewed 119 cases where the investigations were completed and provided to us during this reporting period. Our review determined that all of the misconduct investigations that were initiated after the issuance of the Second Order – a total of 47 – were in compliance with this Paragraph. None of the investigations we reviewed were initiated for purposes of failing to comply with this Paragraph.

Paragraph 189. *The Professional Standards Bureau shall administratively investigate:*

a. misconduct allegations of a serious nature, including any allegation that may result in suspension, demotion, or termination; and

b. misconduct indicating apparent criminal conduct by an employee.

Phase 1: Not in compliance

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

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph during this reporting period, we reviewed 119 completed misconduct investigations conducted by MCSO personnel.

We determined there was one misconduct investigation that, although it was investigated for administrative purposes by PSB, the allegation of misconduct should have required that PSB or a delegated MCSO investigative division conduct a criminal investigation. In this particular case, the principal was ultimately terminated from employment, but the alleged misconduct of battery upon a restrained inmate should have been initiated as a criminal matter.

Paragraph 190. *Allegations of employee misconduct that are of a minor nature may be administratively investigated by a trained and qualified Supervisor in the employee's District.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.

Phase 2: Deferred

To determine Phase 2 compliance with this Paragraph, we reviewed a total of 119 misconduct investigations conducted by MCSO personnel and completed during this reporting period.

Of the 119 cases we reviewed for compliance with this Paragraph, PSB investigators conducted 65 complaint investigations. The balance (of 54 administrative investigations) we reviewed were conducted by District, Division, Communications, and/or Court Services personnel. None of the 54 investigations that were initiated after the issuance of the Second Order were found to be of a serious nature that, to be compliant, would require investigation by PSB.

We indicated previously that supervisors in the Districts do not yet meet the requirements of this Paragraph related to qualifications and training. The required training module has not yet been completed and delivered. Paragraph 178 does not require this training to occur until after finalization of those policies related to misconduct investigations; most of these policies are currently under revision.

Members of the Monitoring Team are working diligently with MCSO staff to complete training curricula regarding misconduct investigations, to include the incorporation of newly revised and updated MCSO policies and manuals. The curricula and training modality are very near completion and final approval. We also emphasize that during our October 2016 and January 2017 site visits, Team members scheduled meetings with MCSO District Captains and executive staff to discuss training issues as they relate to deficiencies and proficiencies we have observed in the District investigations.

Paragraph 191. *If at any point during a misconduct investigation an investigating Supervisor outside of the Professional Standards Bureau believes that the principal may have committed misconduct of a serious or criminal nature, he or she shall immediately notify the Professional Standards Bureau, which shall take over the investigation.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 119 misconduct investigations conducted by MCSO personnel and completed during this reporting period.

We determined that none of 47 misconduct investigations initiated and completed after July 20, 2016 involved the discovery of serious misconduct during the investigation that would have required the investigator to notify PSB in compliance with this Paragraph. Moreover, we did not find that any of the 119 completed cases – initiated before and after the issuance of the Second Order – involved investigation of allegations that an MCSO employee neglected to comply with this Paragraph.

Paragraph 192. *The Professional Standards Bureau shall review, at least semi-annually, all investigations assigned outside the Bureau to determine, among the other matters set forth in ¶ 251 below, whether the investigation is properly categorized, whether the investigation is being properly conducted, and whether appropriate findings have been reached.*

Phase 1: Not in compliance

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

During our January 2017 site visit, PSB command personnel advised us that the bureau hired a management analyst on January 16, 2017, to provide PSB with the capacity to access the required data necessary to produce semi-annual reviews of misconduct cases. The semi-annual report will be made available to the public to ensure that complaints are properly handled from receipt through investigation; the report will identify problematic trends or patterns, and ensure that the aggregate data is reported as required. The proposed PSB Operations Manual contains a position for the analyst that will perform the various audit functions required by this Order.

See Paragraph 251 below, regarding the additional summary information, analysis, and aggregate data PSB is required to assess for the semi-annual public report.

Paragraph 193. *When a single act of alleged misconduct would constitute multiple separate policy violations, all applicable policy violations shall be charged, but the most serious policy violation shall be used for determining the category of the offense. Exoneration on the most serious offense does not preclude discipline as to less serious offenses stemming from the same misconduct.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 119 misconduct investigations conducted by MCSO personnel and completed during this reporting period.

We documented in Paragraph 167.d. and Paragraph 184 that completed cases revealed additional or more serious policy violations that arose during investigations were not identified and investigated appropriately, or where additional or more serious policy violations were simply not charged and investigated at all. However, of the 119 cases reviewed, none represented a circumstance where discipline for less serious policy violations that had already been charged was precluded because more serious misconduct allegations were exonerated.

Paragraph 194. *The Commander of the Professional Standards Bureau shall ensure that investigations comply with MCSO policy and all requirements of this Order, including those related to training, investigators' disciplinary backgrounds, and conflicts of interest.*

Phase 1: Not in compliance

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

Phase 2: Not in compliance

Compliance with Phase 2 of this Paragraph will be determined by a review of completed misconduct investigations conducted by MCSO personnel, the review of attendance by internal investigators at required misconduct training, and the disciplinary backgrounds of internal investigators.

During this reporting period, our Team reviewed 119 misconduct investigations that were completed after the issuance of the Second Order on July 20, 2016. The completed investigations included cases that were initiated both prior to and after the Second Order. We found that in 69 (58%) of the completed cases, the PSB Commander had not ensured there was full compliance with MCSO policy and all requirements of the Second Order. However, our Team must qualify that the PSB Commander reviewed a substantial volume of completed cases that had been initiated prior to the issuance of the Second Order in July 2016, and thus many components of the investigative process would not have been subject to the compliance requirements of the Second Order. Because of this, full compliance would not have been possible with many of these completed cases. Our Team has observed a significant improvement coinciding with the increased volume of cases initiated and completed after the Second Order.

Although our Team has identified several explanations for why the PSB Commander did not ensure full compliance in 58% of completed investigations, the statistics represent opportunities for substantial improvement. For example, many investigations were initiated prior to the issuance of the Second Order and thus, many investigative segments were not subject to strict compliance of the Order requirements. The PSB Commander inherited a very substantial backlog of incomplete investigations that were in progress, or had stalled, at both the District-level and within PSB. In an effort to accelerate the completion of these investigations and reset management procedures that aligned with the Second Order, the operational pace had become remarkable. The PSB Commander relied upon other command personnel by delegating final review and approval of completed investigations, resulting in an absence of consistency and comprehension of the compliance requirements. The Second Order required substantial revisions of policy and manuals, many of which are still pending final publication. MCSO personnel who had been assigned primary responsibility for misconduct investigations have been required to alter and significantly improve upon every investigation, however, commensurate training is still pending. In some instances, necessary technology, equipment and staff support resources were inadequate or not attuned to Second Order compliance requirements.

Regardless, our Team has found that many of the completed investigations have been deficient and substandard. The consequences directly influence accountability, work performance, organizational standards, and hindrance of professional improvement. Beyond technical compliance issues, examples include, but are not limited to, failure to:

- Challenge untruthful and ambiguous statements made by principals;
- Locate and interview witnesses and leads;
- Initiate and advance serious misconduct investigations in a timely manner;
- Identify and investigate policy violations;
- Appropriately investigate responsibility and accountability of supervisors and command personnel;
- Seek video evidence in a timely fashion (or at a minimum document the action);

- Procure and consider reasonably accessible evidence and information;
- Administer commensurate discipline;
- Make congruous findings and conclusions with the known facts; and
- Identify and investigate the most serious, yet reasonably applicable, policy violations.

A representative of our Team personally meets with the PSB Commander and other representatives of PSB staff at least once per week. While these meetings are primarily intended to discuss Class Remedial Matters, our Team representative uses the opportunity to communicate other serious issues that affect compliance with the Second Order.

During our October 2016 and January 2017 site visits, we initiated meetings with District Captains, MCSO executives, and PSB command and line personnel to update them on our identification of training and performance issues that adversely affect compliance. Our Team was pleased with the improved receptiveness and attitude of those responsible for conducting and managing misconduct investigations during our January 2017 site visit. We have recognized that, with the evolving management, leadership and administration of misconduct investigations, the quality of investigative substance and compliance with the Second Order are improving. We are encouraged.

During our October 2017 and January 2017 site visits, PSB staff sufficiently communicated that they are properly outsourcing those cases where a conflict of interest exists. A qualified private vendor has been contracted with PSB to conduct these investigations. Additionally, PSB has outsourced investigations to another regional law enforcement agency.

Parallel to Paragraph 178, none of the required misconduct training has yet been delivered because the associated policies have not been approved and published. However, the training curricula and modalities are near completion and training of misconduct investigators should commence during the next reporting period. Upon completion of the required training, our Team will engage processes to ensure all investigators successfully completed the training.

As we have indicated in Paragraph 199, PSB has reviewed the disciplinary backgrounds of all those who might conduct internal investigations and notified our Team of those supervisors that will be prohibited from conducting such investigations due to their background. Upon our inquiry at our January 2017 site visit, PSB has not identified any additional MCSO members during this reporting period who are disqualified from conducting misconduct investigations. A standing monthly document request has been written to ensure future Monitor notification of MCSO employees prohibited from conducting misconduct investigations in compliance with this Paragraph.

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

Phase 1: Not in compliance

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Deferred

In conjunction with this Paragraph, Paragraph 178 of the Second Order mandates that within three months of the finalization of policies consistent with Paragraph 165 of the Order, all PSB personnel will receive 40 hours of comprehensive training. Paragraph 178 requires training of all supervisors within three months of the finalization of policies. However, as we have documented in Paragraph 165, a multitude of policies and manuals are under revision and review by our Team, Plaintiffs, and Plaintiff-Intervenors. Paragraph 178 requires sufficient trained personnel in PSB within six months of the entry of the Order (three months of the finalization of policies), which would have been January 20, 2017. MCSO cannot commence with the required training of sufficient personnel because many of the applicable policies have not been finalized and published. Members of our Team are working diligently with MCSO to complete the training curricula and processes. During our January 2017 site visit, MCSO personnel indicated that they anticipate the training to commence during the next reporting period. Additionally, on October 25, 2016, MCSO's attorneys requested – and were ultimately granted – an extension from the Court to finalize the revised policies.

During our January 2017 site visit, we inquired of the PSB Commander whether any staffing issues existed. The commander believes that, at present, individual caseloads have increased but that current staff are capable of managing their assignments. The commander also believes the volume of civilian support staff resources is adequate. The PSB administrator has explained that any additional staffing to PSB will be automatically logged into the IAPro database. In place of monthly document requests, our Team will continue to inquire about adequacy of staffing at each of our site visits. Additionally, site visits will include our review of PSB staff training files after the mandatory training is completed.

Paragraph 196. *Where appropriate to ensure the fact and appearance of impartiality, the Commander of the Professional Standards Bureau or the Chief Deputy may refer administrative misconduct investigations to another law enforcement agency or may retain a qualified outside investigator to conduct the investigation. Any outside investigator retained by the MCSO must possess the requisite background and level of experience of Internal Affairs investigators and must be free of any actual or perceived conflicts of interest.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, our Team reviewed 119 completed misconduct investigations conducted by MCSO. We solicited information about a private investigator that has contracted with PSB for purposes of conducting investigations related to this Paragraph. Finally, we inquired about the status of cases that have been referred to another regional law enforcement agency for purposes of compliance.

Our Team did not consider any of the 119 completed cases to be not in compliance with this Paragraph. All completed misconduct investigations were appropriately assigned to MCSO investigators.

During our January 2017 site visit, MCSO explained that PSB had contracted with a private vendor to conduct investigations that were considered as potential conflicts of interest for any MCSO investigators. We conducted robust inquiry regarding the vetting and bidding process, and qualifications of the licensed private vendor. Our Team came away satisfied that the contract investigator's qualifications are commensurate with the compliance criteria of this Paragraph, to include a commendable demonstrated history. Regarding logistics, the private investigator was provided all necessary documentation and resources. The PSB Commander will serve as MCSO's single point-of-contact and assist with issues of liaison and scheduling. The private investigator will advance the investigations to the level of recommending findings. Agreements have been made that any criminal misconduct that is identified by the private investigator will be addressed.

PSB continues to outsource three misconduct investigations to a separate regional law enforcement agency. During our January 2017 site visit, the PSB Commander reaffirmed that all of the misconduct allegations that our Team had identified in the Court's Findings of Fact would be investigated by the private investigator or the outside law enforcement agency.

We requested during our January 2017 site visit to be provided with a roster of all investigations – PSB has stated there are three – that have been outsourced to other law enforcement agencies. We also requested a roster of all cases assigned to an outside, qualified private investigator. Upon completion of the misconduct investigations assigned to the outside law enforcement agency or the private investigator, our Team will receive the investigations for review and compliance purposes.

Paragraph 197. *The Professional Standards Bureau will be headed by a qualified Commander. The Commander of the Professional Standards Bureau will have ultimate authority within the MCSO for reaching the findings of investigations and preliminarily determining any discipline to be imposed. If the Sheriff declines to designate a qualified Commander of the Professional Standards Bureau, the Court will designate a qualified candidate, which may be a Civilian Director in lieu of a sworn officer.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

The PSB Commander has demonstrated exceptional qualifications and capabilities to fulfill the requirements of this Paragraph. As we have referenced in Paragraph 194, the compliance requirements of the Second Order have necessitated an entire reset of management, leadership and administration regarding Office-wide misconduct investigations. For any law enforcement professional, given the circumstances under which the PSB Commander started the assignment, the challenge would be daunting. Our entire Team has recognized measured and deliberate improvement in PSB investigative outcomes, and we are optimistic that the progression of improvement and compliance will continue. For this to perpetuate – as in any professional organization – MCSO must support the PSB Commander with resources and executive leadership.

Paragraph 198. *To promote independence and the confidentiality of investigations, the Professional Standards Bureau shall be physically located in a facility that is separate from other MCSO facilities, such as a professional office building or commercial retail space. This facility shall be easily accessible to the public, present a non-intimidating atmosphere, and have sufficient space and personnel for receiving members of the public and for permitting them to file complaints.*

Phase 1: Not applicable

Phase 2: Deferred

During the previous reporting period, MCSO provided our Team with documentation that outlined the agency's efforts to explore a qualifying off-site facility for PSB that complies with this Paragraph. Ultimately, MCSO has expressed interest in using the former East Court Building Library as an off-site PSB facility. Our Team has not objected, and although we have appreciation for the concerns expressed by Plaintiffs and Plaintiff-Intervenors, the Monitor's approval is not required. MCSO has indicated that they will move forward with the County to advance PSB's move to the library facility.

Paragraph 199. *The MCSO will ensure that the qualifications for service as an internal affairs investigator shall be clearly defined and that anyone tasked with investigating employee misconduct possesses excellent investigative skills, a reputation for integrity, the ability to write clear reports, and the ability to be fair and objective in determining whether an employee committed misconduct. Employees with a history of multiple sustained misconduct allegations, or one sustained allegation of a Category 6 or Category 7 offense from MCSO's disciplinary matrices, will be presumptively ineligible to conduct misconduct investigations. Employees with a history of conducting deficient investigations will also be presumptively ineligible for these duties.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

During our January 2017 site visit, we met with the PSB Commander and inquired about MCSO's efforts to comply with this Paragraph. We had learned in October 2016 that MCSO had reviewed the qualifications of all those who might be required to conduct internal affairs investigations. The PSB staff had, at that time, identified two MCSO supervisors who were not presently assigned to PSB and who were disqualified from conducting misconduct investigations. MCSO had previously provided written notification to our Team regarding the two supervisors. At our most recent site visit, the PSB Commander stated that there had not been any additional MCSO supervisors, or command or executive personnel who had been disqualified. At our recommendation, PSB staff will be developing a formal review process to ensure that, at the time a minor misconduct case is referred to a District for investigation, the District Captain is notified of any supervisors under their command who ineligible to conduct misconduct investigations. A standing monthly document request has been written to ensure future Monitor notification of MCSO employees prohibited from conducting misconduct investigations in compliance with this Paragraph.

Paragraph 200. *In each misconduct investigation, investigators shall:*

a. conduct investigations in a rigorous and impartial manner designed to determine the facts;

b. approach investigations without prejudging the facts and without permitting any preconceived impression of the principal or any witness to cloud the investigation;

c. identify, collect, and consider all relevant circumstantial, direct, and physical evidence, including any audio or video recordings;

d. make reasonable attempts to locate and interview all witnesses, including civilian witnesses;

e. make reasonable attempts to interview any civilian complainant in person;

f. audio and video record all interviews;

g. when conducting interviews, avoid asking leading questions and questions that may suggest justifications for the alleged misconduct;

h. make credibility determinations, as appropriate; and

i. attempt to resolve material inconsistencies between employee, complainant, and witness statements.

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 119 misconduct investigations that were completed by MCSO personnel during this reporting period.

The completed investigations included an aggregate of misconduct allegations that MCSO initiated prior to the issuance of the Second Order but were completed subsequent to the Second Order (thus incorporating segments subject to Second Order compliance requirements), and allegations followed by investigations that, in their entirety, occurred subsequent to the Second Order. The pool of cases we reviewed facilitated a broad spectrum of compliance evaluation, whereas, consideration of allegations and investigations that had been initiated and completed only after the issuance of the Second Order would have provided an exceptionally limited accumulation of completed cases. As time expands from the July 20, 2016 issuance of the Second Order, our Team anticipates the ability to conduct compliance review on misconduct investigations that were initiated and completed entirely after the Second Order.

During this reporting period, we reviewed 119 closed misconduct investigations that were completed after the issuance of the Second Order. None of the cases we reviewed for purposes of this Paragraph were categorized as Class Remedial Matters. The case reviews included 65 complaint investigations conducted by PSB investigators, and the balance of the complaint investigations we reviewed were conducted by District, Division, Detentions, Communications, and/or Court Services personnel. Sixty-six of the 119 completed (after July 20, 2016) misconduct investigations were generated because of external complainants, and 53 were generated by internal complaints. Five of the 119 complaints were generated by a third party.

Paragraph 200.a. requires that misconduct investigations be conducted in a rigorous and impartial manner. Our Team determined there were eight completed investigations during this reporting period that did not comply with the requirements of this Subparagraph.

Paragraph 200.b. requires that investigations be approached without prejudging the facts or permitting preconceived impressions. Our Team determined there were six completed investigations during this reporting period that did not comply with the requirements of this Subparagraph.

Paragraph 200.c. requires that investigators identify, collect, and consider all relevant evidence. Our Team determined there were six completed investigations during this reporting period that did not comply with the requirements of this Subparagraph.

Paragraph 200.d. requires that investigators make reasonable attempts to locate and interview all witnesses. Our Team determined there were eight completed investigations during this reporting period that did not comply with the requirements of this Subparagraph.

Paragraph 200.e. requires that investigators make reasonable attempts to interview civilian complaints in person. Our Team determined there were 20 completed investigations during this reporting period that did not comply with the requirements of this Subparagraph.

Paragraph 200.f. requires audio and video recording of all interviews. Our Team determined there were 29 completed investigations during this reporting period that did not comply with the requirements of this Subparagraph.

Paragraph 200.g. requires that when conducting interviews, investigators avoid asking leading questions or questions that may suggest justification for the alleged misconduct. Our Team determined there were four completed investigations during this reporting period that did not comply with the requirements of this Subparagraph.

Paragraph 200.h. requires that proper credibility determinations be made. Our Team determined there were 11 completed investigations during this reporting period that did not comply with the requirements of this Subparagraph.

Paragraph 200.i. requires that investigators attempt to resolve all material inconsistencies. Our Team determined there were seven completed investigations during this reporting period that did not comply with the requirements of this Subparagraph.

Paragraph 201. *There will be no automatic preference for an employee's statement over a non-employee's statement. Internal affairs investigators will not disregard a witness's statement solely because the witness has some connection to either the complainant or the employee or because the witness or complainant has a criminal history, but may consider the witness's criminal history or any adjudicated findings of untruthfulness in evaluating that witness's statement. In conducting the investigation, internal affairs investigators may take into account the record of any witness, complainant, or officer who has been determined to have been deceptive or untruthful in any legal proceeding, misconduct investigation, or other investigation.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 119 misconduct investigations conducted by MCSO personnel and completed during this reporting period.

Our Team identified three completed investigations where we interpreted an automatic preference for an employee's statement over a non-employee's statement. Greater than 94% of the completed misconduct investigations were compliant with this Paragraph. We did not identify any completed investigations where a witness's statement was disregarded solely

because of any connection identified in this Paragraph, nor where a witness's criminal history or findings of truthfulness were considered. (The latter is not an absolute requirement.) Finally, we did not identify any completed misconduct investigation that documented a witness, complainant, or officer had a history of deception or untruthfulness in any legal proceeding, misconduct investigation, or other investigation.

Paragraph 202. *Internal affairs investigators will investigate any evidence of potential misconduct uncovered during the course of the investigation, regardless of whether the potential misconduct was part of the original allegation.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 119 misconduct investigations conducted by MCSO personnel and completed during this reporting period.

We identified eight completed investigations where either additional potential misconduct that was not part of the original allegation was discovered but not investigated, or where additional potential misconduct that was not part of the original allegation should have reasonably been discovered and then investigated. Examples include, but are not limited to, policy violations of untruthfulness, use of force, poor tactics, and false documentation in official records.

Paragraph 203. *If the person involved in the encounter with the MCSO pleads guilty or is found guilty of an offense, internal affairs investigators will not consider that information alone to be determinative of whether an MCSO employee engaged in misconduct, nor will it by itself justify discontinuing the investigation. MCSO training materials and policies on internal investigations will acknowledge explicitly that the fact of a criminal conviction related to the administrative investigation is not determinative of whether an MCSO employee engaged in misconduct and that the mission of an internal affairs investigator is to determine whether any misconduct occurred.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 119 misconduct investigations conducted by MCSO personnel and completed during this reporting period.

There were no indications in any of the 119 completed investigations that any MCSO investigators considered alone any pleading or finding of guilty by any person as a reason to

make any determination regarding the potential misconduct of any MCSO personnel, nor were any investigations discontinued for this reason.

Paragraph 204. *Internal affairs investigators will complete their administrative investigations within 85 calendar days of the initiation of the investigation (60 calendar days if within a Division). Any request for an extension of time must be approved in writing by the Commander of the Professional Standards Bureau. Reasonable requests for extensions of time may be granted.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.

Phase 2: Not in compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 119 misconduct investigations conducted by MCSO personnel and completed during this reporting period.

Of the 119 cases, a total of 63 exceeded the completion time periods in this Paragraph. However, 11 completed cases were accompanied by an approved and written reasonable request for an extension of time. We determined that a net volume of 52 completed cases were not in compliance with this Paragraph. We note that for Second Order compliance evaluation, a significant number of these 119 completed cases were initiated before the requirements of this Paragraph. However, we also bring attention to the fact that *even prior to the Second Order*, MCSO policy required the 60- and 85-day time limits for the completion of administrative investigations.

Paragraph 205. *The Professional Standards Bureau shall maintain a database to track all ongoing misconduct cases, and shall generate alerts to the responsible investigator and his or her Supervisor and the Commander of the Professional Standards Bureau when deadlines are not met.*

Phase 1: Not in compliance

- Professional Standards Bureau Operations Manual, currently under revision.
- GH-5 (Early Identification System), currently under revision.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- GH-2 (Internal Investigations), currently under revision.

Phase 2: In compliance

Similar to Paragraph 186, we assess compliance with this Paragraph by assigning a Monitoring Team member to observe a real-time demonstration of the IAPro database. The IAPro technology serves as the centralized electronic numbering and tracking system for all allegations of misconduct, whether internally discovered or based on an external complaint. This database contains the information required for compliance with this Paragraph.

During our October 2016 and January 2017 site visits, Team representatives met with the PSB lieutenant who is the primary administrator for the IAPro database system. The demonstration that was provided in January 2017 represented IAPro as a technology instrument that meets the compliance criteria of this Second Order Paragraph, to include logging of critical dates and times, alerts regarding timelines and deadlines, chronological misconduct investigation status, notifications, and dispositions. Regarding timelines, the PSB lieutenant conducts a weekly evaluation of closed cases to ensure data is entered into the system. A monthly review is conducted to audit timelines associated with open investigations. Moreover, the tracking system provides estimates of key timelines for all investigators to ensure they are made aware of previous and upcoming investigative milestones. We also note the system is secure, but can be accessed remotely with the correct permissions.

PSB has hired a management analyst dedicated to the administration of the centralized tracking system. In addition, as a failsafe measure, all PSB and Division investigators can access the electronic Blue Team database – a system that integrates with IAPro – at any time to view the assignment and status of administrative investigations to which they are assigned.

Finally, we currently receive monthly notices from PSB regarding closed administrative investigations, and we evaluate closed investigations for the entirety of a reporting period against a multitude of criteria, to include whether timelines were compliant. (See Paragraph 204.)

Paragraph 206. *At the conclusion of each investigation, internal affairs investigators will prepare an investigation report. The report will include:*

a. a narrative description of the incident;

b. documentation of all evidence that was gathered, including names, phone numbers, and addresses of witnesses to the incident. In situations in which there are no known witnesses, the report will specifically state this fact. In situations in which witnesses were present but circumstances prevented the internal affairs investigator from determining the identification, phone number, or address of those witnesses, the report will state the reasons why. The report will also include all available identifying information for anyone who refuses to provide a statement;

c. documentation of whether employees were interviewed, and a transcript or recording of those interviews;

d. the names of all other MCSO employees who witnessed the incident;

e. the internal affairs investigator's evaluation of the incident, based on his or her review of the evidence gathered, including a determination of whether the employee's actions

appear to be within MCSO policy, procedure, regulations, orders, or other standards of conduct required of MCSO employees;

f. in cases where the MCSO asserts that material inconsistencies were resolved, explicit credibility findings, including a precise description of the evidence that supports or detracts from the person's credibility;

g. in cases where material inconsistencies must be resolved between complainant, employee, and witness statements, explicit resolution of the inconsistencies, including a precise description of the evidence relied upon to resolve the inconsistencies;

h. an assessment of the incident for policy, training, tactical, or equipment concerns, including any recommendations for how those concerns will be addressed;

i. if a weapon was used, documentation that the employee's certification and training for the weapon were current; and

j. documentation of recommendations for initiation of the disciplinary process; and

k. in the instance of an externally generated complaint, documentation of all contacts and updates with the complainant.

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.

Phase 2: Not in compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 119 misconduct investigations conducted by MCSO personnel and completed during this reporting period.

Paragraph 206.a. requires a written description on the incident be included in the investigative report. Two of the 119 completed investigations did not comply with the requirements of this Subparagraph. In both cases, some documentation was provided for our review, but the information was inadequate to the degree of non-compliance.

Paragraph 206.b. requires documentation of all evidence gathered, including all known information about witnesses. Eight of the 119 completed investigations did not comply with the requirements of this Subparagraph.

Paragraph 206.c. requires documentation of whether employees were interviewed, and a transcript or recording of these interviews. One of the 119 completed investigations did not comply with the requirements of this Subparagraph. Eight of the completed investigations did not include either a transcript or a recording of interviews.

Paragraph 206.d. requires that the names of all MCSO employees who witnessed the incident be included in the report. One of the 119 completed investigations did not comply with the requirements of this Subparagraph. During our review of completed investigations, there are often documents aside from the written narrative that identify other MCSO employees who could reasonably have information that would appropriately contribute to the investigative facts. However, misconduct investigators did not interview the employees in some investigations.

Paragraph 206.e. requires the evaluation of the incident by the internal affairs investigator, including whether the actions of the employees appear to be within MCSO policy, procedure, and law. One of the 119 completed investigations did not comply with the requirements of this Subparagraph.

Paragraph 206.f. requires that investigative reports include a precise description of evidence that supports or detracts from credibility assessments. Seven of the 119 completed investigations did not comply with the requirements of this Subparagraph.

Paragraph 206.g. requires that when material inconsistencies must be resolved, a precise description of the evidence be included in the report. Eight of the 119 completed investigations did not comply with the requirements of this Subparagraph.

Paragraph 206.h. requires that assessment of the incident for policy, training, tactical, or equipment concerns be included in the investigative report, to include any recommendations. Sixty-one of the 119 completed investigations did not comply with the requirements of this Subparagraph as it relates to assessments. Sixty-two of the 119 completed investigations did not comply with the requirements of this Subparagraph as it relates to recommendations. Our Team has observed frequent non-compliance with the Subparagraph. Because of the ongoing non-compliance, a Monitoring Team member discussed this requirement with the PSB Commander during the previous reporting period. We raised this topic again with PSB staff during our January 2017 site visit, and the PSB Commander advised us that this information would be included in the required investigation checklist when it is revised. In the interim, PSB has advised investigators to include this information in report narratives. Our Team has begun to notice an increase in the completed case narratives that comply with the Subparagraph, and we are optimistic, based on our observations and discussions, that compliance will continue to improve.

Paragraph 206.i. requires that if a weapon was used, documentation that the employee's certification and training for the weapon must be included in the investigative written report. Of the investigations that were initiated and completed after the issuance of the Second Order on July 20, 2016, we did not note any complaint where this Subparagraph was applicable.

Paragraph 206.j. requires that documentation of the initiation of the disciplinary process be included in the investigation. Compliance is achieved when the misconduct investigator completes the investigation with a finding of sustained, when applicable, and the finding is subsequently approved by the PSB Commander. This is considered initiation of the disciplinary process because investigative findings other than sustained do not result in discipline. Our Team did not determine that any of the investigations that initiated after the issuance of the Second Order, and that resulted in a sustained finding, were inappropriate. Thus, all of the investigations with a sustained finding complied with the requirements of this Subparagraph.

Paragraph 206.k. requires that any contacts and updates with the complainant be documented in the investigative report. Two of the 119 completed investigations did not comply with the requirements of this Subparagraph. During our January 2017 site visit, members of our Team emphasized with PSB and District Captains the necessity for investigators to ensure their follow-up contacts, inquiries and updates with complainants – to include third-party – be appropriately documented in the completed investigations.

Paragraph 207. *In assessing the incident for policy, training, tactical, or equipment concerns, investigation reports will include an assessment of whether:*

a. the law enforcement action was in compliance with training and legal standards;

b. the use of different tactics should or could have been employed;

c. the incident indicates a need for additional training, counseling, or other non-disciplinary corrective actions; and

d. the incident suggests that the MCSO should revise its policies, strategies, tactics, or training.

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 119 misconduct investigations conducted by MCSO personnel and completed during this reporting period.

Sixty-three of the 119 completed investigations did not comply with all or parts of the requirements of this Paragraph.

We have consistently found in the cases we reviewed that internal investigators did not comply with the requirements of this Paragraph. A Monitoring Team member discussed this requirement with PSB, who acknowledged the lack of inclusion of this information. PSB intends to revise the required checklist once all relevant policies are finalized. In the interim, the PSB Commander has notified investigative personnel that this information should be included in the narrative portion of the report. As with Subparagraphs 206.i. and 206.j., we discussed this Paragraph and Subparagraphs a.-d. at our January 2017 site visit. MCSO informed us that the PSB Commander and District Commanders would ensure that the information is included in the final report narratives, and we anticipate increased compliance with this Paragraph in the next reporting period.

Paragraph 208. *For each allegation of misconduct, internal affairs investigators shall explicitly identify and recommend one of the following dispositions for each allegation of misconduct in an administrative investigation:*

a. "Unfounded," where the investigation determines, by clear and convincing evidence, that the allegation was false or not supported by fact;

b. "Sustained," where the investigation determines, by a preponderance of the evidence, that the alleged misconduct did occur and justifies a reasonable conclusion of a policy violation;

c. "Not Sustained," where the investigation determines that there is insufficient evidence to prove or disprove the allegation; or

d. "Exonerated," where the investigation determines that the alleged conduct did occur but did not violate MCSO policies, procedures, or training.

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.

Phase 2: Not in compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 119 misconduct investigations conducted by MCSO personnel and completed during this reporting period.

We did not concur with the findings in 20 (17%) of the 119 completed cases for this reporting period. Of the 47 completed investigations that had been initiated after the issuance of the Second Order, our Team did not concur with six (13%) of the findings. We evaluate compliance with this Paragraph against the standard of whether a finding was made, and whether the finding was correct. We will discuss those cases where we disagree with the findings with PSB personnel during our April 2017 site visit.

Paragraph 209. *For investigations carried out by Supervisors outside of the Professional Standards Bureau, the investigator shall forward the completed investigation report through his or her chain of command to his or her Division Commander. The Division Commander must approve the investigation and indicate his or her concurrence with the findings.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 54 misconduct investigations not conducted by PSB personnel and completed during this reporting period.

All 54 completed investigations complied with the requirements of this Paragraph. Our Team notes that many of the District-level investigations were not in compliance with various requirements of the Second Order – as indicated throughout our report. However, this Paragraph is specific to District-level cases being forwarded through the chain of command for approval of the investigation and findings.

Paragraph 210. *For investigations carried out by the Professional Standards Bureau, the investigator shall forward the completed investigation report to the Commander.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 65 misconduct investigations conducted by PSB investigative personnel and completed during this reporting period.

All 65 PSB-completed investigations were compliant with this Paragraph.

Paragraph 211. *If the Commander—meaning the Commander of the PSB or the Commander of the Division in which the internal affairs investigation was conducted—determines that the findings of the investigation report are not supported by the appropriate standard of proof, the Commander shall return the investigation to the investigator for correction or additional investigative effort, shall document the inadequacies, and shall include this documentation as an addendum to the original investigation. The investigator's Supervisor shall take appropriate action to address the inadequately supported determination and any investigative deficiencies that led to it. The Commander shall be responsible for the accuracy and completeness of investigation reports prepared by internal affairs investigators under his or her command.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.

Phase 2: Not in compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 119 misconduct investigations conducted by MCSO personnel and completed during this reporting period.

Our Team determined that commanders identified inadequacies of four investigations that were documented and included as an addendum to the report.

However, in 20 (17%) of the 119 completed cases, we did not concur with the findings. We will discuss these disparities regarding appropriate findings for cases completed during this reporting period during our April 2017 site visit.

Second, PSB or District Captains do not appear to use a formal mechanism to ensure that the investigator's supervisor has taken appropriate action to address the issues as required in this Paragraph. We highlighted this issue during our January 2017 site visit meetings with both PSB staff and District Captains. The second issue will be included in the training curricula required under Paragraph 178, which MCSO anticipates will occur during the next reporting period. Our Team anticipates the use of Blue Team for this purpose. Our Team makes a formal monthly document request to ensure we are notified of compliance with this Paragraph.

Paragraph 212. *Where an internal affairs investigator conducts a deficient misconduct investigation, the investigator shall receive the appropriate corrective and/or disciplinary action. An internal affairs investigator's failure to improve the quality of his or her investigations after corrective and/or disciplinary action is taken shall be grounds for demotion and/or removal from a supervisory position or the Professional Standards Bureau.*

Phase 1: Not in compliance

- GB-2 (Command Responsibility), most recently amended on January 31, 2017.
- GC-4 (Employee Performance Appraisals), currently under revision.

Phase 2: Deferred

To assess Phase 2 compliance with this Paragraph, we reviewed 119 misconduct investigations conducted by MCSO personnel and completed during this reporting period.

Unless a formal misconduct investigation is associated with MCSO policy and the requirements of the Second Order – e.g. an investigator is the principal in an investigation – our review of misconduct investigations does not disclose documentation about what corrective action may have occurred as a result of conducting a deficient investigation or a failure to improve. As with Paragraph 211, at our January 2017 site visit meetings with District Captains and the PSB Commander, we discussed the necessity to document and thus permit the Monitoring Team to evaluate compliance with the Paragraph. The PSB Commander has assured our Team that, along with Paragraph 211, internal methods to ensure compliance with this Paragraph will be included in the training curricula schedule to be conducted during the next reporting period in compliance with Paragraph 178. Our Team anticipates the use of Blue Team for this purpose. Our Team makes a formal monthly document request to ensure we are notified of compliance with this Paragraph.

Paragraph 213. *Investigations of minor misconduct conducted outside of the Professional Standards Bureau must be conducted by a Supervisor and not by line-level deputies. After such investigations, the investigating Supervisor's Commander shall forward the investigation file to the Professional Standards Bureau after he or she finds that the misconduct investigation is complete and the findings are supported by the evidence. The Professional Standards Bureau shall review the misconduct investigation to ensure that it is complete and that the findings are supported by the evidence. The Professional Standards Bureau shall order additional investigation when it appears that there is additional relevant evidence that may assist in resolving inconsistencies or improving the reliability or credibility of the findings. Where the findings of the investigation report are not supported by the appropriate standard of proof, the Professional Standards Bureau shall document the reasons for this determination and shall include this documentation as an addendum to the original investigation.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 119 misconduct investigations conducted by MCSO personnel and completed during this reporting period.

Of the 119 investigations, 65 were investigated by PSB personnel, and 54 were investigated by personnel outside of PSB.

None of the documentation we received regarding investigations conducted outside of PSB indicated that any person below the rank of sergeant was responsible for the investigation.

All District-level approved cases were forwarded to PSB.

PSB reviewed 47 cases for completeness, and to ensure that the evidence supported the findings.

Twelve cases were reviewed and returned by PSB personnel for additional investigation.

Thirteen cases included written reasons for PSB's determinations that the investigation findings were not supported, and the documents were attached to the original investigation.

Paragraph 214. *At the discretion of the Commander of the Professional Standards Bureau, a misconduct investigation may be assigned or re-assigned to another Supervisor with the approval of his or her Commander, whether within or outside of the District or Bureau in which the incident occurred, or may be returned to the original Supervisor for further investigation or analysis. This assignment or re-assignment shall be explained in writing.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 119 misconduct investigations conducted by MCSO personnel and completed during this reporting period.

Our analysis revealed that 21 completed investigations were returned by PSB to the original investigating supervisor for further investigation or analysis. PSB assigned or reassigned two completed investigations, and this was documented in writing as required by the Paragraph.

During our January 2017 site visit, we requested – and PSB agreed – to ensure adequate information regarding the return and/or reassignment of investigations would be thoroughly documented in future completed cases.

Paragraph 215. *If, after an investigation conducted outside of the Professional Standards Bureau, an employee's actions are found to violate policy, the investigating Supervisor's Commander shall direct and ensure appropriate discipline and/or corrective action. Where the incident indicates policy, training, tactical, or equipment concerns, the Commander shall also ensure that necessary training is delivered and that policy, tactical, or equipment concerns are resolved.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.

Phase 2: Not in compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 54 misconduct investigations conducted by MCSO personnel outside of PSB and completed during this reporting period.

Ten of the 54 completed misconduct investigations conducted outside of PSB resulted in findings of sustained.

In eight of the 10 sustained findings, the supervisor's commander ensured discipline or corrective action.

During our January 2017 site visit meeting with PSB, we requested – and PSB agreed to ensure – adequate information regarding compliance with this Paragraph would be included in the narrative of future completed cases.

Paragraph 216. *If, after an investigation conducted by the Professional Standards Bureau, an employee's actions are found to violate policy, the Commander of the Professional Standards Bureau shall direct and ensure appropriate discipline and/or corrective action. Where the incident indicates policy, training, tactical, or equipment concerns, the Commander of the Professional Standards Bureau shall also ensure that necessary training is delivered and that policy, tactical, or equipment concerns are resolved.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 65 misconduct investigations conducted by MCSO personnel and completed during this reporting period.

Twenty-four of the completed investigations conducted by PSB resulted in a sustained finding.

In all 24 sustained investigations, the PSB Commander ensured appropriate discipline and/or corrective action. (The final determination of discipline was ensured.) The PSB Commander cannot ensure appropriate discipline or corrective action are the final outcomes of a Pre-Determination Hearing (PDH), as these are typically held after the initial recommendations for discipline but prior to the imposition of discipline. The hearing officer has the authority to reduce the discipline; and in some cases, our Team disagreed with the final discipline decision by the hearing officer.

Of the 65 completed misconduct investigations conducted in PSB, six indicated policy, training, tactical, or equipment concerns. In addition, the PSB Commander ensured discipline and/or the corrective action in 11 cases. Finally, in one case, the PSB Commander ensured that necessary training was delivered and that policy, tactical, or equipment concerns were resolved.

During our January 2017 site visit meeting with PSB, we requested – and PSB agreed to ensure – adequate information regarding compliance with this Paragraph would be included in the narrative of future completed cases.

Paragraph 217. *The Professional Standards Bureau shall conduct targeted and random reviews of discipline imposed by Commanders for minor misconduct to ensure compliance with MCSO policy and legal standards.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not applicable

Based on the requirements of the Second Order, District and Division Commanders will not impose discipline for minor misconduct. In all cases, the PSB Commander will determine the final findings for internal investigations and the presumptive range of discipline for those cases with sustained findings. The appointing authority will then make the final determination of discipline.

Paragraph 218. *The Professional Standards Bureau shall maintain all administrative investigation reports and files after they are completed for record-keeping in accordance with applicable law.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

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

During our January 2017 site visit, a Monitoring Team member inspected the file room where hardcopies of internal administrative investigations are kept. A random selection of case files confirmed that PSB is maintaining files as required. A Monitoring Team member also has access to IAPRO and confirmed that case files are maintained in an electronic format.

D. Discipline

Paragraph 219. *The Sheriff shall ensure that discipline for sustained allegations of misconduct comports with due process, and that discipline is consistently applied, fair, and based on the nature of the allegation, and that mitigating and aggravating factors are identified and consistently applied and documented regardless of the command level of the principal of the investigation.*

Paragraph 220. *To ensure consistency in the imposition of discipline, the Sheriff shall review the MCSO's current disciplinary matrices and, upon approval of the parties and the Monitor, will amend them as necessary to ensure that they:*

a. establish a presumptive range of discipline for each type of violation;

b. increase the presumptive discipline based on an employee's prior violations;

c. set out defined mitigating and aggravating factors;

d. prohibit consideration of the employee's race, gender, gender identity, sexual orientation, national origin, age, or ethnicity;

e. prohibit conflicts, nepotism, or bias of any kind in the administration of discipline;

f. prohibit consideration of the high (or low) profile nature of the incident, including media coverage or other public attention;

g. clearly define forms of discipline and define classes of discipline as used in policies and operations manuals;

h. provide that corrective action such as coaching or training is not considered to be discipline and should not be used as a substitute for discipline where the matrix calls for discipline;

i. provide that the MCSO will not take only non-disciplinary corrective action in cases in which the disciplinary matrices call for the imposition of discipline;

j. provide that the MCSO will consider whether non-disciplinary corrective action is also appropriate in a case where discipline has been imposed;

k. require that any departures from the discipline recommended under the disciplinary matrices be justified in writing and included in the employee's file; and

l. provide a disciplinary matrix for unclassified management level employees that is at least as demanding as the disciplinary matrix for management level employees.

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Deferred

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

During the previous reporting period, only 19 administrative investigations were completed after July 20, 2016. Three of these investigations, all involving Detention personnel, were sustained. Written reprimands were received in all cases.

During this reporting period, there were 119 administrative investigations that were completed on or after July 20, 2016. While 42 investigations had sustained findings, seven involved employees that either resigned or were deceased at the time of the sustained findings. The remaining 35 investigations resulted in discipline being assessed. These investigations involved misconduct by sworn, Detention, and civilian employees and discipline ranged from coaching to termination. We will continue to defer our Phase 2 compliance assessment of this Paragraph until MCSO finalizes and publishes relevant policies regarding Discipline Matrices.

Paragraph 220.a. requires a presumptive range of discipline for each type of violation. While MCSO has not yet finalized and published the policies that establish a presumptive range of discipline as required for compliance, in each of the sustained investigations we reviewed that resulted in discipline after July 20, 2016, the PSB Commander determined and documented the preliminary proposed discipline.

Paragraph 220.b. requires that presumptive discipline be increased if an employee has prior violations. We will defer our Phase 2 compliance assessment with this Paragraph until MCSO finalizes and publishes the revised Discipline Matrices. We will then assess Phase 2 compliance based on whether administrative investigations comply with this requirement.

Paragraph 220.c. requires that mitigating and aggravating factors be defined. We are deferring our Phase 2 compliance assessment with this Paragraph until MCSO finalizes and publishes the revised Discipline Matrices, and we can determine whether administrative investigations comply with this requirement.

Paragraph 220.d. prohibits the consideration of any prohibited biases when determining discipline. None of the sustained cases completed after July 20, 2016 that resulted in discipline included any indication that any biases were considered when determining discipline.

Paragraph 220.e. prohibits any conflicts, nepotism, or bias of any kind in the administration of discipline. None of the sustained cases completed after July 20, 2016 that resulted in discipline had any indication of conflicts, nepotism, or bias of any kind when determining the disciplinary sanction.

Paragraph 220.f. prohibits the consideration of the high (or low) profile nature of an incident when determining discipline. None of the sustained cases completed after July 20, 2016 that resulted in discipline showed any indication of consideration of the high or low profile nature of the incident when considering discipline.

Paragraph 220.g. requires that clearly defined forms of discipline and classes of discipline be defined. This Paragraph requires only Phase 1 compliance. Phase 2 compliance is not applicable.

Paragraph 220.h. requires that corrective action such as coaching or training is not considered to be discipline and should not be used as a substitute for discipline. Formal discipline was issued in all the cases sustained after July 20, 2016.

Paragraph 220.i. requires that MCSO will not take only non-disciplinary action in cases where the disciplinary matrices call for the imposition of discipline. None of the sustained cases resulted in MCSO taking non-disciplinary action when the disciplinary matrices currently in effect called for the imposition of discipline.

Paragraph 220.j. requires that MCSO consider whether non-disciplinary corrective action is also appropriate in a case where discipline has been imposed. During our review of the 35 sustained cases, there were no cases where non-disciplinary correction was taken in addition to discipline. We noted two instances where we believe non-disciplinary action would have also been appropriate. In one case, the employee alleged that clearly inappropriate conduct was unintentional and not intended to be inappropriate. MCSO should have required this employee to attend some type of training that addressed appropriate work conduct, especially since this

employee is now a supervisor. In the second case, the employee has repeated incidents of procedural misconduct. MCSO should have required some type of policy review or training to ensure that this employee was made fully aware of policy requirements.

Paragraph 220.k. requires that any departure from the discipline recommended under the disciplinary matrices be justified in writing and included in the employee's file. Ten of the 35 sustained cases had recommendations for serious discipline. In five of these 10 cases, the appointing authority deviated from the discipline range recommendation made by the PSB Commander. All of these cases involved suspensions. While the discipline still fell within the overall ranges established by the current matrices, we believe the recommendations of the PSB Commander were appropriate and should have been followed.

Paragraph 220.l. requires that a Disciplinary Matrix for unclassified management employees be at least as demanding as the Disciplinary Matrix for management-level employees. We are deferring our Phase 2 compliance assessment with this Paragraph until MCSO finalizes and publishes its revised Discipline Matrices, and we can determine whether disciplinary sanctions for unclassified management employees comply with this requirement. During this reporting period, there were no administrative investigations completed and submitted involving unclassified management employees.

Paragraph 221. *The Sheriff shall mandate that each act or omission that results in a sustained misconduct allegation shall be treated as a separate offense for the purposes of imposing discipline.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.

Phase 2: Not in compliance

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

During this reporting period, we reviewed 35 sustained misconduct investigations completed after July 20, 2016 that resulted in discipline. In four cases, we believe MCSO failed to properly consider each sustained misconduct allegation as a separate offense for purposes of imposing discipline as required. We will discuss our specific concerns with these cases with PSB personnel during our next site visit.

Paragraph 222. *The Sheriff shall also provide that the Commander of the Professional Standards Bureau shall make preliminary determinations of the discipline to be imposed in all cases and shall document those determinations in writing, including the presumptive range of discipline for the sustained misconduct allegation, and the employee's disciplinary history.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.

Phase 2: In compliance

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

During the previous reporting period, we reviewed three sustained administrative misconduct investigations that were completed by MCSO personnel after July 20, 2016. In each of the three cases, the PSB Commander documented in writing the presumptive range of discipline based on the Disciplinary Matrix still currently in effect. In our reviews of these three investigations, we found that the category and offense number was provided in the recommendation and that the investigative file included the employee's disciplinary history.

During this reporting period, we reviewed 35 sustained investigations that were completed after July 20, 2016 where discipline was assessed. In all but one of the 35 cases, MCSO submitted documentation verifying that the PSB Commander determined and documented in writing the presumptive range of discipline based on the Discipline Matrix still currently in effect. In our reviews of these investigations, we found that the category and offense number was provided in the recommendation and that the investigative file included the employee's disciplinary history.

E. Pre-Determination Hearings

Paragraph 223. *If the Commander of the Professional Standards Bureau makes a preliminary determination that serious discipline (defined as suspension, demotion, or termination) should be imposed, a designated member of MCSO's command staff will conduct a pre-determination hearing and will provide the employee with an opportunity to be heard.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- GC-17 (Employee Disciplinary Procedure), currently under revision.

Phase 2: In compliance

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

During the previous reporting period, three sustained investigations completed after July 20, 2016 resulted in discipline. None of the three cases contained any recommendation for serious discipline by the PSB Commander, and no PDHs occurred.

During this reporting period, 35 investigations that were completed after July 20, 2016 resulted in sustained findings and recommendations for discipline. Of these 35, 10 resulted in recommendations for serious discipline as defined in this Paragraph. In all of these cases, a Pre-Determination Hearing was scheduled. In one of the 10 cases, the employee chose not to attend the Hearing. In the remaining nine cases, the hearing occurred as required.

Paragraph 224. *Pre-determination hearings will be audio and video recorded in their entirety, and the recording shall be maintained with the administrative investigation file.*

Phase 1: Not in compliance

- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.

Phase 2: In compliance

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

During the previous reporting period, three cases completed after July 20, 2016 resulted in sustained findings and discipline. None of the cases contained any recommendation for serious discipline and no PDHs occurred.

During this reporting period, 10 sustained investigations completed after July 20, 2016 resulted in the recommendation for serious discipline as defined in this Paragraph. In one of the 10 cases scheduled for a PDH, the employee chose not to attend the hearing. In the nine cases where a hearing occurred, the hearing was audio- and video-recorded and included in the administrative file as required for compliance with this Paragraph.

Paragraph 225. *If an employee provides new or additional evidence at a pre-determination hearing, the hearing will be suspended and the matter will be returned to the internal affairs investigator for consideration or further investigation, as necessary. If after any further investigation or consideration of the new or additional evidence, there is no change in the determination of preliminary discipline, the matter will go back to the pre-determination hearing. The Professional Standards Bureau shall initiate a separate misconduct investigation if it appears that the employee intentionally withheld the new or additional evidence during the initial misconduct investigation.*

Phase 1: Not in compliance

- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.

Phase 2: Not in compliance

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

During the previous reporting period, there were three sustained investigations completed after July 20, 2016 where discipline was imposed. None of the cases contained any recommendation for serious discipline by the PSB Commander, and no PDHs occurred.

During this reporting period, 10 sustained investigations resulted in the recommendation for serious discipline. None of the cases resulted in the investigation being returned to the internal affairs investigator for consideration or further investigation prior to discipline being imposed.

Nine of the 10 cases resulted in a PDH. In one PDH, the principal in the investigation presented a lengthy document alleging that those MCSO employees who had initiated the internal affairs investigation against him had been untruthful and intentionally omitted facts. The appointing authority determined that, despite the claims made by this employee, the investigation was adequate. The appointing authority upheld the sustained findings and imposed a 40-hour suspension on the employee. The document authored by the employee was forwarded to PSB for further review. There are numerous concerns with how this investigation was conducted, how allegations were determined, the combining of violations from separate dates, the decision by the appointing authority to reduce the discipline from the original 56-hour preliminary decision, and the determination to assess coaching sessions for two of the six sustained allegations. In addition, given the serious allegations made by the involved employee, further follow-up should have occurred prior to the conclusion of this matter.

Paragraph 226. *If the designated member of MCSO's command staff conducting the pre-determination hearing does not uphold the charges recommended by the Professional Standards Bureau in any respect, or does not impose the Commander of the Professional Standards Bureau's recommended discipline and/or non-disciplinary corrective action, the Sheriff shall require the designated member of MCSO's command staff to set forth in writing his or her justification for doing so. This justification will be appended to the investigation file.*

Phase 1: Not in compliance

- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.

Phase 2: Not in compliance

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

During the previous reporting period, there were three sustained investigations completed after July 20, 2016 where discipline was imposed. None of the cases contained any recommendation for serious discipline by the PSB Commander, and no PDHs occurred.

During this reporting period, 10 sustained investigations completed after July 20, 2016 resulted in the recommendation for serious discipline and in nine of the cases, a PDH did occur. Eight of

the 10 cases were investigated by PSB. District supervisors completed the remaining two cases. In one of these two cases, the investigation was generally complete when it was determined that serious discipline could result – and though it was forwarded to PSB to further investigate if necessary, PSB appropriately determined that further investigation was unnecessary. In the second case, multiple performance issues were aggregated and a single investigation initiated, resulting in a recommendation for serious discipline. We have multiple concerns with the final outcomes of both investigations, which will be discussed with PSB personnel at our next site visit.

The appointing authority overturned findings or deviated from the initial discipline determination in five of the nine cases where PDHs occurred. In these five cases, the appointing authority did author a written justification for these decisions and this document was included with the investigation file.

While the appointing authority provided the written documentation as required, we disagree with the final decision in all five of these cases and cannot find MCSO in compliance with this Paragraph given these concerns. There were instances where the appointing authority failed to address aggravating circumstances, changed sustained findings to not-sustained, reduced a suspension without adequate justification and in one case reduced a suspension and determined that two of six sustained findings would receive coaching sessions. While in each of these cases, the appointing authority provided a written justification as required and often referenced the employee history in this document, we are concerned with final findings and decisions that fall outside of the standards established by MCSO. If MCSO is going to employ a standard, it should comply with it. Any changes, mitigation, or aggravation of the sanctions must be fully and appropriately justified to attain compliance with this Paragraph.

During our next site visit, we will meet with the Compliance Division and the appointing authority to discuss our concerns with the final outcomes in serious misconduct investigations.

Paragraph 227. *The Sheriff shall promulgate MCSO policy which shall provide that the designated member of MCSO's command staff conducting a pre-determination hearing should apply the disciplinary matrix and set forth clear guidelines for the grounds on which a deviation is permitted. The Sheriff shall mandate that the designated member of MCSO's command staff may not consider the following as grounds for mitigation or reducing the level of discipline prescribed by the matrix:*

a. his or her personal opinion about the employee's reputation;

b. the employee's past disciplinary history (or lack thereof), except as provided in the disciplinary matrix;

c. whether others were jointly responsible for the misconduct, except that the MCSO disciplinary decision maker may consider the measure of discipline imposed on other employees involved to the extent that discipline on others had been previously imposed and the conduct was similarly culpable.

Phase 1: Not in compliance

- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.

Phase 2: Not in compliance

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

During the previous reporting period, there were three sustained investigations completed after July 20, 2016 where discipline was imposed. None of the cases contained any recommendation for serious discipline by the PSB Commander, and no PDHs occurred.

During this reporting period, 10 sustained investigations completed after July 20, 2016 resulted in the recommendation for serious discipline.

Paragraph 227.a. prohibits the designated member of command staff conducting a pre-determination hearing from considering a personal opinion of an employee's reputation when determining discipline. There were no indications in our reviews that any personal opinion was considering in making a disciplinary decision.

Paragraph 227.b. prohibits the consideration of the employee's past disciplinary history (or lack thereof), except as provided in the disciplinary matrix. There was one instance where our Team believes that the member of command staff responsible for conducting the PDH considered disciplinary history outside of the requirements of this Paragraph.

Paragraph 227.c. prohibits the consideration of others jointly responsible for misconduct, except that the decision maker may consider such discipline to the extent that discipline on others had been previously imposed and the conduct was similarly culpable. There were no indications in our reviews that any consideration of the misconduct of others was improperly considered in the disciplinary decisions that were made.

Paragraph 228. *The Sheriff or his designee has the authority to rescind, revoke or alter any disciplinary decision made by either the Commander of the Professional Standards Bureau or the appointed MCSO disciplinary authority so long as:*

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

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

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

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

Phase 1: Not in compliance

- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.

Phase 2: In compliance

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

During this and the previous reporting period, there were no instances where the Sheriff or his designee rescinded, revoked, or altered any disciplinary decision made by either the Commander of the Professional Standards Bureau or the appointed MCSO disciplinary authority.

F. Criminal Misconduct Investigations

Paragraph 229. *Whenever an internal affairs investigator or Commander finds evidence of misconduct indicating apparent criminal conduct by an employee, the Sheriff shall require that the internal affairs investigator or Commander immediately notify the Commander of the Professional Standards Bureau. If the administrative misconduct investigation is being conducted by a Supervisor outside of the Professional Standards Bureau, the Sheriff shall require that the Professional Standards Bureau immediately take over the administrative investigation. If the evidence of misconduct pertains to someone who is superior in rank to the Commander of the Professional Standards Bureau and is within the Commander's chain of command, the Sheriff shall require the Commander to provide the evidence directly to what he or she believes is the appropriate prosecuting authority—the Maricopa County Attorney, the Arizona Attorney General, or the United States Attorney for the District of Arizona—without notifying those in his or her chain of command who may be the subject of a criminal investigation.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

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

During the previous reporting period, only one internal criminal investigation was completed after July 20, 2016. In this case, a District supervisor observed irregularities in credit card charges by an MCSO employee. An initial inquiry was conducted at the District level, as it was not known how these charges came about. Once the District supervisor became aware of potential criminal conduct, the case was immediately transferred to PSB, as required. The criminal investigation was properly completed by PSB criminal investigators and forwarded to an appropriate prosecuting authority, which declined prosecution. A companion administrative investigation was initiated as required.

During this reporting period, six internal criminal investigations were submitted for our review. All were completed after July 20, 2016. These cases were appropriately investigated by criminal investigators assigned to PSB, and the potential misconduct was brought to the attention of the PSB Commander as required. Two of the cases were initiated as internal complaints when PSB became aware of potential criminal misconduct. The other four cases were initiated based on externally generated complaints of misconduct that PSB determined could involve criminal misconduct. In all six cases, an administrative investigation was also initiated as required. None involved someone superior in rank to the Commander of PSB.

Paragraph 230. *If a misconduct allegation will be investigated criminally, the Sheriff shall require that the Professional Standards Bureau not compel an interview of the principal pursuant to Garrity v. New Jersey, 385 U.S. 493 (1967), until it has first consulted with the criminal investigator and the relevant prosecuting authority. No other part of the administrative investigation shall be held in abeyance unless specifically authorized by the Commander of the Professional Standards Bureau in consultation with the entity conducting the criminal investigation. The Sheriff shall require the Professional Standards Bureau to document in writing all decisions regarding compelling an interview, all decisions to hold any aspect of an administrative investigation in abeyance, and all consultations with the criminal investigator and prosecuting authority.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Deferred

To assess Phase 2 compliance with this Paragraph, we reviewed completed misconduct investigations conducted by both internal and administrative investigators to ensure that they contained appropriate documentation that complies with the requirements of this Paragraph.

During the previous reporting period, only one internal criminal investigation was completed after July 20, 2016. As this particular case was a CRM and we were monitoring the ongoing administrative case, we were able to confirm that PSB was complying with the requirements of this Paragraph.

During this reporting period, six internal criminal investigations were completed after July 20, 2016 and submitted for our review. The information required to determine compliance with this Paragraph on an ongoing basis cannot be determined from a review of the criminal investigation, but requires a review of the companion administrative investigation to ensure MCSO is in compliance with this Paragraph. In one of the cases, the investigation was conducted as a possible CRM; and our Team could determine during the weekly CRM meetings that PSB was complying with this requirement.

However, in many cases, the administrative investigation is not submitted and reviewed during the same reporting period as the criminal investigation, as administrative investigations are generally finalized after the completion of the criminal investigation. To ensure our ability to confirm that MCSO remains in compliance with this Paragraph on an ongoing basis, we discussed this issue with PSB during our January 2017 site visit. To resolve this issue, PSB has agreed that even if a criminal investigation has been previously submitted, when the administrative investigation is completed and submitted, the criminal investigative report will again be attached to the administrative investigation report. Reviews for compliance with this Paragraph will be based on administrative investigative reports that should contain the required information for this Paragraph.

Paragraph 231. *The Sheriff shall require the Professional Standards Bureau to ensure that investigators conducting a criminal investigation do not have access to any statements by the principal that were compelled pursuant to Garrity.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

PSB is separated into criminal and administrative sections. Criminal investigators and administrative investigators are housed on separate floors of the building. Criminal investigators have no access to the IAPro database for administrative investigations, and there are separate file rooms for criminal and administrative investigative documents and reports.

Paragraph 232. *The Sheriff shall require the Professional Standards Bureau to complete all such administrative investigations regardless of the outcome of any criminal investigation, including cases in which the prosecuting agency declines to prosecute or dismisses the criminal case after the initiation of criminal charges. The Sheriff shall require that all relevant provisions of MCSO policies and procedures and the operations manual for the Professional Standards Bureau shall remind members of the Bureau that administrative and criminal cases are held to different standards of proof, that the elements of a policy violation differ from those of a criminal offense, and that the purposes of the administrative investigation process differ from those of the criminal investigation process.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine MCSO's compliance with this Paragraph, we reviewed administrative and criminal misconduct investigations conducted by MCSO on a monthly basis.

During the previous reporting period, there was one internal criminal investigation that was completed after July 20, 2016 and subject to the requirements of the Second Order. We reviewed the criminal investigation and found it to be properly completed. This case was submitted to a prosecutorial agency, which declined prosecution. There was also a companion administrative investigation completed as required.

During this reporting period, we reviewed six internal criminal investigations that were completed after July 20, 2016. Three of these cases were closed as inactive, one was unfounded, one was exceptionally cleared and one resulted in an arrest and criminal charging. All six cases resulted in the initiation of administrative investigations, in addition to the criminal investigations, as required by this Paragraph.

Paragraph 233. *If the investigator conducting the criminal investigation decides to close the investigation without referring it to a prosecuting agency, this decision must be documented in writing and provided to the Professional Standards Bureau. The Commander of the Professional Standards Bureau shall separately consider whether to refer the matter to a prosecuting agency and shall document the decision in writing.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

During the previous reporting period, one internal criminal investigation was completed after July 20, 2016. This investigation was submitted to a prosecutorial agency, which declined prosecution.

During this reporting period, we reviewed six internal criminal investigations completed after July 20, 2016. All were conducted by PSB personnel. In one case, the involved employee was arrested and charged with criminal acts. The PSB Commander reviewed this investigation and directed that an additional interview be conducted and added to the report. Our Team concurs with the submission and charging decision in this case.

In three of the cases submitted for review, the investigator closed the case and provided written documentation without a submission to a prosecutorial agency. All three of these investigations were placed in an inactive status, due to the inability to establish a suspect or determine that a criminal offense had occurred. The PSB Commander directed that additional information be added to one report, and concurred with the decisions of the investigators in these cases. Our Team concurs with these decisions.

The remaining two cases were also closed by investigators without submission to a prosecutorial agency for review. One of these cases was exceptionally cleared as the potential victim declined to aid in prosecution. The final case was unfounded as the investigator determined that there was no indication that any criminal conduct had occurred. In both these cases, the decision of the investigator regarding criminal submittal was approved by the PSB Commander. Both of these cases, which involve Detention personnel, have numerous associated administrative issues.

In all the cases not submitted to a prosecutorial agency for review, investigators documented in writing their conclusions and decisions to close these cases without submittal. The PSB Commander then approved these decisions in writing.

When reviewing the administrative investigations, our Team will confirm that the administrative concerns have been appropriately addressed and discuss any concerns with MCSO during our next site visit.

Paragraph 234. *If the investigator conducting the criminal investigation decides to refer the matter to a prosecuting agency, the Professional Standards Bureau shall review the information provided to the prosecuting agency to ensure that it is of sufficient quality and completeness. The Commander of the Professional Standards Bureau shall direct that the investigator conduct additional investigation when it appears that there is additional relevant evidence that may improve the reliability or credibility of the investigation. Such directions shall be documented in writing and included in the investigatory file.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

During the previous reporting period, one internal criminal investigation was completed after July 20, 2016. This investigation was submitted to a prosecutorial agency, which declined prosecution. In this case, the PSB Commander did not direct additional investigation prior to submittal to the prosecuting agency. We reviewed this investigation and found it to be thorough and well-written.

During this reporting period, six internal criminal investigations were completed after July 20, 2016. None of the six cases were referred to a prosecutorial agency. All six cases were provided to the PSB Commander who concurred with the decisions not to submit these cases and signed off on the cases. In two cases, the PSB Commander returned the cases to the investigator to add additional information prior to concurring with the investigator's decision. This was documented and included in the case file submitted as required.

Paragraph 235. *If the prosecuting agency declines to prosecute or dismisses the criminal case after the initiation of criminal charges, the Professional Standards Bureau shall request an explanation for this decision, which shall be documented in writing and appended to the criminal investigation report.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

During the previous reporting period, only one internal criminal investigation completed after July 20, 2016 was submitted for review. This case was appropriately submitted to a prosecutorial agency and charges were declined. MCSO followed up with the prosecuting agency, which responded that although the investigator had "left no stone unturned," without a video, a confession, or an eyewitness, there was "inadequate evidence of identification."

During this reporting period, our Team received six internal criminal investigations completed after July 20, 2016 for review. Only one of these investigations was submitted to a prosecutorial agency. An arrest was made by MCSO in this case and criminal charges were filed by the prosecutorial agency.

Paragraph 236. *The Sheriff shall require the Professional Standards Bureau to maintain all criminal investigation reports and files after they are completed for record-keeping in accordance with applicable law.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

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

During our January 2017 site visit, a Monitoring Team member inspected the file rooms where hardcopies of investigations are kept. Criminal and administrative investigation files are stored in separate rooms, and access to these rooms is restricted. A random review of criminal investigation case files confirmed that PSB is maintaining files as required. A Monitoring Team member also has access to IAPRO and previously confirmed that case files are maintained in an electronic format.

G. Civilian Complaint Intake, Communication, and Tracking

Paragraph 237. *Within six months of the entry of this Order, the Monitor, in consultation with the Community Advisory Board, will develop and implement a program to promote awareness throughout the Maricopa County community about the process for filing complaints about the conduct of MCSO employees.*

Phase 1: Not applicable

Phase 2: Not applicable

The Monitoring Team is developing a four-part program for promoting awareness throughout the Maricopa County community regarding the process for filing complaints about the conduct of MCSO employees. First, the program will include ongoing public service announcements – made via local media outlets and social media – that provide basic information (in both English and Spanish) about MCSO's complaint process. Second, we will offer meetings to social, professional, civic, and faith organizations throughout Maricopa County to discuss the process for filing complaints. Third, we will coordinate with public school districts in Maricopa County for approval to distribute fact sheets describing the complaint process to school families. Lastly, we will encourage the CAB to conduct a study to identify barriers to the filing of civilian complaints against MCSO personnel and assist the CAB in developing the methodology for such a study. The program will incorporate input from the Community Advisory Board (CAB), MCSO, and the ACLU of Arizona.

Paragraph 238. *The Sheriff shall require the MCSO to accept all civilian complaints, whether submitted verbally or in writing; in person, by phone, by mail, or online; by a complainant, someone acting on the complainant's behalf, or anonymously; and with or without a signature from the complainant. MCSO will document all complaints in writing.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 119 misconduct investigations conducted by MCSO personnel and completed during this reporting period.

None of the investigations we reviewed involved allegations where a principal was under investigation for failing to accept any mode of civilian complaint. Moreover, during this reporting period, our Team did not discover nor become aware of any evidence that civilians had attempted to make a complaint to MCSO and the complaint was not accepted.

Paragraph 239. *In locations clearly visible to members of the public at the reception desk at MCSO headquarters and at all District stations, the Sheriff and the MCSO will post and maintain permanent placards clearly and simply describing the civilian complaint process that is visible to the public at all hours. The placards shall include relevant contact information, including telephone numbers, email addresses, mailing addresses, and Internet sites. The placards shall be in both English and Spanish.*

Phase 1: In compliance

- GJ-24 (Community Relations and Youth Programs), most recently amended on January 7, 2017.

Phase 2: Not in compliance

The permanent placards were not approved during this reporting period, and consequently were not placed in locations at MCSO headquarters and all District stations. We and the Parties reviewed the proposed content for the placards as part of the policy review process, and expect compliance with this Paragraph during the next reporting period.

The draft placard states that anyone who has a concern regarding the performance of any MCSO employee has the right to file a complaint in English or Spanish or their preferred language, to include sign language; in person at any District facility or at the Professional Standards Bureau in person, by mail, by telephone, by fax, or online. The draft placards include relevant contact information, including telephone numbers, email addresses, mailing addresses, and websites.

Paragraph 240. *The Sheriff shall require all deputies to carry complaint forms in their MCSO vehicles. Upon request, deputies will provide individuals with complaint forms and information about how to file a complaint, their name and badge number, and the contact information, including telephone number and email address, of their immediate supervising officer. The Sheriff must provide all supervising officers with telephones. Supervising officers must timely respond to such complaints registered by civilians.*

Phase 1: In compliance

- GJ-24 (Community Relations and Youth Programs), most recently amended on January 7, 2017.

Phase 2: Not in compliance

During this reporting period, MCSO successfully executed its plan to distribute complaint forms to deputies to carry in their patrol vehicles. MCSO's plan included: printing the forms; disseminating them to deputies; and ensuring that all deputies understand their obligations to provide individuals with complaint forms and information about how to file a complaint, their name and badge number, and the contact information for their immediate supervising officer. MCSO has also issued cell phones to the majority of supervisors and expects to complete the phone cell issuance to all patrol supervisors during the next reporting period.

Paragraph 241. *The Sheriff will ensure that the Professional Standards Bureau facility is easily accessible to members of the public. There shall be a space available for receiving walk-in visitors and personnel who can assist the public with filing complaints and/or answer an individual's questions about the complaint investigation process.*

Phase 1: Not applicable

Phase 2: Not in compliance

MCSO has identified a Professional Standards Bureau facility easily accessible to members of the public during this reporting period. During our October site visit, representatives of our Team, Plaintiffs, and Plaintiff-Intervenors visited a potential site. There were some noted concerns on the parts of the Plaintiffs and Intervenors about the proposed site. During this reporting period, all Parties continued with their evaluation of this particular site and other possible options that are easily accessible to members of the public.

Paragraph 242. *The Sheriff will also make complaint forms widely available at locations around the County including: the websites of MCSO and Maricopa County government; the lobby of MCSO's headquarters; each patrol District; and the Maricopa County government offices. The Sheriff will ask locations, such as public library branches and the offices and gathering places of community groups, to make these materials available.*

Phase 1: In compliance

- GJ-24 (Community Relations and Youth Programs), most recently amended on January 7, 2017.

Phase 2: Not in compliance

MCSO has complaint forms available on the MCSO and Maricopa County websites; and widely available at MCSO facilities, County offices, and a number of public locations where community groups meet. MCSO expects to have the complaint forms fully distributed during the next reporting period. MCSO is also developing plans for restocking complaint forms once the initial distribution has been completed.

Paragraph 243. *The Sheriff shall establish a free, 24-hour hotline for members of the public to make complaints.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.

Phase 2: In compliance

The free 24-hour hotline for members of the public to make complaints was established during the last reporting period and continued to be operational during this reporting period. A Monitoring Team representative called the hotline during this reporting period, and verified that the hotline is operational in both English and Spanish, and provides instructions in English and Spanish on how to register a complaint. Callers are advised that if the call is an emergency,

they are to call 911. Callers are requested to provide their name, phone number and a brief message about their complaint. If they leave a recorded message, they are advised they will be contacted as soon as possible. If callers do not wish to leave a recorded message, they are provided with a phone number to call to speak to a supervisor. That number connects the callers to the MCSO switchboard operator, who will connect the caller to an appropriate supervisor. Callers are further advised of MCSO's operating hours if they wish to contact PSB directly.

The hotline is housed in PSB, and PSB personnel access any recorded messages at the beginning of each business day.

Paragraph 244. *The Sheriff shall ensure that the MCSO's complaint form does not contain any language that could reasonably be construed as discouraging the filing of a complaint, such as warnings about the potential criminal consequences for filing false complaints.*

Phase 1: In compliance

- GJ-24 (Community Relations and Youth Programs), most recently amended on January 7, 2017.

Phase 2: In compliance

Our review of the English and Spanish complaint forms' content did not reveal any language that could reasonably be construed as discouraging the filing of a complaint.

Paragraph 245. *Within two months of the entry of this Order, complaint forms will be made available, at a minimum, in English and Spanish. The MCSO will make reasonable efforts to ensure that complainants who speak other languages (including sign language) and have limited English proficiency can file complaints in their preferred language. The fact that a complainant does not speak, read, or write in English, or is deaf or hard of hearing, will not be grounds to decline to accept or investigate a complaint.*

Phase 1: In compliance

- GJ-24 (Community Relations and Youth Programs), most recently amended on January 7, 2017.

Phase 2: In compliance

Complaint forms in English and Spanish are accessible on MCSO's website. The complaint form states that anyone who has a concern regarding the performance of any MCSO employee has the right to file a complaint – in English or Spanish or their preferred language, to include sign language – in person at any District facility or at the Professional Standards Bureau in person, by mail, by telephone, by fax, or online. The forms provide street addresses, contact numbers, and website information.

Paragraph 246. *In the course of investigating a civilian complaint, the Professional Standards Bureau will send periodic written updates to the complainant including:*

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

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

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

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.

Phase 2: Not in compliance

To assess Phase 2 compliance with this Paragraph, we initially reviewed 119 misconduct investigations conducted by MCSO personnel and completed during this reporting period. Sixty-six of these complaints were generated by external complainants.

Paragraph 246.a. requires that a civilian complainant receive a written notice of receipt of their complaint within seven days. This letter must include the tracking number, the name of the investigator assigned, and information regarding how the complainant can inquire about the status of their complaint. In 14 of the 66 external complaints, a complaint receipt was not provided to the complainant within seven days and/or did not include a PSB tracking number. Thirteen of the 66 external complainants did not receive a notice, which contained the name of the investigator and how the complainant could inquire about the status of the complaint.

Paragraph 246.b. requires that PSB notify a civilian complainant of the outcome of the investigation. In three of the 66 externally generated complaints, the complainant was not provided a notice of the outcome of the investigation.

Paragraph 246.c. requires that PSB notify a civilian complainant of the discipline imposed as soon as permitted by law. In five of the 66 external complaints, the complainant was not provided a notice of the discipline imposed as soon as permitted by law.

Paragraph 247. *Notwithstanding the above written communications, a complainant and/or his or her representative may contact the Professional Standards Bureau at any time to determine the status of his or her complaint. The Sheriff shall require the MCSO to update the complainant with the status of the investigation.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 119 misconduct investigations conducted by MCSO personnel and completed during this reporting period. Sixty-six of those investigations were generated with external complaints.

During this reporting period, based upon the documentation our Team was provided, we did not discover any instance where a complainant or their representative was frustrated from, or denied, contact with PSB to determine the status of their complaint, or to request and receive an update.

Paragraph 248. *The Professional Standards Bureau will track, as a separate category of complaints, allegations of biased policing, including allegations that a deputy conducted an investigatory stop or arrest based on an individual's demographic category or used a slur based on an individual's actual or perceived race, ethnicity, nationality, or immigration status, sex, sexual orientation, or gender identity. The Professional Standards Bureau will require that complaints of biased policing are captured and tracked appropriately, even if the complainant does not so label the allegation.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

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

Each month, PSB provides a list of new complaints alleging biased policing. PSB also provides all closed investigations where biased policing was alleged. For this Paragraph, only allegations of biased policing that do not affect the Plaintiffs' class are reported. Those complaints alleging bias against members of the Plaintiffs' class are captured in a separate category and reported under Paragraphs 275-288.

During the previous reporting period, PSB provided two completed investigations where bias had been alleged that did not affect members of the Plaintiffs' class. Only one of these investigations was completed after July 20, 2016, and was appropriately tracked as required by this Paragraph.

During this reporting period, PSB completed five investigations where potential bias was alleged that did not affect members of the Plaintiffs' class. All five of these investigations were investigated by PSB, completed after July 20, 2016, and tracked in a separate category as required by this Paragraph.

Paragraph 249. *The Professional Standards Bureau will track, as a separate category of complaints, allegations of unlawful investigatory stops, searches, seizures, or arrests.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine Phase 2 compliance for this Paragraph, we review a monthly report from PSB that lists those closed misconduct investigations that are being tracked as allegations of unlawful investigatory stops, searches, seizures, or arrests. We also review misconduct investigations completed by MCSO on a monthly basis.

For the previous reporting period, PSB provided a list of four completed misconduct investigations that were being tracked in accordance with this Paragraph. The completed investigations were submitted to our Team and reviewed.

During this reporting period, PSB provided a list of two completed investigations that were being tracked in accordance with this Paragraph. We agree with PSB's assessment that the complaints involve allegations of unlawful stops, searches, seizures, or arrests. Both completed investigations were forwarded to our Team for review.

Paragraph 250. *The Professional Standards Bureau will conduct regular assessments of the types of complaints being received to identify and assess potential problematic patterns and trends.*

Phase 1: Not in compliance

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

During our January 2017 site visit, PSB command personnel indicated that the bureau has tasked its newly hired management analyst with preparing the data for the initial assessment of complaints being that will be reviewed by PSB command personnel. PSB has not completed a formal assessment to date as required by this Paragraph.

H. Transparency Measures

Paragraph 251. *The Sheriff shall require the Professional Standards Bureau to produce a semi-annual public report on misconduct investigations, including, at a minimum, the following:*

a. summary information, which does not name the specific employees involved, about any sustained allegations that an employee violated conflict-of-interest rules in conducting or reviewing misconduct investigations;

b. aggregate data on complaints received from the public, broken down by district; rank of principal(s); nature of contact (traffic stop, pedestrian stop, call for service, etc.); nature of allegation (rudeness, bias-based policing, etc.); complainants' demographic information; complaints received from anonymous complainants or third parties; and principals' demographic information;

c. analysis of whether any increase or decrease in the number of civilian complaints received from reporting period to reporting period is attributable to issues in the complaint intake process or other factors;

d. aggregate data on internally-generated misconduct allegations, broken down by similar categories as those for civilian complaints;

e. aggregate data on the processing of misconduct cases, including the number of cases assigned to Supervisors outside of the Professional Standards Bureau versus investigators in the Professional Standards Bureau; the average and median time from the initiation of an investigation to its submission by the investigator to his or her chain of command; the average and median time from the submission of the investigation by the investigator to a final decision regarding discipline, or other final disposition if no discipline is imposed; the number of investigations returned to the original investigator due to conclusions not being supported by the evidence; and the number of investigations returned to the original investigator to conduct additional investigation;

f. aggregate data on the outcomes of misconduct investigations, including the number of sustained, not sustained, exonerated, and unfounded misconduct complaints; the number of misconduct allegations supported by the appropriate standard of proof; the number of sustained allegations resulting in a non-disciplinary outcome, coaching, written reprimand, suspension, demotion, and termination; the number of cases in which findings were changed after a pre-determination hearing, broken down by initial finding and final finding; the number of cases in which discipline was changed after a pre-determination hearing, broken down by initial discipline and final discipline; the number of cases in which findings were overruled, sustained, or changed by the Maricopa County Law Enforcement Merit System Council, broken down by the finding reached by the MCSO and the finding reached by the Council; and the number of cases in which discipline was altered by the Council, broken down by the discipline imposed by the MCSO and the disciplinary ruling of the Council; and similar information on appeals beyond the Council; and

g. aggregate data on employees with persistent or serious misconduct problems, including the number of employees who have been the subject of more than two misconduct investigations in the previous 12 months, broken down by serious and minor misconduct; the number of employees who have had more than one sustained allegation of minor misconduct in the previous 12 months, broken down by the number of sustained allegations; the number of employees who have had more than one sustained allegation of serious misconduct in the previous 12 months, broken down by the number of sustained allegations; and the number of criminal prosecutions of employees, broken down by criminal charge.

Phase 1: Not in compliance

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

The proposed PSB Operations Manual reviewed by the Monitoring Team identifies the PSB Captain as responsible for preparing the Semi-Annual Public Report on misconduct investigations. The proposed manual also contains provisions for the production of summary information regarding sustained conflict of interest violations; an analysis of the complaint intake process; and aggregate data on complaints (internal and external), processing of misconduct cases, outcomes of misconduct cases, and employees with persistent misconduct problems.

During our January 2017 site visit, PSB command personnel indicated that they anticipate that they will have example of a proposed semi-annual public report on misconduct investigations ready for the Monitoring Team's review during our April 2017 site visit.

Paragraph 252. *The Sheriff shall require the MCSO to make detailed summaries of completed internal affairs investigations readily available to the public to the full extent permitted under state law, in electronic form on a designated section of its website that is linked to directly from the MCSO's home page with prominent language that clearly indicates to the public that the link provides information about investigations of misconduct alleged against MCSO employees.*

Phase 1: Not in compliance

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

PSB provided an example of the information that will be captured from completed misconduct investigations for posting as required on the MCSO website. The following data fields have been identified for public disclosure: IA Number, (Date) Opened, Incident Type, Original Complaint, Policy Violation(s) Alleged/Outcome, Discipline, Investigative Summary, and (Date) Completed.

During this reporting period, PSB did not make detailed summaries of completed internal investigations readily available to the public in electronic form in a designated section of the MCSO website.

Paragraph 253. *The MCSO Bureau of Internal Oversight shall produce a semi-annual public audit report regarding misconduct investigations. This report shall analyze a stratified random sample of misconduct investigations that were completed during the previous six months to identify any procedural irregularities, including any instances in which:*

a. complaint notification procedures were not followed;

b. a misconduct complaint was not assigned a unique identifier;

c. investigation assignment protocols were not followed, such as serious or criminal misconduct being investigated outside of the Professional Standards Bureau;

d. deadlines were not met;

e. an investigation was conducted by an employee who had not received required misconduct investigation training;

f. an investigation was conducted by an employee with a history of multiple sustained misconduct allegations, or one sustained allegation of a Category 6 or Category 7 offense from the MCSO's disciplinary matrices;

g. an investigation was conducted by an employee who was named as a principal or witness in any investigation of the underlying incident;

h. an investigation was conducted of a superior officer within the internal affairs investigator's chain of command;

i. any interviews were not recorded;

j. the investigation report was not reviewed by the appropriate personnel;

k. employees were promoted or received a salary increase while named as a principal in an ongoing misconduct investigation absent the required written justification;

l. a final finding was not reached on a misconduct allegation;

m. an employee's disciplinary history was not documented in a disciplinary recommendation; or

n. no written explanation was provided for the imposition of discipline inconsistent with the disciplinary matrix.

Phase 1: In compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.

Phase 2: Not in compliance

During our January 2017 site visit, the BIO Commander indicated that data is available and that MCSO was waiting for the final stratified random sample from the Monitoring Team. The BIO Commander also noted a pool of cases are available for assessment; MCSO has an inspection process in place once the randomized sample has been approved for review.

Subsequent to our discussions during our January 2017 site visit, we provided MCSO with the stratified random sample to be used in the first audit to be produced pursuant to this Paragraph.

I. Testing Program for Civilian Complaint Intake

Paragraph 254. *The Sheriff shall initiate a testing program designed to assess civilian complaint intake. Specifically, the testing program shall assess whether employees are providing civilians appropriate and accurate information about the complaint process and whether employees are notifying the Professional Standards Bureau upon the receipt of a civilian complaint.*

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- Maricopa County Complaint Intake Testing Program, currently under revision.

Phase 2: Not in compliance

BIO has selected and signed contracts with two vendors for development of the MCSO CIT program. One vendor will specifically audit telephone, email, U.S. Mail, and website complaints. The second vendor will conduct the required in-person testing. MCSO noted that both vendors have existing methodologies that MCSO can adopt to capture the necessary CIT program information.

Paragraph 255. *The testing program is not intended to assess investigations of civilian complaints, and the MCSO shall design the testing program in such a way that it does not waste resources investigating fictitious complaints made by testers.*

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- Maricopa County Complaint Intake Testing Program, currently under revision.

Phase 2: Not in compliance

BIO has selected and signed contracts with two vendors to develop the required CIT program. The Parties agreed to initiate the CIT program when GH-2 (Internal Investigations) is finalized and approved.

Paragraph 256. *The testing program shall assess complaint intake for complaints made in person at MCSO facilities, complaints made telephonically, by mail, and complaints made electronically by email or through MCSO's website. Testers shall not interfere with deputies taking law enforcement action. Testers shall not attempt to assess complaint intake in the course of traffic stops or other law enforcement action being taken outside of MCSO facilities.*

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- Maricopa County Complaint Intake Testing Program, currently under revision.

Phase 2: Not in compliance

BIO has selected and signed contracts with two vendors to develop the required CIT program. The Parties agreed to initiate the CIT program when GH-2 (Internal Investigations) is finalized and approved.

Paragraph 257. *The testing program shall include sufficient random and targeted testing to assess the complaint intake process, utilizing surreptitious video and/or audio recording, as permitted by state law, of testers' interactions with MCSO personnel to assess the appropriateness of responses and information provided.*

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- Maricopa County Complaint Intake Testing Program, currently under revision.

Phase 2: Not in compliance

BIO has selected and signed contracts with two vendors to develop the required CIT program. The Parties agreed to initiate the CIT program when GH-2 (Internal Investigations) is finalized and approved.

Paragraph 258. *The testing program shall also assess whether employees promptly notify the Professional Standards Bureau of civilian complaints and provide accurate and complete information to the Bureau.*

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- Maricopa County Complaint Intake Testing Program, currently under revision.

Phase 2: Not in compliance

BIO has selected and signed contracts with two vendors to develop the required CIT program. The Parties agreed to initiate the CIT program when GH-2 (Internal Investigations) is finalized and approved.

Paragraph 259. *MCSO shall not permit current or former employees to serve as testers.*

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- Maricopa County Complaint Intake Testing Program, currently under revision.

Phase 2: Not in compliance

BIO has selected and signed contracts with two vendors to develop the required CIT program. The Parties agreed to initiate the CIT program when GH-2 (Internal Investigations) is finalized and approved.

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

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

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

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

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

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

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

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

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- Maricopa County Complaint Intake Testing Program, currently under revision.

Phase 2: Not in compliance

BIO has selected and signed contracts with two vendors to develop the required CIT program. The Parties agreed to initiate the CIT program when GH-2 (Internal Investigations) is finalized and approved.

Section 13: Community Outreach and Community Advisory Board

COURT ORDER XVI. COMMUNITY OUTREACH AND COMMUNITY ADVISORY BOARD

Paragraph 261. *The Community Advisory Board may conduct or retain a consultant to conduct a study to identify barriers to the filing of civilian complaints against MCSO personnel.*

Phase 1: Not applicable

Phase 2: Not applicable

During this reporting period, the Monitoring Team continued exploring with the CAB members the possibility of retaining a consultant to conduct a study to identify barriers to the filing of civilian complaints against MCSO personnel. After the resignation of one CAB member, we placed those discussions on hold, but we look forward to continuing these discussions with the CAB during our upcoming site visit.

Paragraph 262. *In addition to the administrative support provided for in the Supplemental Permanent Injunction, (Doc. 670 ¶ 117), the Community Advisory Board shall be provided with annual funding to support its activities, including but not limited to funds for appropriate research, outreach advertising and website maintenance, stipends for intern support, professional interpretation and translation, and out-of-pocket costs of the Community Advisory Board members for transportation related to their official responsibilities. The Community Advisory Board shall submit a proposed annual budget to the Monitor, not to exceed $15,000, and upon approval of the annual budget, the County shall deposit that amount into an account established by the Community Advisory Board for that purpose. The Community Advisory Board shall be required to keep detailed records of expenditures which are subject to review.*

Phase 1: Not applicable

Phase 2: Not applicable

During this reporting period, the Monitoring Team continued our discussions with the CAB members on how CAB could propose an annual budget. ACLU of Arizona staff offered assistance to CAB from their office to prepare a budget and define budget categories. After the resignation of one CAB member, we placed those discussions on hold, but we look forward to continuing these discussions with the CAB during our upcoming site visit.

Section 14: Supervision and Staffing

COURT ORDER XVII. SUPERVISION AND STAFFING

Paragraph 263. *The following Section of this Order represents additions and amendments to Section X of the first Supplemental Permanent Injunction, Supervision and Evaluations of Officer Performance, and the provisions of this Section override any conflicting provisions in Section X of the first Supplemental Permanent Injunction.*

Paragraph 264. *The Sheriff shall ensure that all patrol deputies shall be assigned to a primary, clearly identified, first-line supervisor.*

Phase 1: In compliance

- GB-2 (Command Responsibility), most recently amended on January 31, 2017.

Phase 2: In compliance

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

Paragraph 265. *First-line patrol supervisors shall be responsible for closely and consistently supervising all deputies under their primary command.*

Phase 1: In compliance

- GB-2 (Command Responsibility), most recently amended on January 31, 2017.

Phase 2: Deferred

As Paragraph 265 is a general directive that covers many aspects of supervision, there are several requirements covered in other Paragraphs of this Order that directly impact this Paragraph; these requirements must be met before MCSO can establish compliance with Paragraph 265. We have determined that MCSO is in compliance with Paragraphs 89, 93, and 94 as they relate to this Paragraph. In addition to these, MCSO must be in compliance with Paragraphs 83, 85, 90, and 91, to meet the compliance requirements of Paragraph 265. During this reporting period, MCSO improved in many of the areas related to supervision; but underperformed in terms of meeting Phase 2 compliance with Paragraphs 83, 85, 90, and 91.

Paragraph 266. *First-line patrol supervisors shall be assigned as primary supervisor to no more persons than it is possible to effectively supervise. The Sheriff should seek to establish staffing that permits a supervisor to oversee no more than eight deputies, but in no event should a supervisor be responsible for more than ten persons. If the Sheriff determines that assignment complexity, the geographic size of a district, the volume of calls for service, or other circumstances warrant an increase or decrease in the level of supervision for any unit, squad, or shift, it shall explain such reasons in writing, and, during the period that the MCSO is subject to the Monitor, shall provide the Monitor with such explanations. The Monitor shall provide an assessment to the Court as to whether the reduced or increased ratio is appropriate in the circumstances indicated.*

Phase 1: In compliance

- GB-2 (Command Responsibility), most recently amended on January 31, 2017.

Phase 2: In compliance

To verify Phase 2 compliance with this Paragraph, we reviewed monthly rosters and shift rosters for the fourth quarter of 2016. We also reviewed the October, November, and December 2016 Patrol Bureau shift roster inspection summaries, which discuss the results of BIO's examination of every MCSO shift roster during those months to verify that shifts did not exceed the 1:10 supervisor:deputy ratio. The BIO inspection summary dated November 28, 2016, noted that there was 100% compliance in October. The BIO inspection summary dated December 15, 2016, noted that the compliance rate was 99.90%. District 3 had no shift roster for one squad, for one date in November. All remaining Districts were in 100% compliance. The BIO inspection summary for December, dated January 17, 2017, noted four deficiencies, for a 99.58% compliance rate. Districts 1 and 2 failed to complete shift rosters for one squad in their respective Districts, in one of the days of the month reviewed. District 3 failed to complete shift rosters for two different squads, on two different dates. BIO issued Action Forms for the above-named deficiencies.

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

During our January 2017 site visit, we visited and interviewed commanders from District 6 and Lake Patrol. These two Districts generally have supervisor:deputy ratios that are 1:5 or less, and we confirmed this in our District site visits.

During our reviews of documentation, we have not noted any supervisor:deputy ratios greater than 1:8. During this reporting period, we did not receive any notification from MCSO with regard to any adjustments related to supervisor:deputy ratios. We have found that MCSO has been in compliance with the Court-ordered supervisory ratios.

Paragraph 267. *Supervisors shall be responsible for close and effective supervision of deputies under their command. Supervisors shall ensure that all deputies under their direct command comply with MCSO policy, federal, state and local law, and this Court's orders.*

Phase 1: In compliance

- GB-2 (Command Responsibility), most recently amended on January 31, 2017.

Phase 2: Deferred

Close and effective supervision requires that supervisors consistently apply the concepts established in several Paragraphs of this Order. There are requirements covered in other Paragraphs that directly impact Paragraph 267, and must therefore be in compliance for MCSO to establish compliance with this Paragraph. We have determined that MCSO is in compliance with Paragraphs 89, 93, 94, and 96 as they relate to this Paragraph. In addition, MCSO must achieve compliance with Paragraphs 83, 85, 90, and 91, to achieve compliance with Paragraph 267. MCSO has taken steps toward Phase 2 compliance with the Paragraphs that are interrelated with Paragraph 267.

Paragraph 268. *During the term that a Monitor oversees the Sheriff and the MCSO in this action, any transfer of sworn personnel or supervisors in or out of the Professional Standards Bureau, the Bureau of Internal Oversight, and the Court Implementation Division shall require advanced approval from the Monitor. Prior to any transfer into any of these components, the MCSO shall provide the Court, the Monitor, and the parties with advance notice of the transfer and shall produce copies of the individual's résumé and disciplinary history. The Court may order the removal of the heads of these components if doing so is, in the Court's view, necessary to achieve compliance in a timely manner.*

Phase 1: Deferred

- GC-7 (Transfer of Personnel), currently under revision.
- Court Implementation Division Operations Manual, currently under revision.

Phase 2: In compliance

As of August 1, 2016, MCSO began submitting advance notice of transfers of personnel to and from PSB, BIO, and CID. During this reporting period, MCSO summited the resumes and disciplinary history of four employees for approval. The Monitoring Team reviewed the documentation submitted for each employee to ensure that each met the requirements of this Paragraph. We approved all of the submitted transfers based on the information provided. During our January 2017 site visit, the Monitoring Team audited the files of two of the employees transferred and verified the accuracy of the information submitted for each employee. We had previously reviewed the personnel files of the other two employees during our October site visit.

Section 15: Document Preservation and Production

COURT ORDER XVIII. DOCUMENT PRESERVATION AND PRODUCTION

Paragraph 269. *The Sheriff shall ensure that when the MCSO receives a document preservation notice from a litigant, the MCSO shall promptly communicate that document preservation notice to all personnel who might possibly have responsive documents.*

Phase 1: Not in compliance

- GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices), currently under revision.

Phase 2: Not in compliance

To verify MCSO's Phase 2 compliance with this Paragraph, we reviewed monthly submittals of document preservation notices to MCSO employees for the reporting period. Document preservation is set in motion when a party, usually the Maricopa County Attorney's Office, sends a litigation hold notice or written directive to MCSO requesting the preservation of relevant documents or records and electronically stored information, in anticipation of future litigation against the agency. MCAO's standard form sent to MCSO for the preservation of documents is called "Litigation Hold Notices and the Document Preservation Notice Directive."

During this reporting period, MCSO notified us that MCAO attorneys had instructed CID to remove the "Litigation Hold Notices and the Document Preservation Notice Directive" from each subject file. As a result, MCSO only provided us with the Document Preservation Notice which is drafted by the Legal Liaison Section (LLS) with information from the litigation hold, identifying what documents should be preserved. The Document Preservation Notice is to be distributed by LLS to all pertinent MCSO divisions within two business days of the receipt of the original hold. The date of receipt of the original "Litigation Hold Notices and the Document Preservation Notice Directive" was not included in the Document Preservation Notice drafted by the LLS. Therefore, we cannot reach a conclusion as to whether or not the agency was complying with the timeline of two business days set forth in the most current draft of GD-9. However, we note that the Document Preservation Notices had one date and additional emails for further requests of preservation had different days beyond the two business days required by GD-9 for further dissemination to other divisions.

During our January 2017 site visit, the Legal Liaison Section Manager informed us that the timelines set forth in GD-9 were too short and not viable and that MCSO required additional time to comply. We requested that MCSO review the draft of GD-9 to adjust the policy deadlines to more feasible timeframes, subject to the approval of the Parties and the Monitor. We have yet to receive any proposals for changes to GD-9.

In addition, MCSO informed us during our site visit that personnel send follow-ups on preservation requests until they receive an adequate response. The LLS Manager stated that MCSO does not currently have an oversight process in place to ensure that the preservation is made, as required by GD-9. Although the Technology Management Bureau is assigned multiple responsibilities as per GD-9, the Deputy Chief of the bureau informed us that MCSO is still searching for automated tools to comply with the processes set forth in the policy; she expects that by February 2017, MCSO will have an idea of what these automated tools might look like to help simplify internal processes within the LLS.

Paragraph 270. *The Sheriff shall ensure that when the MCSO receives a request for documents in the course of litigation, it shall:*

a. promptly communicate the document request to all personnel who might possibly be in possession of responsive documents;

b. ensure that all existing electronic files, including email files and data stored on networked drives, are sequestered and preserved through a centralized process; and

c. ensure that a thorough and adequate search for documents is conducted, and that each employee who might possibly be in possession of responsive documents conducts a thorough and adequate search of all relevant physical and electronic files.

Phase 1: Not in compliance

- GD-9 (Litigation Initiation, Document Preservation and Document Production Notices), currently under revision.

Phase 2: Not in compliance

To verify MCSO's Phase 2 compliance with this Paragraph, we reviewed monthly submittals of requests for documents to MCSO employees for the reporting period and documents drafted by the Legal Liaison Section in search of documents from other divisions of the agency.

Paragraph 270.a. requires prompt communication of document requests to all personnel who might possibly be in possession of responsive documents. GD-9 requires the Legal Liaison Section to draft a Document Production Notice upon request for records. The LLS is required to within three business days answer the request for production if sourced within LLS, or to forward to the required division of MCSO for production. We have reviewed the document production for this Paragraph, which includes the document requests and, for the most part, a Request for Production of Documents drafted by LLS. The Legal Liaison Manager informed us that MCSO is not complying with the timeframes and the form templates included in GD-9. During our January 2017 site visit, the Compliance Division Commander said that many of the requirements set forth in GD-9 are impractical or unrealistic for the agency. MCSO currently receives a request for production of documents, and the LLS drafts a Request for Production of Records, which it then forwards to the division responsible for the production. The timeframe between the receipt of the request and the sending of the Request for Production is usually in excess of the three days provided by the policy.

Paragraph 270.b. requires that all requested electronic files be stored, sequestered, and preserved by MCSO through a centralized process. During our recent site visit, the Deputy Chief of the Technology Management Bureau informed us that if MCSO is aware of any information on MCSO shared drives that requires production, there is a standard process for preserving it. The Compliance Division Operations Manual would contain any process in place for the preservation of documents, but at this time it is being revised. MCSO informed us that not all hard drives within MCSO are shared, and that emails are not retained by the Office, since a County office is responsible for their retention. Policy GD-9 establishes that the Technology Management Bureau has a number of responsibilities, including ensuring that all relevant electronic documents are provided and that all electronic files including email files be copied and provided to LLS with an itemized list of documents. However, the Deputy Chief of the Technology Management Bureau stated that she cannot guarantee an adequate search being made, beyond an attestation and that MCSO was not responsible for email retention, as a County office handled that separately. An attestation form is included as part of GD-9 but it is currently not in use. In addition, MCSO has no mechanism in place to retain any information from personal devices that an employee may have.

Paragraph 270.c. requires than an adequate search for documents be conducted and that each employee who might possibly be in possession of responsive documents conducts a through and adequate search of all relevant physical and electronic files. The Compliance Division Commander informed us that MCSO currently does not have an oversight process in place to determine if an adequate search for documents is being conducted or if employees search for documents that are requested. The current draft of GD-9 states that Division Commanders are responsible for ensuring that all records required from their divisions, including those maintained electronically, are provided and that each employee under their command in possession of responsive documents provides them. Notwithstanding, the head of the Compliance Division informed us that the Policy Section drafted the policy, but that the responsibilities set forth for each MCSO employee or division were not discussed internally. Therefore, Division Commanders are not complying with this requirement and there were discussions that the policy requirements may be onerous for them.

During our January 2017 site visit, we encouraged the Compliance Division to review GD-9 and provide changes in line with the agency's needs. We have not yet received any proposals from MCSO pertaining to changes in GD-9.

Paragraph 271. *Within three months of the effective date of this Order, the Sheriff shall ensure that the MCSO Compliance Division promulgates detailed protocols for the preservation and production of documents requested in litigation. Such protocols shall be subject to the approval of the Monitor after a period of comment by the Parties.*

Phase 1: Not in compliance

- GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices), currently under revision.
- Compliance Division Operations Manual, currently under revision.

Phase 2: Not in compliance

The Compliance Division Operations Manual has to be consonant with GD-9. We have not yet been able to make this assessment since GD-9 and the Operations Manual are still under revision.

Paragraph 272. *The Sheriff shall ensure that MCSO policy provides that all employees must comply with document preservation and production requirements and that violators of this policy shall be subject to discipline and potentially other sanctions.*

Phase 1: Not in compliance

- GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices), currently under revision.

Phase 2: Not in compliance

Although no internal investigations were filed against any MCSO employee during this reporting period for failure to preserve or produce documents, we have yet to ascertain whether MCSO employees are conducting adequate searches for documents. The Legal Liaison Division confirmed that it does not yet have an oversight process in place to determine if an adequate search for documents is being conducted or if employees search for documents that are being requested.

Section 16: Additional Training

COURT ORDER XIX. ADDITIONAL TRAINING

Paragraph 273. *Within two months of the entry of this Order, the Sheriff shall ensure that all employees are briefed and presented with the terms of the Order, along with relevant background information about the Court's May 13, 2016 Findings of Fact, (Doc. 1677), upon which this Order is based.*

Phase 1: Not applicable

Phase 2: In compliance

MCSO is delivering this training on the E-Policy platform. As required, the training includes relevant background information; and information on the Court's May 13, 2016 Findings of Fact (Doc. 1677) and the terms of the Second Order.

A total number of 4,165 employees (sworn, Detention, Reserve, Posse, and civilian) were required to receive this training; 4,071 employees received the training during the previous reporting period, leaving a total of 93 employees requiring the training. During this reporting period, 43 employees completed the training. Three individuals have returned to duty but have not yet received the training. There are five individuals that have not received the training due to current military leave. Of the balance, 29 individuals resigned, five were dismissed, four retired, three are on family leave, and one is now deceased. This represents a 99% compliance rate.

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

COURT ORDER XX. COMPLAINTS AND MISCONDUCT INVESTIGATIONS RELATING TO MEMBERS OF THE PLAINTIFF CLASS

Paragraph 274. *In light of the Court's finding that the MCSO, and in particular Sheriff Arpaio and Chief Deputy Sheridan, willfully and systematically manipulated, misapplied, and subverted MCSO's employee disciplinary policies and internal affairs processes to avoid imposing appropriate discipline on MCSO deputies and command staff for their violations of MCSO policies with respect to members of the Plaintiff class, the Court further orders as follows:*

A. Investigations to be Overseen and/or Conducted by the Monitor

Paragraph 275. *The Monitor is vested with the authority to supervise and direct all of the MCSO's internal affairs investigations pertaining to Class Remedial Matters. The Monitor is free from any liability for such matters as is set forth in ¶ 144 of the Supplemental Permanent Injunction.*

Paragraph 276. *The Monitor shall have the authority to direct and/or approve all aspects of the intake and investigation of Class Remedial Matters, the assignment of responsibility for such investigations including, if necessary, assignment to his own Monitor team or to other independent sources for investigation, the preliminary and final investigation of complaints and/or the determination of whether they should be criminally or administratively investigated, the determination of responsibility and the imposition of discipline on all matters, and any grievances filed in those matters.*

Phase 1: Not applicable

Phase 2: In compliance

The Second Order requires oversight by the Monitor for all internal investigations determined to be Class Remedial Matters (CRMs). During our technical assistance visit with MCSO in August 2016, we held several meetings with MCSO personnel to determine how compliance with this and other Paragraphs related to CRMs would be addressed.

During these meetings, we determined that the initial factors for consideration in assessing whether a complaint *could be* a CRM would be based on the complainant having a Latino surname, or any other information in the complaint that would suggest any possible bias affecting the Plaintiffs' class. PSB committed to holding a weekly meeting to discuss existing and incoming complaints to determine which, if any, could be CRMs. During these meetings, they would also discuss cases pending a CRM decision, cases determined to be CRMs, and any cases where the decision may be made that the case would not be classified as a CRM. During these meetings, the PSB Commander makes a decision on the classification of the cases.

During the previous reporting period, and beginning on August 17, 2016, PSB began holding weekly meetings for this purpose. A Monitoring Team member attended each of the meetings held during the previous reporting period to provide the oversight required in this Paragraph. At the end of the previous reporting period, PSB had reviewed 442 administrative investigations that were open as of July 20, 2017; and determined that 42 of them met the basic criteria that could make them CRMs. These cases were reviewed during the weekly CRM meetings. In addition, a Monitoring Team member randomly selected an additional 52 cases from the remaining 400 pending cases and concurred with PSB's assessment that they did not meet the basic criteria that could make them CRMs.

At each weekly meeting, PSB personnel reviewed cases that were pending, and any new internal investigations that were initiated during the prior week. They determined that in addition to the 42 cases determined to be potential CRMs from the pending list as of July 20, 2016, an additional 10 cases were potential CRMs. At the end of the reporting period, of the 52 cases, PSB determined that 40 met the basic criteria that could make them CRMs. Of these 40 cases, after further review and investigation, 30 were determined not to be CRMs; one was pending a CRM decision; and nine were determined to be CRMs.

During this reporting period, except for the weeks of Thanksgiving and Christmas, PSB has continued to hold weekly meetings to discuss ongoing and new potential CRM investigations. A Monitoring Team member has attended all of these meetings either in person or telephonically. During these meetings, PSB has reviewed an additional 23 cases that could be CRMs based on the established criteria for consideration. Of these 23 cases, one was determined to be a CRM, nine cases are pending a CRM decision, and 13 cases have been determined not to be CRMs.

The total cases reviewed by PSB since the first review on August 17, 2016 is 75. Of these 75 cases, 10 have been determined to be CRMs, nine are pending a CRM decision, and 56 have been determined not to be CRMs.

During the weekly meetings, case investigators have provided investigative updates on all cases that could be, or are, CRMs. Their briefings have been thorough, and they have been responsive to any questions or input from members of our Team. In all of the cases we reviewed during this and the previous reporting period, we concurred with the decisions made by the PSB Commander regarding the case classifications. We have also noted that as the investigators have become more familiar with the requirements for CRM investigations, and all other requirements for internal investigations, their investigations continue to improve, their briefings contain additional relevant information, and there is less need for any questions or input from our Team.

During this reporting period, five CRM cases were completed and forwarded for review. Three of the cases had sustained findings. As the employee in all three of these sustained cases is deceased, no further action, beyond the completion of the investigation and the findings, was taken. The two remaining cases had not sustained findings. We agree with the findings in all five of the cases.

Paragraph 277. *This authority is effective immediately and shall remain vested in the Monitor until the MCSO's internal affairs investigations reach the benchmarks set forth in ¶ 288 below. With respect to Class Remedial Matters, the Monitor has plenary authority, except where authority is vested in the Independent Investigative and Disciplinary Authorities separately appointed by the Court, as is further set forth in ¶¶ 296–337 below.*

Paragraph 278. *The Sheriff shall alert the Monitor in writing to all matters that could be considered Class Remedial Matters, and the Monitor has the authority to independently identify such matters. The Monitor shall provide an effective level of oversight to provide reasonable assurance that all Class Remedial Matters come to his attention.*

Phase 1: Not applicable

Phase 2: In compliance

Since the first CRM meeting held on August 17, 2016, PSB has consistently completed the required notification to our Team regarding those cases that could be considered CRMs. A Monitoring Team member has attended every CRM meeting with PSB where these matters are discussed and personally reviewed a number of the cases that were pending on July 20, 2016; and our Team member reviews the new cases that are presented each week. There has been no need for our Team to independently identify CRMs, as PSB has consistently properly identified and reported these cases as required.

Paragraph 279. *The Monitor shall have complete authority to conduct whatever review, research, and investigation he deems necessary to determine whether such matters qualify as Class Remedial Matters and whether the MCSO is dealing with such matters in a thorough, fair, consistent, and unbiased manner.*

Phase 1: Not applicable

Phase 2: In compliance

During the weekly CRM meetings attended by a Monitoring Team member, PSB has consistently properly identified cases that could be, or are, CRMs. PSB personnel brief each case during the weekly meetings, and we have found that their briefings generally include all appropriate information. They have been responsive to any questions from members of our Team during the meetings and have responded appropriately to any suggestions our Team has brought forward during these meetings. There has been no need for our Team to independently conduct any review, research, or investigation as PSB is consistently properly identifying and investigating these cases.

Paragraph 280. *The Monitor shall provide written notice to the Court and to the parties when he determines that he has jurisdiction over a Class Remedial Matter. Any party may appeal the Monitor's determination as to whether he has jurisdiction over a Class Remedial Matter to this Court within seven days of the Monitor's notice. During the pendency of any such appeal the Monitor has authority to make orders and initiate and conduct investigations concerning Class Remedial Matters and the Sheriff and the MCSO will fully comply with such action by the Monitor.*

Phase 1: Not applicable

Phase 2: Not applicable

During this reporting period, there was one new case that PSB determined was a CRM. Our Team concurred with the decision of the PSB Commander and provided the required written notice to the Court and the Parties. There was no appeal by any Party on this case.

Paragraph 281. *Subject to the authority of the Monitor, the Sheriff shall ensure that the MCSO receives and processes Class Remedial Matters consistent with: (1) the requirements of this Order and the previous orders of this Court, (2) MCSO policies promulgated pursuant to this Order, and (3) the manner in which, pursuant to policy, the MCSO handles all other complaints and disciplinary matters. The Sheriff will direct that the Professional Standards Bureau and the members of his appointed command staff arrive at a disciplinary decision in each Class Remedial Matter.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

To evaluate Phase 2 compliance with this Paragraph, a member of our Team has attended each weekly meeting conducted by PSB to discuss Class Remedial Matters. PSB has consistently provided thorough briefings, and the PSB Commander has made appropriate decisions regarding these matters.

Our Team reviewed five CRM cases during this reporting period. Three had sustained findings, and the remaining two had not sustained findings. The sustained findings did not result in any disciplinary actions, as the involved employee is deceased.

We reviewed all five completed CRM cases for compliance with the requirements for administrative investigations. We found all five of the investigations to be generally well investigated and complete. Each case report was consistent with the briefings that had been provided on the cases during the weekly CRM meetings. The investigators conducted appropriate follow-up on these cases, went to extensive lengths to contact involved parties and witnesses, and provided detailed information on the alleged allegations and the justifications for findings in their investigative reports.

However, only one of the five cases completed during this reporting period was in full compliance with all requirements for administrative investigations. While the remaining four cases were properly investigated, and we agree with the findings, each was missing several components of the specific written report requirements. While none of the missing components would result in a change in the findings or the case outcome, they prevent a finding of Phase 2 compliance for this Paragraph. We have discussed the areas of compliance that are missing with PSB.

Paragraph 282. *The Sheriff and/or his appointee may exercise the authority given pursuant to this Order to direct and/or resolve such Class Remedial Matters, however, the decisions and directives of the Sheriff and/or his designee with respect to Class Remedial Matters may be vacated or overridden in whole or in part by the Monitor. Neither the Sheriff nor the MCSO has any authority, absent further order of this Court, to countermand any directions or decision of the Monitor with respect to Class Remedial Matters by grievance, appeal, briefing board, directive, or otherwise.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

There were no CRM cases completed during this, or the previous reporting period, in which the Sheriff and/or his appointee exercised their authority to resolve CRMs, which our Team needed to vacate or override.

Paragraph 283. *The Monitor shall review and approve all disciplinary decisions on Class Remedial Matters.*

Phase 1: Not applicable

- GH-2 (Internal Investigations), currently under revision.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not applicable

During this reporting period, our Team reviewed five completed CRM cases. Two of the cases had not sustained findings. In three cases, the involved employee was deceased at the time the investigation was initiated. PSB appropriately investigated and determined the findings in each of these cases.

In addition to the five cases reviewed during this reporting period, one case was determined to have a sustained finding, and discipline was assessed during this reporting period. Our Team concurred with the findings and discipline in this case during a review of the case during the weekly CRM meetings. No bias allegations were sustained in this case, but the employee was determined to have violated the Code of Conduct policy for which a preliminary recommendation for coaching was made by the PSB Commander and approved by the appointing authority. Our Team concurs with this finding and the disciplinary decision based on the information provided by PSB during the CRM meeting.

Paragraph 284. *The Sheriff and the MCSO shall expeditiously implement the Monitor's directions, investigations, hearings, and disciplinary decisions. The Sheriff and the MCSO shall also provide any necessary facilities or resources without cost to the Monitor to facilitate the Monitor's directions and/or investigations.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

During this reporting period, a member of our Team attended all PSB weekly CRM meetings that were conducted in an appropriate location at MCSO. PSB has provided a password and access to the IAPro system to a member of our Team so that we can complete independent case reviews.

During the weekly meetings, PSB personnel have been professional and responsive to all input, questions, or concerns we have brought forward.

Paragraph 285. *Should the Monitor decide to deviate from the Policies set forth in this Order or from the standard application of the disciplinary matrix, the Monitor shall justify the decision in writing and place the written explanation in the affected employee's (or employees') file(s).*

Phase 1: Not applicable

Phase 2: Not applicable

In one CRM case during this reporting period, there was a finding of sustained that resulted in discipline. We concurred with the decision of PSB, and no action by our Team was necessary.

Paragraph 286. *Should the Monitor believe that a matter should be criminally investigated, he shall follow the procedures set forth in ¶¶ 229–36 above. The Commander of the Professional Standards Bureau shall then either confidentially initiate a Professional Standards Bureau criminal investigation overseen by the Monitor or report the matter directly and confidentially to the appropriate prosecuting agency. To the extent that the matter may involve the Commander of the Professional Standards Bureau as a principal, the Monitor shall report the matter directly and confidentially to the appropriate prosecuting agency. The Monitor shall then coordinate the administrative investigation with the criminal investigation in the manner set forth in ¶¶ 229–36 above.*

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

During this reporting period, none of the five completed CRM cases included both a criminal and an administrative investigation. We are in agreement with PSB's decision that a criminal investigation was not appropriate in these cases and no action on the part of our Team was necessary or appropriate.

Paragraph 287. *Any persons receiving discipline for any Class Remedial Matters that have been approved by the Monitor shall maintain any right they may have under Arizona law or MCSO policy to appeal or grieve that decision with the following alterations:*

a. When minor discipline is imposed, a grievance may be filed with the Sheriff or his designee consistent with existing MCSO procedure. Nevertheless, the Sheriff or his designee shall immediately transmit the grievance to the Monitor who shall have authority to and shall decide the grievance. If, in resolving the grievance, the Monitor changes the disciplinary decision in any respect, he shall explain his decision in writing.

b. disciplined MCSO employee maintains his or her right to appeal serious discipline to the Maricopa County Law Enforcement Merit System Council to the extent the employee has such a right. The Council may exercise its normal supervisory authority over discipline imposed by the Monitor.

Phase 1: Not in compliance

- GH-2 (Internal Investigations), currently under revision.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedure), currently under revision.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

During this reporting period, none of the five CRM cases completed and reviewed by our Team required disciplinary action against any MCSO employee. Two of the cases were not sustained. In the three investigations that had sustained findings, the employee who would have received discipline is deceased. One additional case discussed during CRM meetings resulted in a sustained finding with the imposition of discipline. This case has not yet been reviewed as a closed case, but we concur with the findings and discipline. No grievance or appeal was filed by the involved employee in this case.

Paragraph 288. *The Monitor's authority over Class Remedial Matters will cease when both:*

a, The final decision of the Professional Standards Bureau, the Division, or the Sheriff, or his designee, on Class Remedial Matters has concurred with the Monitor's independent decision on the same record at least 95% of the time for a period of three years.

b. The Court determines that for a period of three continuous years the MCSO has complied with the complaint intake procedures set forth in this Order, conducted appropriate internal affairs procedures, and adequately investigated and adjudicated all matters that come to its attention that should be investigated no matter how ascertained, has done so consistently, and has fairly applied its disciplinary policies and matrices with respect to all MCSO employees regardless of command level.

Phase 1: Not applicable

Phase 2: Not in compliance

During this and the previous reporting period, we and PSB have concurred on the investigative outcome of each CRM investigation completed.

PSB, now responsible for the investigation of all CRM cases, has continued to appropriately identify cases that could be, or are, CRMs. PSB personnel continue to be professional in our contacts with them, and thorough in their investigations of these cases. However, MCSO is not yet fully meeting the required components of internal investigation reporting. Most of these omissions are requirements to include specific information in each written report. We found fewer omissions and errors this reporting period than in the previous reporting period. We have discussed these requirements with PSB personnel, and are aware that they will be revising the investigative checklists and required investigative formats to ensure that these components are included in future investigative reports. We have also noted that the requirements for compliance with the Second Order will be covered in the scheduled training for all those who conduct internal investigations.

Paragraph 289. *To make the determination required by subpart (b), the Court extends the scope of the Monitor's authority to inquire and report on all MCSO internal affairs investigations and not those merely that are related to Class Remedial Matters.*

Phase 1: Not in compliance

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

Phase 2: Not in compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 140 internal investigations conducted by MCSO. Six of these were criminal misconduct investigations and 134 were administrative misconduct investigations. The review of cases included cases involving Patrol personnel, sworn non-Patrol deputies, Posse members, reserve deputies, and Detention officers and civilian personnel. Five of these cases involved biased policing allegations not related to members of the Plaintiffs' class. Of these 134 administrative investigations, 119 were completed after July 20, 2016. In addition to these investigations, we reviewed five CRM cases, all of which were completed after July 20, 2016.

Of the 119 administrative cases we reviewed, we found 25 in full compliance with the First and Second Orders. One of the five CRM cases we reviewed was in full compliance with the Orders' requirements. In the remaining cases, we found some concerns in each of the cases, including: failure to complete thorough investigations; findings unsupported by the facts of the investigation; discipline that was not consistent with the existing Disciplinary Matrices; and ongoing concerns with delayed investigations and other specific documentation requirements of the Second Order. Despite this, MCSO's compliance is improving in many areas and the documentation MCSO is providing generally includes the information needed for us to conduct our reviews.

We will discuss our concerns with PSB personnel during our next site visit and provide them with specific case examples that illustrate their concerns.

Paragraph 290. *This requirement is necessitated by the Court's Findings of Fact that show that the MCSO manipulates internal affairs investigations other than those that have a direct relation to the Plaintiff class. The Court will not return the final authority to the Sheriff to investigate matters pertaining to members of the Plaintiff class until it has assurance that the MCSO uniformly investigates misconduct and applies appropriate, uniform, and fair discipline at all levels of command, whether or not the alleged misconduct directly relates to members of the Plaintiff Class.*

Paragraph 291. *The Monitor shall report to the Court, on a quarterly basis, whether the MCSO has fairly, adequately, thoroughly, and expeditiously assessed, investigated, disciplined, and made grievance decisions in a manner consistent with this Order during that quarter. This report is to cover all internal affairs matters within the MCSO whether or not the matters are Class Remedial Matters. The report shall also apprise the Court whether the MCSO has yet appropriately investigated and acted upon the misconduct identified in the Court's Findings of Fact, whether or not such matters constitute Class Remedial Matters.*

Phase 1: Not applicable

Phase 2: Not applicable

This report, including all commentary regarding MCSO's compliance with investigative and disciplinary requirements, serves as our report to the Court on these matters.

During this reporting period, we reviewed a total of 145 misconduct investigations conducted by MCSO. Of these cases, 134 were internal administrative investigations, five were internal administrative CRM cases, and six were internal criminal investigations. Of the total, 119 administrative misconduct investigations were completed after July 20, 2016 and these investigations must therefore comply with the requirements of the Second Order for MCSO to attain Phase 2 compliance with this and other Paragraphs. All five of the administrative CRM investigations and all six of the internal criminal misconduct investigations were completed after July 20, 2016 and must, therefore, also comply with the requirements of the Second Order.

Of the administrative investigations we reviewed, we found that 25 of the cases were in full compliance with the Second Order. One of the five CRM cases was in full compliance with the Second Order. Of the six internal criminal investigations, there were two where there were numerous issues that should be addressed in an administrative investigation and this occurred. In addition to the cases we found in full compliance, we found numerous cases that were well investigated, had appropriate findings and the disciplinary decisions were appropriate and justified. Many of these cases, however, did not contain all the report requirements and therefore could not be found in compliance. Other cases still lacked adequate investigation, had findings that were unsupported, or discipline that was not supported by the facts of the case. Our concerns with the misconduct investigations reviewed have been covered both generally and specifically in previous Paragraphs.

During the previous reporting period, PSB provided our Team with a memorandum describing their efforts in meeting the requirements of this Paragraph related to the Court's Findings of Fact. MCSO had outsourced three cases to another law enforcement agency, and an additional four investigations were pending outsourcing to an outside investigator. All of these cases were outsourced due to the involvement of the Chief Deputy, or other conflicts of interest identified by MCSO, and include those investigations identified in Paragraph 300. MCSO was processing a Request for Proposal to retain an outside investigator who meets the requirements of Paragraphs 167.iii. and 196 to conduct the investigations they have identified. One potential misconduct case identified in the Court's Findings of Fact was being retained and investigated by PSB as no identifiable conflict of interest appears to exist.

PSB also provided our Team with a document PSB received from the Independent Investigator assigned by the Court to investigate, or reinvestigate, some of the misconduct that is related to the Plaintiffs' class. The Independent Investigator clarified his intent to investigate those matters assigned to him by the Court, as well as those matters that the Court determined were within the discretion of the Independent Investigator. He further clarified that his investigations would include the initial misconduct alleged, as well as any misconduct that might have occurred during the process of review or issuance of discipline by MCSO personnel.

During this reporting period, MCSO completed the Request for Proposal and has since retained an investigator to investigate those cases identified as necessitating an outside investigator. The Independent Investigator is also continuing his investigations of those matters identified by the Court. We have requested that PSB provide us with a list that includes the status of all cases that have been outsourced to any contract vendor, other law enforcement agency, or other person or entity, so that we can continue to monitor these investigations and ensure that those cases identified in the Findings of Fact are properly and thoroughly investigated.

Paragraph 292. *To make this assessment, the Monitor is to be given full access to all MCSO internal affairs investigations or matters that might have been the subject of an internal affairs investigation by the MCSO. In making and reporting his assessment, the Monitor shall take steps to comply with the rights of the principals under investigation in compliance with state law. While the Monitor can assess all internal affairs investigations conducted by the MCSO to evaluate their good faith compliance with this Order, the Monitor does not have authority to direct or participate in the investigations of or make any orders as to matters that do not qualify as Class Remedial Matters.*

Phase 1: Not applicable

Phase 2: In compliance

While policies involving internal investigation processes have not been finalized, during this reporting period, PSB personnel continued to inform our Team of both criminal and administrative misconduct investigations being conducted. A member of our Team attends each weekly CRM meeting, reviews the lists of new internal investigations, and has access to the PSB IAPro database. The only cases for which any oversight occurs during the investigative process are those that are determined to be CRMs. All other misconduct investigations are reviewed by members of our Team once they are completed, reviewed, and approved by MCSO personnel.

Paragraph 293. *The Monitor shall append to the quarterly reports it currently produces to the Court its findings on the MCSO's overall internal affairs investigations. The parties, should they choose to do so, shall have the right to challenge the Monitor's assessment in the manner provided in the Court's previous Order. (Doc. 606 ¶¶ 128, 132.)*

Phase 1: Not applicable

Phase 2: Not applicable

Since we began reviewing internal investigations conducted by MCSO nearly three years ago, we have reviewed hundreds of investigations into alleged misconduct by MCSO personnel. As noted throughout this report, we have continued to find concerns with their internal investigations but have also noted some improvements. Many recent cases have shown significant improvement and we are finding more of their cases that are near, or in compliance, with the Orders.

Each site visit, we meet with PSB personnel to provide them with information on those cases we have found to be deficient in quality or in the completion of written requirements. We provide them with extensive feedback regarding our concerns and recommendations for improvement, including numerous specific case examples. We also acknowledge and provide examples of cases that PSB has done well. The PSB Commander and personnel continue to be receptive to our input, and we have had many productive meetings and discussions regarding the investigations they have conducted. PSB has recently reorganized the bureau to provide more oversight and continue to provide timely feedback to Division and District personnel who conduct or review internal investigations. We have observed continuing and significant improvement in the investigations conducted by PSB, particularly in the past year.

During our October 2016 and January 2017 site visits, in addition to meeting with PSB personnel, we met with Division and District command personnel to provide guidance to them regarding internal administrative investigations conducted outside of PSB. We found these meetings to be productive; the command personnel who attended provided feedback regarding investigations and asked relevant questions about compliance requirements. It is obvious from these meetings that some Division and District command personnel believe that neither they, nor the supervisors under their command, fully understand the requirements imposed by the Court. The training that MCSO will provide for all those who conduct internal investigations will provide specific information about proper investigative techniques and the requirements of the Orders. Once the training occurs, we are hopeful that those conducting investigations will have the information and skills necessary to comply with the Orders.

In our quarterly status reports and during our site visits, we have continued to stress that compliance is not the sole responsibility of any one individual or division – but dependent on all those who complete, review, or approve internal investigations. The leadership of the organization must provide proper oversight, and also ensure that there are consequences for those who fail to comply with the requirements of the Orders. The Second Order dictates additional requirements and necessitates an even greater commitment from MCSO and its leadership to attain compliance.

We were encouraged by the attendance of MCSO leadership personnel at many of our meetings during our January 2017 site visit where internal investigations were discussed. It is critical to the success of the agency that MCSO's leadership understands the challenges faced by PSB personnel and others charged with the responsibility to conduct internal investigations. Leadership personnel must provide appropriate oversight, necessary resources, and support for their personnel; and they must begin to hold those who conduct internal investigations accountable for the quality of their investigations, if MCSO is to achieve compliance with the requirements set forth by the Court.

B. Investigations to be Conducted by the Independent Investigator and the Independent Disciplinary Authority

Paragraph 294. *In its Findings of Fact, (Doc. 1677), the Court identified both: (1) internal affairs investigations already completed by the MCSO that were inadequate or insufficient; (see, e.g., Doc. 1677 at ¶ 903), and (2) misconduct or alleged misconduct that had never been investigated by MCSO that should be or should have been investigated. (Id. at ¶ 904.)*

Paragraph 295. *In light of MCSO's failure to appropriately investigate these matters, the Court appoints an Independent Investigator and an Independent Disciplinary Authority from the candidates set forth by the parties, and vests them with the authority to investigate and decide discipline in these matters.*

1. The Independent Investigator

Paragraph 298. *In assessing the existence of previously uncharged acts of misconduct that may be revealed by the Findings of Fact, the Independent Investigator does not have authority to investigate acts of misconduct that are not sufficiently related to the rights of the members of the Plaintiff class. While the Independent Investigator should identify such acts of misconduct and report those acts to the Commander of the Professional Standards Bureau, and to the Monitor for purposes of making the Monitor's assessment identified in ¶¶ 291–93 above, the Independent Investigator may not independently investigate those matters absent the authorization and the request of the Sheriff.*

Paragraph 300. *The following potential misconduct is not sufficiently related to the rights of the members of the Plaintiff class to justify any independent investigation:*

a. Uninvestigated untruthful statements made to the Court under oath by Chief Deputy Sheridan concerning the Montgomery investigation. (Doc. 1677 at ¶ 385).

b. Uninvestigated untruthful statements made to the Court under oath by Chief Deputy Sheridan concerning the existence of the McKessy investigation. (Id. at ¶ 816).

c. Chief Deputy Sheridan's untruthful statements to Lieutenant Seagraves made during the course of an internal investigation of Detective Mackiewicz to the effect that an investigation into the overtime allegations against Detective Mackiewicz had already been completed. (Id. at ¶ 823).

d. Other uninvestigated acts of misconduct of Chief Deputy Sheridan, Captain Bailey, Sergeant Tennyson, Detective Zebro, Detective Mackiewicz, or others that occurred during the McKessy investigation. (Id. at ¶¶ 766–825).

Phase 1: Not applicable

Phase 2: Deferred

Our Team wrote in our last quarterly status report that PSB had identified a number of investigations associated with this Paragraph. However, concerning Paragraph 300 (d.), in the Findings of Fact of May 13, 2016, the Court specifically draws attention to additional uninvestigated acts of misconduct that MCSO has not yet identified. Acts of misconduct involving the Chief Deputy and a captain are pointedly outlined in the Findings of Fact. Prior to our October site visit, members of our Team identified all acts of misconduct that are known to us and which fall within the criteria of Paragraph 300(a-d). The acts of misconduct that our Team identified in the Findings of Fact were presented to the PSB Commander. During this reporting period, and specifically during our January 2017 site visit, the PSB Commander assured us that all acts of misconduct that we identified and discussed during our October 2016 site visit would be provided to a contracted independent investigator for investigative purposes.

During this reporting period, the PSB Commander contracted with a licensed private investigator. We made robust inquiry and are satisfied the contract investigator possesses the requisite qualifications and experience to conduct the investigations of misconduct outlined in Paragraph 300 (a.-c.) and the additional misconduct in the Findings of Fact that directly associates with Paragraph 300 (d.).

PSB provided its contracted investigator with resources and materials. The PSB Commander will serve as the sole point-of-contact. During our January 2017 site visit, we requested a list of all identified misconduct investigations the contractor will conduct. We anticipate that we will receive the list during the next reporting period. We will determine compliance with this Paragraph after the investigations are completed.

Paragraph 310. *The Monitor and the parties are directed to promptly comply with the Independent Investigator's requests for information. The Monitor and the Independent Investigator may communicate to coordinate their investigations. Nevertheless, each is independently responsible for their respective jurisdiction set forth in this Order, and each should make independent decisions within his own delegated responsibility.*

2. The Independent Disciplinary Authority

Paragraph 337. *Nevertheless, when discipline is imposed by the Independent Disciplinary Authority, the employee shall maintain his or her appeal rights following the imposition of administrative discipline as specified by Arizona law and MCSO policy with the following exceptions:*

a. When minor discipline is imposed, a grievance may be filed with the Sheriff or his designee consistent with existing MCSO procedure. Nevertheless, the Sheriff or his designee shall transmit the grievance to the Monitor who shall have authority to decide the grievance. If in resolving the grievance the Monitor changes the disciplinary decision in any respect, he shall explain his decision in writing.

b. A disciplined MCSO employee maintains his or her right to appeal serious discipline to the Maricopa County Law Enforcement Merit System Council to the extent the employee has such a right. The Council may exercise its normal supervisory authority over

discipline imposed by the Independent Disciplinary Authority with one caveat. Arizona law allows the Council the discretion to vacate discipline if it finds that the MCSO did not make a good faith effort to investigate and impose the discipline within 180 days of learning of the misconduct. In the case of any of the disciplinary matters considered by the Independent Disciplinary Authority, the MCSO will not have made that effort. The delay, in fact, will have resulted from MCSO's bad faith effort to avoid the appropriate imposition of discipline on MCSO employees to the detriment of the members of the Plaintiff class. As such, the Council's determination to vacate discipline because it was not timely imposed would only serve to compound the harms imposed by the Defendants and to deprive the members of the Plaintiff class of the remedies to which they are entitled due to the constitutional violations they have suffered at the hands of the Defendants. As is more fully explained above, such a determination by the Council would constitute an undue impediment to the remedy that the Plaintiff class would have received for the constitutional violations inflicted by the MCSO if the MCSO had complied with its original obligations to this Court. In this rare instance, therefore, the Council may not explicitly or implicitly exercise its discretion to reduce discipline on the basis that the matter was not timely investigated or asserted by the MCSO. If the Plaintiff class believes the Council has done so, it may seek the reversal of such reduction with this Court pursuant to this Order.

Phase 1: In compliance

- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.

Phase 2: Deferred

Our review of the monthly submissions for this reporting period reflects that MCSO had no activity to report relevant to this Paragraph.

Section 18: Concluding Remarks

We assess compliance with 89 Paragraphs of the First Order, and 123 Paragraphs of the Second Order, for a total of 212 Paragraphs. MCSO is in Phase 1 compliance with 47 of the First Order Paragraphs, or 63%; and 11 of the Second Order Paragraphs, or 10%. MCSO is in Phase 2, or operational compliance, with 44 of the First Order Paragraphs, or 50%; and 53 of the Second Order Paragraphs, or 46%. Combining the requirements of both Orders, MCSO is in Phase 1 compliance with 58 Paragraphs, or 32%; and in Phase 2 compliance with 97 Paragraphs, or 48%.

In our past reports, we have been critical of the lack of commitment to reforms on the part of MCSO's previous leadership team – most notably, the former Sheriff and the former Chief Deputy. While we have only had one site visit to interact with Sheriff Penzone and his team, there has been a contrast. We continue to work with the line-level personnel charged with working on the various Order requirements, but in nearly every one of our site visit meetings, the administration was represented and participative. This is a welcome change.

Several of those added to Sheriff Penzone's management team appear to have strong backgrounds in community relations, and one of the new administration's main areas of focus will be to enhance the relationship between MCSO and all members of the community it serves. The Sheriff knows the history of the Community Engagement requirements of the First Order, including his predecessor's reluctance to fulfill them, resulting in the Monitor assuming many of the responsibilities initially meant for the Office. Sheriff Penzone has expressed his strong desire to reclaim those responsibilities; and we will work with the Sheriff and the Parties to ensure a transition if the Court so orders. We will continue to verify that all of the requirements of the Orders are met.

Sheriff Penzone also made some internal promotions during our site visit. We note that all of those promoted to Chief-level positions have had some connection to furthering the compliance efforts of MCSO. The Sheriff assured us that this is not a coincidence, and this demonstrates the value that he places on their commitment to bringing the Office into compliance with the Orders' requirements, often without the support of the previous administration. Two of those promoted are former commanding officers of the Court Implementation Division. Their assignment to field commands will ensure that their understanding of MCSO's compliance obligations will be passed on to Patrol personnel. The captain in charge of PSB was promoted to Deputy Chief and remains the commanding officer of PSB, in recognition of the important role that the bureau plays in insuring the integrity of the organization. Sheriff Penzone created an Executive Deputy Chief position to oversee key components of the Office – CID, BIO, PSB, and Training – that directly impact compliance with the Orders. This should facilitate the communication and coordination between these entities to make sure that they are working in concert with each other.

The new administration of the Sheriff's Office is committing considerable energy to a transformation of the agency. We are well aware that this is a time-consuming process. While we shall continue to factor into our assessments the presence of new personnel and some modifications to the agency's internal processes, we shall continue to be equally mindful of the community's expectations that the delivery of services by the MCSO comports with Constitutional mandates and best police practices.

This report covers the last quarter of the tenure of the Sheriff's predecessor. During the course of our interaction with the Parties, we have endeavored to demonstrate our sensitivity to issues and failures not of the Sheriff's making. Our next quarterly report will be our first audit of progress made since the new Sheriff has assumed office. Unquestionably, there will remain a host of legacy issues that shall continue to impact the best efforts of the new Sheriff and his team. That said, we shall hopefully begin to see the manifestations of the Sheriff's stated commitments to the reform of the agency and a newfound compact with the communities it serves.

Appendix: Acronyms

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

ACLU	American Civil Liberties Union
ASU	Arizona State University
ATU	Anti-Trafficking Unit
BIO	Bureau of Internal Oversight
CAB	Community Advisory Board
CAD	Computer Aided Dispatch
CID	Court Implementation Division
CEU	Criminal Employment Unit
CRM	Class Remedial Matter
DOJ	Department of Justice
EIS	Early Identification System
EIU	Early Identification Unit
EPA	Employee Performance Appraisal
FTO	Field Training Officer
IIU	Internal Investigations Unit
IR	Incident Report
LOS	Length of stop
LLS	Legal Liaison Section
MCAO	Maricopa County Attorney's Office
MCSO	Maricopa County Sheriff's Office
NOI	Notice of Investigation
PAL	Patrol Activity Log
PDH	Pre-Determination Hearing
PPMU	Posse Personnel Management Unit
PSB	Professional Standards Bureau
SID	Special Investigations Division
SPSS	Statistical Package for the Social Science

SRT	Special Response Team
TraCS	Traffic Stop Data Collection System
VSCF	Vehicle Stop Contact Form