

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



Reporting Period – Fourth Quarter 2015

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Independent Monitor

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Table of Contents

Section 1: Introduction.....	3
Section 2: Executive Summary.....	5
Section 3: Implementation Unit Creation and Documentation Request.....	10
Section 4: Policies and Procedures.....	15
Section 5: Pre-Planned Operations.....	42
Section 6: Training.....	48
Section 7: Traffic Stop Documentation and Data Collection.....	67
Section 8: Early Identification System (EIS).....	103
Section 9: Supervision and Evaluation of Officer Performance.....	117
Section 10: Misconduct and Complaints.....	147
Section 11: Community Engagement.....	153
Section 12: Concluding Remarks.....	161
Appendix: Acronyms.....	163

Section 1: Introduction

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

During this reporting period, the Maricopa County Sheriff's Office (MCSO) made some modest gains in Phase 1, or policy-related, compliance with the provisions of the Supplemental Permanent Injunction/Judgment Order ("Order") issued by the Honorable G. Murray Snow in the above-referenced litigation. They have stalled, however, in their operational, or Phase 2, compliance.

During this reporting period, MCSO began the deployment of body-worn cameras. Initially, the Order required that MCSO install in-car cameras in its patrol vehicles. After discussions with the Monitoring Team, the Office proposed a switch to body-worn cameras, and the Order was modified pursuant to a stipulation by the Parties. MCSO hoped to have the cameras deployed across all districts by the end of 2015. We perceived that schedule as optimistic, and MCSO encountered a host of logistical and infrastructure issues. By December 31, the cameras were fully operational in only one district. Despite the setbacks, we note from initial review of the recordings that the technical quality of both the video and audio are excellent. Review of recordings will now become a component of our traffic stop review methodology, and where available, we will incorporate video review into our assessment of investigations and other Order-related material.

In previous reports, we noted a change in the leadership team of the Professional Standards Bureau (PSB), which is MCSO's internal affairs component. We review the operations of PSB pursuant to our obligations to monitor Section XI of the Order (Misconduct and Complaints) and our expanded authority regarding investigations pursuant to the Court's Order of November 20, 2014. During this reporting period, the commanding officer and her team began revising MCSO's disciplinary policies and initiated steps to ensure that all investigations contain, at a minimum, some basic information in a standardized format. While these initiatives were not finalized during the quarter, we see them as essential steps and we, along with the Parties, have been providing our input on the documents associated with this process.

Regrettably, only minimal progress was made in two critical Order components, which remain in development. The first is the Early Identification System. MCSO continues to work with Arizona State University (ASU), and ASU representatives have participated with MCSO in our last three site visits. During the quarter, MCSO, with the assistance of ASU, produced the first set of annual traffic stop data for the most recently completed fiscal year (July 1, 2014 – June 30, 2015). We have begun our own preliminary analysis of the data, and we continue to work with MCSO and ASU on data integrity issues. We are also closely reviewing the various records management systems that MCSO proposes to either link directly to EIS, or house the various reports which supervisors must have access to in order properly evaluate their employees' activities. Toward that end, we devoted a significant amount of time during our most recent site

visit to a review of MCSO's FILEBOUND system, which MCSO proposes to house all of its incident reports and other documentation. We reiterate our caution offered after our October site visit: MCSO should not to embark on changes to the EIS unilaterally, without first consulting the Monitor and the Parties, lest the changes adversely impact MCSO's ability to comply with any of the Order's provisions. Some members of MCSO's command staff have strong opinions about the utility of some of the EIS requirements. While we welcome dialogue and dissenting opinions, it is our obligation to ensure compliance with every component of the EIS-related Paragraphs of the Order.

The second area of concern is one we have repeatedly highlighted in past reports: the development and delivery of Supervisory and Command Level Training. Our Team and the Parties have provided comments on several iterations of the lesson plans, but progress remains frustratingly slow, and training did not commence – as we had hoped it would – during this reporting period. We and the Parties continued to provide input, both in the way of commentary on lesson plans and during conference calls. We also spent time during our most recent site visit reviewing the latest iteration of the lesson plan. MCSO must make finalizing this training a priority. There is clearly a need for it; and our sense from visiting supervisory personnel in the districts is that they would welcome it.

We continue to enjoy a good working relationship with the Court Implementation Division (CID). This Division is MCSO's primary point of contact for us and the Parties. However, during this reporting period we noted significant delays in the delivery of documents we need to perform our monitoring duties. Some of the delays may be attributable to a new methodology for providing Order-related materials to us and the Parties. Regardless, we advised the CID commanding officer that he must resolve whatever issues are contributing to the situation.

Section 2: Executive Summary

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

- COURT ORDER III. MCSO IMPLEMENTATION UNIT AND INTERNAL AGENCY-WIDE ASSESSMENT: MCSO's Court Implementation Division (CID) published its quarterly report as required by Paragraph 11.
- COURT ORDER V. POLICIES AND PROCEDURES: MCSO has promulgated and trained to the policies identified in this section of the Order. The policies were distributed in conjunction with the agency-wide Fourth and Fourteenth Amendment training, which MCSO completed during the fifth reporting period. During this reporting period, MCSO published two Order-related General Orders: policy GA-1 (Development of Written Orders), on November 7, 2015; and policy GH-5 (Early Intervention System), on November 18, 2015. It also published a revision of policy EA-5 (Enforcement Communications), on October 29, 2015; and issued several Briefing Boards and Administrative Broadcasts that touched on Order-related topics. Several key Order-related General Orders are currently in development.
- COURT ORDER VI. PRE-PLANNED OPERATIONS: MCSO is in Phase 1 and Phase 2 compliance with this Section of the Order. MCSO did not conduct any applicable pre-planned operations during this reporting period.
- COURT ORDER VII. TRAINING: During this reporting period, we continued a joint review process with the Parties for the 2015 Annual Combined Training, a single lesson plan that combines the Bias-Free Policing and Fourth Amendment Training. This curriculum was approved; and training began during this reporting period, absent a train-the-trainer session. MCSO selected instructors previously vetted by the Parties to deliver the training. Some progress has been made on the development of the Order-required Supervisory Training, but it was not approved during this reporting period. The leadership section remains under development by Training Division personnel who have now been tasked with developing this piece of the lesson plan. New policy GG-1 (Peace Officer Training Administration) and revised policy GG-2 (Training Administration) remain under review. We did not review the Training Division Operations Manual during this reporting period. Also during this reporting period, MCSO delivered training classes on body-worn cameras and TraCS to deputies without the final approval of the Monitor. We remain critical of the competency component of the Body-Worn Camera Training.
- COURT ORDER VIII. TRAFFIC STOP DOCUMENTATION AND DATA COLLECTION AND REVIEW: MCSO continues to provide a sample of traffic stop data to us on a monthly basis. Most of the systems used to collect the data have been automated, and for the most part, deputies are complying with the information capture and documentation requirements associated with traffic stops. When MCSO made technical changes to the TraCS system, we noted more thorough reporting by deputies. We also continue to note some of the inadequacies of MCSO practices surrounding the

setting of alert thresholds used for ongoing monthly and quarterly data analyses related to these. We are encouraged by the quality of the data audit conducted by Arizona State University that resulted in procedures MCSO can adopt to improve the quality of data used for monthly, quarterly, and annual analyses to investigate possible cases of racial profiling and other biased-based policing. Our ability to analyze the integrity of benchmarks and thresholds used in monthly, quarterly, and annual analyses by MCSO was hampered by the substantial delay in providing us with traffic stop data for the July 2014 - June 2015 period. We expect that the data-cleaning procedures developed by Arizona State University will enable more timely turnaround of future data requests. Our preliminary review of the July 2014 - June 2015 traffic stop data revealed numerous problems with using numeric values for thresholds to identify possible cases of racial profiling or biased-based policing. MCSO personnel expressed a willingness to revisit these thresholds to see if there are better alternatives. During our October 2015 site visit, MCSO had indicated its goal to deploy the recording equipment in all districts by the end of 2015. District 6 was the only district to implement the use of body-worn cameras during this reporting period. Also during this reporting period, we reviewed evaluations by EIU personnel regarding supervisory oversight of their subordinates and the inspection reports (supervisory notes, County Attorney dispositions, and the like) provided by BIO; we note that they both show steady improvements in the level of supervisory oversight. Additionally, we have reviewed evaluations by EIU personnel regarding supervisory oversight of their subordinates; in addition to the Inspection Reports (Supervisory Notes, County Attorney Dispositions, and the like) of BIO; and find that they both show steady improvements in the level of supervisory oversight.

- COURT ORDER IX. EARLY IDENTIFICATION SYSTEM (“EIS”): The EIS policy, GH-5, was published on November 18, 2015. The long process toward publication of this policy has contributed to a delay in the development and delivery of Supervisory Training; this situation must be rectified. TraCS training for all personnel who have traffic stop contact with the public has commenced and been memorialized as required. The EIU has improved the transmission of alert investigations to supervisors by incorporating this process into Blue Team. However, supervisors still lack access to their subordinates’ complaint histories and dispositions. MCSO is in the process of testing modifications to EIS that would rectify this situation. During our February site visit, MCSO demonstrated the FILEBOUND software system that it uses to store Incident Reports. This is an electronic system that is searchable and available remotely to supervisors. However, the records housed via this software are not accessible through EIS. We are awaiting additional technical and testing information from MCSO to evaluate whether this system is sufficient to meet the requirements of the Order. Additionally, MCSO is working to ensure that all of the information required in Paragraph 75 of the Order is either directly accessible to supervisors, and data analysts, or provides sufficient information and direction for the review of these pieces of information in alternate forms. MCSO has engaged an outside contractor to analyze the annual traffic stop data which may also allow for a re-evaluation of the thresholds that trigger alerts generated by the EIS system. We have suggested some alternatives based upon our own analysis of the annual data for consideration. We will evaluate all of these as the reports

become available. MCSO continues to make progress toward meeting requirements of the Order. However, BIO inspection reports of Patrol Supervisor Notes show dramatic fluctuations in the average compliance rates by supervisors per month. We anticipate these will improve once Supervisory Training is completed.

- COURT ORDER X. SUPERVISION AND EVALUATIONS OF OFFICER PERFORMANCE: During the last reporting period, MCSO reported that it would implement daily activity reports for deputies and supervisors by the end of 2015; this did not occur. To date, MCSO has not been able to identify an application that is compatible with its CAD system. We expect a progress report on the status of this project by our next site visit in April. GC-4 (Employee Performance Appraisals) and the accompanying revised EPA form are still a work in progress. We have reviewed and provided comments on GC-4, as well as the proposed EPA form. Also during this reporting period, MCSO submitted a draft of EA-3 (Field Interviews). This policy delineates the procedures for completing Incident Reports in lieu of FI cards. We reviewed and returned EA-3 with comments and suggestions. Specific searchable codes for arrest reports have been enabled on CAD; this will allow MCSO to provide the Monitoring Team with requested arrest reports. Concurrent with this solution, starting with January 2016, MCSO will submit a monthly list of jail bookings; from the list, we will request a representative sample of arrest reports for review. Commanders in two patrol districts are taking the initiative to conduct quality control reviews of all arrest reports. Two patrol districts have enabled a networking site to internally share crime information and significant events occurring in their respective districts. We continue to note that many supervisors are not adequately documenting their interactions with their deputies or properly memorializing their oversight of deputy activity. The documentation of interactions between supervisors and subordinates still lacks the specificity needed to demonstrate compliance with the Order's requirements. With regard to evaluation of officer performance, there continues to be lack of consistency, and required information is not being captured in employee performance appraisals.
- COURT ORDER XI. MISCONDUCT AND COMPLAINTS: While the quality of MCSO's investigations at both the Professional Standards Bureau (PSB) and at the district levels remains inconsistent and in many areas lacking, MCSO has taken some steps to address these issues. We have observed some procedural improvements in investigations, but we continue to have serious concerns with the thoroughness of investigations, the justification for findings, the justification for disciplinary decisions, and the manner in which they are made. MCSO continues to work on possible revisions of its internal affairs policies and a training module for supervisory personnel on conducting quality investigations. PSB has implemented both a checklist and an investigative format to be used for administrative investigations. Once all supervisors have been trained on these protocols, there should be increased consistency in their investigations. PSB assigned a new lieutenant to the bureau, whose primary responsibility will be to liaise with districts and divisions conducting administrative investigations. This should also help to ensure more consistent and complete

investigations. PSB personnel will also review administrative investigations completed in districts and divisions prior to them being forwarded to command staff for findings.

- COURT ORDER XII. COMMUNITY ENGAGEMENT: We held two community meetings during this reporting period: one in Guadalupe in MCSO Patrol District 1 on October 21, 2015; and one in Phoenix in MCSO Patrol District 2 on December 2, 2015. Our meeting in Guadalupe attracted approximately 60 community members; approximately 17 community members attended our community meeting in Phoenix. Both meetings were well advertised with area-focused radio, print, distribution of flyers in the vicinity of the meetings, and social media advertising in both English and Spanish. The purpose of these events is to inform community members of the many changes taking place within MCSO, as well as to provide community members the opportunity to voice support or criticism in a safe forum. While we are responsible for Community Engagement, MCSO continues to support our efforts. Key members of the MCSO's leadership, representatives from the Court Implementation Division (CID), and district personnel participated at both events; and CID personnel were responsive and helpful in satisfying all requirements to reserve venues we selected for both community meetings. In addition, during this reporting period, the Community Advisory Board (CAB) initiated actions to raise community awareness of the existence and function of the CAB.

Compliance Summary:

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

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

The table below summarizes the compliance status of Paragraphs tracked in this report.¹ During this reporting period, MCSO’s Phase 1 compliance increased by 4% (from 57% to 61%); while MCSO’s Phase 2 compliance increased by only one percentage point from the last reporting period, to 38%. The latter should be of concern to the Parties, the community, and of course, the Court.

Seventh Quarterly Report Summary		
Compliance Status	Phase 1	Phase 2
Not Applicable	14	
Deferred	0	5
Not in Compliance	29	50
In Compliance	46	34
Percent in Compliance	61%	38%

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

Section 3: Implementation Unit Creation and Documentation Requests

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

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

Shortly after the issuance of the Order, MCSO created an Implementation Unit, now identified as the Court Implementation Division (CID). With the publication of the CID Operations Manual on June 29, 2015, MCSO achieved Phase 1 compliance with this Paragraph.

At the beginning of our tenure, the division was staffed with a captain, two lieutenants, and two sergeants. The staff has grown significantly, and as of this writing, CID consists of one captain, one lieutenant, four sergeants, one detective, two deputies, one management analyst, and one administrative assistant. The division continues to be supported by MCAO attorneys and outside counsel, who frequently participate in our meetings and telephone calls with division personnel.

CID has traditionally been prompt in responding to our document requests. However, during this reporting period, we experienced significant delays in receiving many of the documents needed to complete our reviews for this report, as well as the files needed to fulfill some of our other responsibilities. During this reporting period, CID changed the manner in which documents are provided to us. All files and documents are now provided through MCSO's counsel via an Internet-based application that allows this material to be accessed by the Monitoring Team, the Plaintiffs, and the Plaintiff-Intervenors at the same time. We commend the simultaneous access. With only a few exceptions centering on open investigations, the Parties have access to the same material that we do. However, the delays in providing some of the documents are unacceptable. CID must find a way to preserve the newly granted access while eliminated the inordinate delays. While we have a very good relationship with MCSO's counsel, we reminded CID command during our most recent site visit that per the Order, CID is our designated point of contact, and we must hold CID accountable for addressing any issues with the provision of materials required by the Order.

MCSO remains in Phase 2 compliance with this Paragraph, but risks falling out of compliance if the timeliness issues described above are not addressed in the next reporting period.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

As mentioned above, until recently, CID had a history of being responsive to our requests. In many instances, we have asked for material that has not been routinely collected – or even generated – by MCSO. We continue to work with MCSO – and CID’s leadership – on what constitutes appropriate compliance assessment data. We also trust that CID staff will address the issues we experienced with timely document production during this reporting period.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

On March 14, 2016, the division published its quarterly report as required by this Paragraph. The report covers the period from October 1, through December 31, 2015.

As in past reporting periods, the report is divided into three major parts. Part I: Background and Overview of MCSO’s Efforts Towards Compliance provides a brief description of a few major compliance activities since the issuance of the Order. The report also includes a table that was developed from information provided in our sixth quarterly report (covering the reporting period

of July 1, through September 30, 2015) and updated by MCSO to reflect what MCSO believes to be its compliance progress.

Part II: Steps Taken By MCSO and Plans to Achieve Compliance With the Order is organized by the major sections of the Order and provides greater detail on MCSO's activities working toward compliance. The report lists the specific changes it made during the quarter to the TraCS system "to more accurately track data." The report also offers brief summaries of inspections or audits that MCSO conducted during the quarter. As in the past, we will draw from Part II of the report to inform our future document requests and our discussions with the Parties during our next site visit.

Part III: Response to Concerns Raised in Monitor's Previous Quarterly Report responds directly to only one concern we raised in our sixth quarterly report, published February 9, 2015. Specifically, under Paragraph 19, which requires that MCSO "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," we noted that MCSO had not reviewed these policies and procedures "for potential conflicts with the Order's requirements." In this part of the report, MCSO requested that we "identify what patrol policies and procedures are pending review to be compliant" with Paragraph 19. We will discuss this concern with MCSO during our upcoming site visit. MCSO did not respond to any other concerns we raised in our sixth quarterly report.

In the report's conclusion, MCSO maintains that it "continues to make advancements towards achieving compliance with the Court's Order. The MCSO has increased Community Outreach and is engaged in building confidence and trust in MCSO and in the reform process." While MCSO has become more diligent in documenting its efforts and this particular quarterly report is slightly more detailed and substantive than past reports, it does not acknowledge MCSO's remarkably slow progress toward compliance with the requirements of the Order.

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

See Paragraph 13.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

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

On September 15, 2015, MCSO filed with the Court its 2015 Annual Compliance Report in compliance with this Paragraph. We reviewed this report in detail and addressed any follow-up questions we had with CID personnel during our October site visit. We found the report to be a

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

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

Section 4: Policies and Procedures

COURT ORDER V. POLICIES AND PROCEDURES

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

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

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

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

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

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

a. Policies and Procedures to Ensure Bias-Free Policing

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

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

MCSO has developed policies and addressed the policy deficiencies previously noted by the Monitoring Team. MCSO has finalized and published policies, including: CP-2 (Code of Conduct), issued September 5, 2014; CP-8 (Preventing Racial and Other Bias-Based Profiling), issued September 5, 2014; EA-5 (Enforcement Communications), amended October 29, 2015; EA-11 (Arrest Procedures), issued September 5, 2014; EB-1 (Traffic Enforcement, Violators Contacts and Citation Issuance), issued September 22, 2014; EB-2 (Traffic Stop Data), issued September 22, 2014; and GJ-33 (Significant Operations), issued September 5, 2014. Each of these contains the appropriate policy direction related to this Paragraph. These policies have been distributed to agency personnel and specifically trained to during the required Fourth and Fourteenth Amendment training conducted by MCSO in 2014. A Monitoring Team member personally observed specific references to areas of required compliance in this Section during the training.

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

Compliance Status:

Phase 1: In compliance

Phase 2: Deferred

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

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

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

BIO’s first supervisory notes inspection in November 2014 demonstrated that there was still much to be completed for MCSO supervisory personnel to achieve compliance with this Paragraph and did not include detention personnel, as required, to attain compliance. Since that time, MCSO has continued to conduct the monthly supervisory notes audits (which now include detention personnel), and the audits have shown an increase in sworn supervisory personnel reinforcing the requirements of this Paragraph and documenting this reinforcement in their supervisory notes.

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

For the previous reporting period, MCSO included both detention and civilian personnel in the supervisory notes audits conducted and reported these audits on the MCSObio.org website. For July 2015, MCSO reported 38% of the supervisor notes contained an anti-racial profiling message. In August 2015, 39% contained the message; and in September 2015, 34% contained the message. The inclusion of civilian personnel in the audits did not allow us to accurately assess the required compliance by detention personnel.

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

During our most recent site visit, we reaffirmed with MCSO our need for both the audits and the supervisory notes. MCSO provided both for this reporting period.

MCSO's audit for **sworn supervisory notes** for this reporting period showed a 100% compliance for October 2015, a 100% compliance for November 2015, and an 80.95% compliance for December 2015. In our review of the actual supervisory notes submitted to us for this reporting period, we found a 66% compliance rate for October 2015, a 100% compliance rate for November 2015, and a 68% compliance rate for December 2015. In numerous cases, we found entries by supervisors indicating that they had not found any indication of biased policing, or that they had reviewed data and found no indication of biased policing. While these are important supervisory observations, they fall short of the requirement of this Paragraph to "unequivocally and consistently reinforce to subordinates that Discriminatory Policing is unacceptable," as they lack any indication of a contact or discussion with the employee. This may account for the differences in our findings from those reported in the MCSO audits.

MCSO's audit for **detention supervisory notes** for this reporting period showed a 62.9% compliance rate in October 2015, a 56.2% compliance rate in November 2015, and a 62% compliance rate for December 2015. Our review of the actual supervisory notes provided by MCSO shows a much lower compliance rate for each month. The samples we were able review were less than 35 each month, due to the number of detention personnel in the sample who were off on long-term leave or had separated from the agency. Again, general entries on discriminatory policing do not meet the requirements of this Paragraph. MCSO will need to put far more emphasis on detention personnel if it is to reach compliance with this Paragraph. We will reinforce this during our next site visit.

We have reviewed hundreds of supervisor notes for this reporting period. In some of these notes, sworn and detention supervisors appropriately noted during squad or shift briefings that they had reinforced that discriminatory policing is unacceptable, allowing them to deliver the same

message to numerous employees at the same time. In other cases, the sworn supervisors used a written statement that they read to individual employees. During our most recent site visit, we also spoke with one district captain who reinforces the message in monthly supervisor meetings that are documented in Blue Team.

There are numerous ways for MCSO to comply with this Paragraph; and while there has been an increase in compliance since MCSO's early audits, it has not yet reached Phase 2 compliance with this Paragraph.

During this reporting period, BIO conducted audits of employee emails and CAD messaging, and completed three facility inspections. The outcomes of these inspections/audits are covered in Paragraph 23.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

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

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

During the previous reporting period, MCSO conducted CAD messaging audits in July, August, and September 2015. MCSO reported a 100% compliance rate in July, a near 100% compliance rate in August, and a 100% compliance rate in September. In the August audit, MCSO identified one concern and provided us with the BIO Action Report, and the follow-up response, which indicated that the agency took appropriate action.

During this reporting period, using a randomizing program, MCSO again selected 10 days out of 30 or 31 as samples for each inspection. The BIO reviews CAD messages in an effort to identify compliance with MCSO policies CP-2 (Code of Conduct), CP-3 (Workplace Professionalism), and GM-1 (Electronic Communications and Voicemail). In its submission to our Team, MCSO now includes the specific nature of any potential concerns identified during the audits.

In its October CAD audit, MCSO did not identify any concerns relative to compliance with this Paragraph. MCSO reported a 100% compliance rate.

In its November CAD audit, MCSO identified one concern and reported a 99% compliance rate. MCSO provided the BIO Action Report, the specific content of the inappropriate messaging, and the action it took. While we agree that the reported messaging was inappropriate and MCSO appropriately opened an administrative investigation, we did not find the content of the messaging relevant to the requirements of this Paragraph.

In its December CAD audit, MCSO did not identify any concerns relative to compliance with this Paragraph. MCSO reported a 100% compliance rate.

During the previous reporting period, MCSO conducted email audits in July, August, and September; and reported a 100% compliance rate for each month.

During this reporting period, MCSO conducted email audits in October, November, and December 2015.

In October, BIO selected 34 email accounts, totaling 9,437 emails to review. BIO inspected 4,670 emails after eliminating normal MCSO business-related emails. MCSO reported a 100% compliance rate for October.

In November, BIO selected 34 email accounts, totaling 12,677 emails to review. BIO inspected 6,742 emails after eliminating normal MCSO business-related emails. MCSO reported a 100% compliance rate for November.

In December, BIO selected 34 email accounts, totaling 9,768 emails to review. BIO inspected 4,656 emails after eliminating normal MCSO business-related emails. MCSO reported a 100% compliance rate for December.

In its CAD audits, BIO continues to recommend that supervisors remind employees of Office Policy and Procedure related to CAD and Alpha Paging Messaging Entries. In its email audits, BIO continues to recommend that supervisors provide training to employees specifically emphasizing the prohibition of employees using County property, including email, in any manner that denigrates anyone based on race, color, national origin, age, religious beliefs, gender, culture, sexual orientation, veteran status, or disability.

During this reporting period, MCSO conducted three facility inspections. Management selects the division or facility to be inspected, and a matrix checklist developed by BIO is utilized to conduct the inspection. There are 68 areas of inspection, but not all areas are applicable to all divisions or facilities.

MCSO conducted facility inspections for this reporting period at the Civil Division, the S.W.A.T. Division, and the Major Crimes Division. 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.

During our October 2015 site visit, our Team visited Lake Patrol and District 2, and found no signage, pictures, or other indication of County property being used in violation of this Paragraph. During our February 2016 site visit, we visited Districts 3 and 4, and again found no indication that County property was being used in violation of this Paragraph.

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

As we have noted previously, the consistent reduction in concerns identified from the first audits conducted in late 2014 underscores the value of conducting these audits and inspections on an ongoing basis.

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

In April 2014, we met with members of the MCSO Court Implementation Division and members of the Special Investigations Division (SID) to determine what methods they employed to receive information from the public regarding criminal activity. We have since been provided with the information on the hotlines in use by MCSO.

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

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

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

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

We reviewed the tip information received by Major Crimes, Enforcement Support, Civil, and Special Investigations for this reporting period. We found all of the tip information to be consistent with the mission of each tip-line. We did not find any information or request for law enforcement action that appeared to be based on race or ethnicity. Special Investigations reported that it conducted one operation during this reporting period. The operation conducted does not reach the threshold for a significant operation. The operation utilized nine MCSO personnel for an appropriate law enforcement contact, and the case remains ongoing. A review of the report shows that MCSO received information from an external source, and conducted appropriate law enforcement follow-up before taking any action.

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

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

- District 6 reported that it serves the town of Queen Creek pursuant to a law enforcement contract. As Queen Creek's primary law enforcement organization, it is responsible to police town ordinances/codes as well as applicable state law. District 6 reported that it has a web-based application that is used to report local issues related to town services. District 6 received concerns from the public during this reporting period. No operations were initiated, and none of the complaints were relevant to compliance with this Paragraph.
- District 7 reported that it uses a Request for Enforcement Services/Community Service Form, which members of the public complete for specific enforcement for patrols such as speed enforcement or extra patrols because of potentially reoccurring problems such as criminal damage or vandalism. These forms are given to the patrol sergeants to assign to deputies. District 7 reported that it does not track or have any documentation as to what follow-up is completed, but it is working on a remedy for that situation. District 7 also reported that it participates in "Text-A-Tip" in Fountain Hills. Tips generated in this program are completely anonymous. District 7 investigates the tips if possible, but report that the tips are not always entered into the website; staff are also working on a solution for this issue. District 7 did receive "Text-A-Tips" during this reporting period. We did not find any that were relevant to compliance with the requirements of this Paragraph.
- 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 them 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.

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

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 is creating a new unit that will be called the Sheriff's Intelligence Leads and Operations (SILO). This unit will be led by a lieutenant already assigned to the Arizona Counter Terrorism Information Center (ACTIC). The unit will hire two criminal intelligence analysts, two investigative research specialists, and one intelligence analyst

supervisor who will report to the lieutenant already assigned to the ACTIC. This lieutenant will likely report directly to a Deputy Chief. The unit will be housed at the ACTIC.

MCSO personnel advised us that they would be drafting a policy and an SOP for the Unit; but that their primary responsibility would be to vet, corroborate, and disseminate to the appropriate divisions valid tip information that requires follow-up action. MCSO informed us that it currently receives between 200-400 tips per month, in multiple divisions and via multiple ways within the agency. This is consistent with observations our Team has made. Our review of hotline information to date has shown that the majority of tips are related to deadbeat parents, warrants, animal abuse, and narcotics. MCSO has not determined how it will address any tips that might be called in to the Patrol districts, but it will explore this issue, as well. In addition to creating this specialized unit, MCSO will also identify specific personnel in other law enforcement agencies to whom they can forward tip information when appropriate.

MCSO personnel assured us that the agency was not developing the new unit or hiring additional personnel to comply with the Court Order, but because they believed it was something that would be of benefit to their department.

We will assess Phase 1 compliance with this Paragraph once the policies and procedures for the new SILO Unit are written and approved. Phase 2 compliance can then be addressed.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

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

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

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

MCSO has developed several policies that, in concert, incorporate the requirements of this Paragraph. These include: EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), dated September 22, 2014; EB-2 (Traffic Stop Data Collection), dated September 22, 2014 and amended December 17, 2015; EA-5 (Enforcement Communications), amended October 29, 2015; and CP-8 (Preventing Racial and other Bias-Based Policing), dated September 5, 2014. In our feedback to MCSO, we required that the definition of racial profiling be consistent throughout all policies where it is included, and that it mirror the definition provided in the Order. MCSO made the requested policy changes in each of the affected documents, which were then reviewed and approved. The policies were disseminated and trained to during the Fourth and Fourteenth Amendment training, which MCSO completed in December 2014. MCSO is in Phase 1 compliance with this Paragraph.

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

To capture the information for this Paragraph, we review MCSO's Vehicle Stop Contact Form, Vehicle Stop Contact Form Supplemental Sheet, Incidental Contact Sheet, Written Warning/Repair Form, Arizona Traffic Ticket and Complaint Form, Internet I/Viewer Event Form, Justice Web Interface Form, CAD printout, and any Incident Report generated by the

traffic stop. MCSO created many of these forms to capture the requirements of the Order for Paragraphs 25 and 54. In addition, we met with ASU personnel in October 2015 and February 2016, and reviewed their data analysis of the traffic stop data they presented. Since our July 2015 site visit, there has been significant improvement in the TraCS system that has improved the reliability and validity of the data provided by MCSO. We compare traffic stop data in the sample between Hispanic and non-Hispanic drivers.

Paragraph 25.a. prohibits racial profiling in the enforcement of traffic laws, including the selection of which vehicles to stop based to any degree on race or ethnicity, even where an officer has reasonable suspicion or probable cause to believe a violation is being or has been committed. The selection of the sample size and the sampling methodology employed for drawing the sample is detailed in Section 7: Traffic Stop Documentation and Data Collection. Our review of a sample of 105 traffic stops (out of 7,200 total traffic stops that occurred during this reporting period in Districts 1-4, 6, 7, and Lakes) indicated that MCSO was following protocol, and that the stops did not violate the Order or internal policies. This review is a sample of the traffic stops that occurred during the quarter. Paragraphs 66 and 67 require an annual comprehensive analysis of all traffic stop data, which will more accurately determine if the requirements of this Paragraph are being met. MCSO is currently compliant with this Subparagraph.

Paragraph 25.b. requires MCSO to provide deputies with guidance on effective traffic enforcement, including the prioritization of traffic enforcement resources to promote public safety. MCSO policy EB-1.A-E addresses these concerns. The policy specifies that driving under the influence and speeding are the main causes of accidents, and should be the focus of traffic enforcement. We found that the majority of violations cited (47%) were for speeding and address the policy requirements. In the remaining cases, the stops were for reasons such as failure to obey official traffic control devices (15%); failure to possess valid registrations, licenses, or tags (17%); or equipment violations (12%). In our review, we break down the specific traffic violation for each stop and utilize each traffic stop form completed by MCSO during the stop to make a determination if the stop is justified and fulfills the requirements of the Paragraph. When we review the 105 sample traffic stops from across all districts during this reporting period, we make note of the locations of the stops contained on the Vehicle Stop Contact Form, the CAD printout and the I/Viewer system to ensure that they are accurate. Our review of the data indicates MCSO is compliant with this Subparagraph.

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

Paragraph 25.d. requires MCSO to prohibit the selection of which motor vehicle occupants to question or investigate based to any degree on race or ethnicity. During this review of the traffic stop data, we noted six instances where passengers (one white male, one Black male, two Indian/Alaskan females, one Hispanic male, and one Hispanic female) were contacted; and it does not appear that deputies based their questioning of passengers, to any degree, on race or

ethnicity. In the case involving the Hispanic female passenger, the driver did not have a valid driver's license and the deputy made the inquiry to determine if she could drive the vehicle. In the case involving the Hispanic male, the young driver had a restricted license that required an adult to be present in the vehicle. In this case, the deputy asked the Hispanic male passenger his age to determine if he was an adult. In our experience reviewing traffic stop data, questioning or investigating passengers occurs infrequently.

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

Paragraph 25.e. requires MCSO to prohibit the use of particular tactics or procedures on a traffic stop based on race or ethnicity. (See Paragraph 54.e.) We reviewed a sample of 30 CAD audio recordings of traffic stops and 105 CAD printouts where the dispatcher enters the reason for the stop when advised by the deputy in the field. The methodology that we employed to select the samples is described in detail in Section 7. Prior to making the stop, the deputies advised dispatch of the stop with location, tag/state, and reason for the stop in all about one case. None of the stops in the sample involved the use of traffic checkpoints. All stops, with one exception, appeared to comport with policy. During this one non-compliant stop, a Hispanic driver was stopped for speeding. The deputy specified on the VSCF that there was no contact with the lone passenger in the vehicle, but a review of additional documentation indicated that contact was made with the passenger. This is a violation of EB-2 (Traffic Stop Data Collection), since the deputy contacted a passenger and did not document it on the VSCF. We have found that while data entry inaccuracies are important, their number is negligible. We conducted a ride-along with a deputy during our July 2015 site visit to determine how traffic stops are conducted, and observed a stop where the violation was for speeding and the driver was issued a warning. As in many cases, at the time of the stop, we could not determine the ethnicity or gender of the driver until the vehicle was approached. The stop was routine and the deputy's actions followed policy. Our review of the sample data indicated that traffic stops were not based on race or ethnicity and reflected the general makeup of the population of the County; therefore, MCSO is in compliance with this Subparagraph.

Paragraph 25.f. requires deputies at the beginning of each stop, before making contact with the vehicle, to contact dispatch and state the reason for the stop unless exigent circumstances make it unsafe for the deputy to contact dispatch. In 29 of the 30 CAD audio recordings we reviewed, the deputy advised dispatch of the reason for the stop, prior to making contact with the vehicle occupants. In the exception, the deputy did not advise the dispatcher of the reason for the stop but the deputy documented the reason for the stop on the VSCF. In the 75 other cases that were part of our sample, we reviewed the CAD printout to ensure that deputies were properly advising

dispatch of the reason for the stop prior to making contact with the violator. Our review indicates that MCSO is compliant with this Subparagraph. When the deputy advises Communications of the location, tag number, and reason for the stop, this information is logged on the CAD printout. (See Paragraph 54e.) MCSO's compliance rate for this Subparagraph is 99%.

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 one stop, involving a white female, lasted for a longer duration than necessary with no explanation from the deputy. In addition, the stop was for failing to obey a stop sign, and the deputy failed to document it was an extended stop on the VSCF. We also noted that, in this case, the duration of the times between the start and end times on the stop indicated on the VSCF and the CAD printout differed by more than five minutes. The deputy's supervisor should have noticed these discrepancies when he reviewed his subordinate's traffic stops and taken some type of action. There were 10 other stops that were extended and justified due to the nature of the circumstances. In three of the extended stops, the vehicle was towed; in two cases, the license plate was seized; in two cases a physical arrest was made (DUI arrest and an open warrant arrest); in one case, two motorcyclists were racing and both were detained; and in the remaining case, a DUI investigation was conducted, although it did not result in an arrest. Since 99% of the cases complied, MCSO is in compliance with this Subparagraph. (See Paragraph 54.i.)

Paragraph 25.h. requires the duration of each traffic stop to be recorded. In our review, we determined that the duration was recorded accurately in 99 of the 105 traffic stops. In six cases, there was a difference of five or more minutes in the start or end time of the stop, when comparing the Vehicle Stop Contact Form and the dispatch CAD printout. There were no explanations by the deputies as to why there were disparities between the stop forms. In two of the six stops where the stop times did not match, the drivers were Hispanic. In one case, the violator failed to stop at a red light and received a citation; and in the second case, the driver was speeding and had a restricted driver's license with no adult driver present and was issued a citation. In the four remaining cases, citations or warnings were issued. Only one of these stops was extended and not justified, and the violator was a white female who received a citation for speeding. In our experience with 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 incorrectly 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 those subordinates. If supervisors conducted daily review of the TraCS forms, the initiating deputy could make timely corrections. Proper and timely supervision should reduce the number of deficiencies. (See Paragraphs 54.b. and 54.i.) MCSO is compliant with this Subparagraph with a 94.2% 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-11.8.3 (Arrest Procedures), dated September 5, 2014, provides a list of acceptable forms of identification if a valid or invalid driver's license cannot be produced. Only driver licenses, with three exceptions (driver did not have valid license on his person), were presented to deputies in each of the cases provided in our sample. In these cases, the deputy ran a records check on the name and date of birth of the drivers. In two cases, the drivers had valid licenses, and in the remaining case, the driver's license was suspended. 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 asked for – or was provided with – a Social Security number by the driver or passengers. When MCSO begins employing body-worn cameras, we will review a sample of traffic stops to observe and review the video/audio of the interactions and determine if deputies are abiding by the requirements of the Order. In September 2015, MCSO added fields to the Vehicle Stop Contact Form to include the documentation of on-body camera recordings and we will review a sample of those forms, once the cameras are implemented, for compliance with the requirements of this Subparagraph. MCSO is compliant with this Subparagraph.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

- a. require that Deputies have reasonable suspicion that a person is engaged in, has committed, or is about to commit, a crime before initiating an investigatory seizure;*
- b. require that Deputies have probable cause to believe that a person is engaged in, has committed, or is about to commit, a crime before initiating an arrest;*
- c. provide Deputies with guidance on factors to be considered in deciding whether to cite and release an individual for a criminal violation or whether to make an arrest;*
- d. require Deputies to notify Supervisors before effectuating an arrest following any immigration-related investigation or for an Immigration-Related Crime, or for any crime by a vehicle passenger related to lack of an identity document;*

- e. *prohibit the use of a person's race or ethnicity as a factor in establishing reasonable suspicion or probable cause to believe a person has, is, or will commit a crime, except as part of a reliable and specific suspect description; and*
- f. *prohibit the use of quotas, whether formal or informal, for stops, citations, detentions, or arrests (though this requirement shall not be construed to prohibit the MCSO from reviewing Deputy activity for the purpose of assessing a Deputy's overall effectiveness or whether the Deputy may be engaging in unconstitutional policing).*

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

During this reporting period, MCSO again reports that there were no immigration-related arrests or investigations; or investigations for misconduct with weapons, forgery, or any other immigration-related crime. There was one arrest for identity theft that resulted from a joint investigation with the Mesa Police Department. There was no indication that the investigation was an immigration-related crime. MCSO patrol personnel also investigated one criminal case of identity theft. The victim in this case notified MCSO that a relative had used his identity and the victim now had warrants out for his arrest, in addition to other financial obligations, as a result of the illegal actions of his relative.

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

MCSO reported 10 incidents where vehicle drivers had charges pertaining to lack of an identity document. Of these drivers, three were white males, three were Hispanic males, one was an Asian male, one was a Native American male, one was a Black male, and one was a white female. All stops were made with articulated Title 28 violations precipitating the stop. Seven of the drivers were booked. Some of those booked had outstanding warrants. Others had violations including DUI, possession of narcotics, and criminal speed. In six of the 10 cases, the report did not indicate that a supervisor had been contacted while the deputy was still on scene. A supervisor signed all of the reports on the date of the incident or the day following the incident. A review of the documentation provided by the arresting deputies provided details of the contacts. Based on the reports reviewed, the actions of the deputies at each scene appear to be appropriate and consistent with normal law enforcement practices.

During this reporting period, MCSO Special Investigations Division Anti-Trafficking Unit (ATU) arrested 29 persons. The majority of these arrests were for narcotics violations and resulted from street level investigations and associated search warrants. During prior reporting periods, Border Patrol originated many of the arrests by the ATU. The Border Patrol originated none of the narcotics cases investigated during this reporting period. In addition to narcotics investigations, the ATU conducted or assisted in several other investigations.

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

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

MCSO provided the finalized policy for EA-11 (Arrest Procedures), the Investigations Division Operations Manual, and the former HSU (Human Smuggling Unit) Operations Manual. The only reference to a LEAR (Law Enforcement Agency Response) Policy is in the former HSU Operations Manual where references are made to a U.S. Immigration and Customs Enforcement (ICE) LEAR Policy. We reviewed the relevant policies and find no reference to an MCSO LEAR Policy. We have met with MCSO staff, and have been advised that MCSO has never had a LEAR Policy of its own, though ICE does have one that was referenced in former policies and draft memorandums. These draft memorandums and policy references to the ICE LEAR policy may have contributed to the belief by many MCSO personnel that MCSO did, in fact, have a LEAR policy. MCSO must ensure that its personnel do not mistakenly believe that MCSO has any immigration enforcement authority based on the former draft LEAR policy, and needs to ensure that any future references to policies or procedures of other agencies are clearly defined and explained to MCSO personnel.

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

- a. specify that unauthorized presence in the United States is not a crime and does not itself constitute reasonable suspicion or probable cause to believe that a person has committed or is committing any crime;*
- b. prohibit officers from detaining any individual based on actual or suspected “unlawful presence,” without something more;*

- c. *prohibit officers from initiating a pre-textual vehicle stop where an officer has reasonable suspicion or probable cause to believe a traffic or equipment violation has been or is being committed in order to determine whether the driver or passengers are unlawfully present;*
- d. *prohibit the Deputies from relying on race or apparent Latino ancestry to any degree to select whom to stop or to investigate for an Immigration-Related Crime (except in connection with a specific suspect description);*
- e. *prohibit Deputies from relying on a suspect's speaking Spanish, or speaking English with an accent, or appearance as a day laborer as a factor in developing reasonable suspicion or probable cause to believe a person has committed or is committing any crime, or reasonable suspicion to believe that an individual is in the country without authorization;*
- f. *unless the officer has reasonable suspicion that the person is in the country unlawfully and probable cause to believe the individual has committed or is committing a crime, the MCSO shall prohibit officers from (a) questioning any individual as to his/her alienage or immigration status; (b) investigating an individual's identity or searching the individual in order to develop evidence of unlawful status; or (c) detaining an individual while contacting ICE/CBP with an inquiry about immigration status or awaiting a response from ICE/CBP. In such cases, the officer must still comply with Paragraph 25(g) of this Order. Notwithstanding the foregoing, an officer may (a) briefly question an individual as to his/her alienage or immigration status; (b) contact ICE/CBP and await a response from federal authorities if the officer has reasonable suspicion to believe the person is in the country unlawfully and reasonable suspicion to believe the person is engaged in an Immigration-Related Crime for which unlawful immigration status is an element, so long as doing so does not unreasonably extend the stop in violation of Paragraph 25(g) of this Order;*
- g. *prohibit Deputies from transporting or delivering an individual to ICE/CBP custody from a traffic stop unless a request to do so has been voluntarily made by the individual;*
- h. *Require that, before any questioning as to alienage or immigration status or any contact with ICE/CBP is initiated, an officer check with a Supervisor to ensure that the circumstances justify such an action under MCSO policy and receive approval to proceed. Officers must also document, in every such case, (a) the reason(s) for making the immigration-status inquiry or contacting ICE/CBP, (b) the time approval was received, (c) when ICE/CBP was contacted, (d) the time it took to receive a response from ICE/CBP, if applicable, and (e) whether the individual was then transferred to ICE/CBP custody.*

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

At our request, the document request related to contacts and transportation to “ICE” was modified to include contacts, transportation to “ICE/Border Patrol.”

As in previous reporting periods, MCSO reported that during October and November 2015, there were no instances of any subject being transported to ICE/Border Patrol, no instances of deputies having contacts with ICE/Border Patrol for the purpose of making an immigration status inquiry, and no arrests made following any immigration-related investigation or for any immigration-related crime.

In December 2015, MCSO reported one contact with ICE/Border Patrol. A deputy stopped a subject for a traffic violation. During the contact, the deputy ran a warrant check on the driver. Running warrant checks on traffic violators is a standard law enforcement practice. MCSO dispatch advised the deputy that the subject had an outstanding warrant from ICE for “failing to report for deportation.” MCSO dispatch contacted ICE, and then transmitted to the deputy that this was an administrative warrant and ICE did not normally deport on these type of warrants. After further follow-up, MCSO dispatch related to the deputy that ICE would remove the warrant, and the subject was free to go. While ICE did respond to the telephone inquiry, it did not respond to the scene. The deputy completed the Vehicle Stop Contact Form that affirms that the traffic stop was extended with supervisor approval for the purpose of contacting ICE to verify the validity of the warrant. The subject was cited for the traffic violation and released. This is the first time we have seen an ICE contact during a traffic stop in our reviews. The vehicle driver was detained for 31 minutes while information on the warrant was being obtained and verified. We recommend that MCSO conduct additional training on the types of warrants that ICE issues, and that MCSO provide specific guidance on how each type of warrant should be handled.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

e. Policies and Procedures Generally

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

See Paragraph 30.

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

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

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

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

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

MCSO's policy GA-1 (Development of Written Orders) 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. As GA-1 was published during this reporting period, on November 7, 2015, MCSO is now in Phase 1 compliance with this Paragraph.

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

During our April 2015 and October 2015 site visits, we received an overview of the E-Policy System, a companion program to the computer-based training program, E-Learning, which MCSO has been using for years. Office personnel were advised of the launch of the E-Policy program in Briefing Board 15-02, issued January 21, 2015. The Briefing Board states, "Effective immediately, E-Policy will be used by the Office to ensure employees, posse

members, and reserve deputies have access to all Office policy [Critical (C), General (G), Detention (D), and Enforcement (E)], as well as updates to, and revisions of all Office policy. E-Policy will also be the mechanism in which the Office will be able to verify the receipt of policy by employees, posse members, and reserve deputies, as well as an acknowledgement that the policy was reviewed and understood.” The Briefing Board further states, “In those cases involving Critical Policy and other select policies, the E-Policy requirement will also include the need to correctly answer questions regarding the revised policy.”

We have advised MCSO that in those cases where formal training is required by the Order, the E-Policy questions – which test comprehension of a policy – cannot serve as a substitute for the training. During this reporting period, MCSO published two Order-related General Orders: policy GA-1 (Development of Written Orders), on November 7, 2015; and policy GH-5 (Early Intervention System), on November 18, 2015. MCSO also revised EA-5 (Enforcement Communications) on October 29, 2015. We will review MCSO’s records for the training of relevant personnel on these policies, and report on this in our next report. In the meantime, we are deferring our Phase 2 compliance assessment of this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: Deferred

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

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

For the previous reporting period, we reviewed 66 completed administrative investigations conducted by MCSO involving sworn personnel. While we saw some measure of improvement in the completion of internal investigations from previous reporting periods, we identified a number of concerns that would need to be addressed for MCSO to reach Phase 2 compliance with this Paragraph. We found deficiencies in 44 of the cases submitted. While many of the deficiencies were relatively minor, others were more substantial, including incomplete investigations, failure to interview all parties, and reaching unsupported findings. We disagreed with the findings in seven of the 66 cases we reviewed.

During the previous reporting period, we noted our concerns with the continued number of cases that were classified as “procedural” by the investigator and approved by the chain of command. Of the 12 cases classified as procedural, we agreed with this designation in only two of the cases. In the remaining 10 cases, we believed a classification of procedural was inappropriate.

Also during the previous reporting period, we noted our concerns with cases where MCSO personnel made decisions to not interview persons who were or may have been present at the scene where the incident occurred; situations that were essentially a “he said, she said” scenario that were resolved in favor of the MCSO employee without other supporting information; and cases where the findings were not supported by the facts of the investigation. During our February site visit, we discussed these concerns with PSB personnel and provided them with examples and relevant case numbers.

During one meeting with PSB and MCSO Counsel during our February 2016 site visit, we were told that many of the issues with the administrative investigations are MCSO’s cultural issues they are trying to change; and that MCSO personnel were not held accountable for these issues in the past. We do not disagree with this assessment. We also believe that cultural change and accountability must start with the leadership of the organization if it is to take hold.

We have also expressed serious concerns with MCSO’s review process. MCSO determines findings and sanctions without any explanation, documentation, or written justification. Since all cases investigated by PSB are briefed to the Chief Deputy or his designee who then makes the decision on findings, a member of our Team attended a PSB briefing with the Chief Deputy on November 24, 2015. The Chief Deputy, his assistant, and numerous members of PSB attended this meeting. They reviewed five cases, and raised a sixth case in which PSB personnel sought direction from the Chief Deputy on a potential truthfulness allegation. Per MCSO policy, the decision to pursue allegations of truthfulness lies with the Chief Deputy.

The PSB personnel in attendance at this meeting were knowledgeable about the cases they presented, and the Chief Deputy asked some relevant questions. The presenting PSB personnel then provided a verbal recommendation for findings. In all five cases presented on this date, the Chief Deputy approved the recommended findings. He also approved PSB moving forward with the truthfulness allegation discussed. Based solely on the briefings provided by PSB personnel, we are in agreement with the findings in these cases.

However, we have numerous concerns with this process. It appears that the Chief Deputy makes his decision for findings based solely on the verbal briefing he receives; he does not *read* the investigation. In this briefing, the Chief Deputy agreed with the recommendations for findings by PSB staff. There is, however, no certainty he would always do so, and there is a lack of documentation in those instances where the Chief Deputy makes a different finding than the one recommended by PSB staff. While there is no reason to believe that PSB personnel do not provide all relevant information to the Chief Deputy, the lack of written justification for the Chief Deputy’s findings leaves the process open to questions and criticism. We observed no indication that the briefing was being recording or that written documentation of the meeting discussion was taking place. If at any point someone from MCSO were to raise any challenge regarding the findings, it would be unlikely that the meeting participants could accurately recount the discussion that led to the decision. We have consistently expressed concerns that findings appear to be unsupported by investigations. The method used by MCSO to review the most serious allegations that are investigated by PSB and determine findings validates our concerns.

The new checklist and investigative format documents recently approved by MCSO should resolve some of the problems with administrative investigations. The new protocol requires that the PSB investigator draw “conclusions,” and the PSB captain determines the preliminary findings. Findings at higher levels in the organization that are not in agreement with the preliminary findings will require justification in writing. This same process will be used for investigations conducted in MCSO districts and divisions.

During this reporting period, we reviewed the administrative investigation inspections conducted by MCSO in October, November, and December 2015. The stated purpose of these inspections is to “determine if the selected administrative investigations were conducted in compliance with Office policies and in support of the *Melendres* Order.”

MCSO uses a randomizing program to select the specific administrative investigation reports to be reviewed. For this reporting period, MCSO found a 96.5% compliance rate in October 2015, a 72% compliance rate in November 2015, and an 85% compliance rate in December 2015. Those investigations found not to be in compliance included those that were not completed within the required time limits, failed to have required paperwork, or failed to allow the Principal in the investigation to make a five-minute statement. In our discussions with MCSO personnel regarding these inspections, they have told us that their inspections address procedural issues and are not intended to evaluate the quality or findings of the investigations. We are not in disagreement with the findings in these inspections relative to the procedural issues identified.

During this reporting period, we reviewed all 59 investigations submitted in response to the requirements of this Paragraph, and also reviewed some of the audio- or videotaped interviews conducted with MCSO personnel. These cases continued to reflect the concerns we have found during previous case reviews.

Thirty-nine of the 59 cases we reviewed were deficient. Again, we noted that a number of cases lacked required paperwork; and in one case, we disagree with the classification of the complaint as procedural. In seven cases, we found that MCSO made findings of not sustained, but the final letters sent to the complainants said that MCSO personnel had acted appropriately. We found cases where MCSO failed to interview all parties, and other cases that were resolved in favor of MCSO employees when there were no witnesses or other independent evidence to support the employee’s version of the incident. We disagree with the findings in seven of the investigations we reviewed.

We also noted concerns with the critical facts section of the administrative investigations. These appear to be more a recapitulation or summary of what everyone said, as opposed to the facts determined by the investigator. The investigative protocol document that has been recently implemented will require the investigator to draw conclusions from these critical facts in future investigations, which should help address this issue.

We also noted a number of complaints that were received by MCSO in mid- to late 2014 and not completed until mid- to late 2015. We followed up with PSB personnel, who told us that they had become aware these cases were pending and had initiated contact with the districts involved to ensure that the investigations were addressed. While we have concerns with the lack of accountability that existed for the completion of administrative investigations, we appreciate PSB’s efforts to address these cases.

There were two cases reviewed during this reporting period that were particularly alarming. In the first case, an MCSO employee alleged numerous acts of serious misconduct against another employee. The case was appropriately investigated by PSB. It was an extensive investigation and numerous employees were interviewed. Multiple violations were sustained and the employee was demoted. The employee who brought the complaint forward was eventually made a principal as well. This employee received a written reprimand.

However, while we believe that PSB adequately investigated the initial allegations, we strongly disagree with the outcome. We are particularly concerned with the failure of MCSO to address the truthfulness of the principal during his interview with PSB personnel. This employee adamantly denied committing several of the serious acts of misconduct. However, in some circumstances, more than one MCSO employee witnessed the misconduct and the allegations were sustained. It is clear from our review of the case that a truthfulness issue existed. By policy, the Chief Deputy would determine if a truthfulness issue was to be pursued, and would also determine the findings. We believe MCSO was obligated to address the truthfulness of this employee during his investigative interview with PSB and failed to do so.

In the second case, a supervisor brought forward an allegation of insubordination against another employee. PSB again conducted a thorough investigation and interviewed numerous MCSO employees.

In this case, it was alleged that the employee was insubordinate when he worked hours he had been ordered by a supervisor not to work. The investigation showed that on more than one occasion, this employee had put in for up to eight hours of time; and when challenged by his supervisor, the employee told the supervisor to just remove the time. During his interview with PSB, this employee said that he did not want to cause a problem with overtime, so he just “donated” the time. It simply defies logic that an employee would work up to eight hours of time on more than one occasion; and when questioned, would tell the supervisor to remove the hours. If the employee had worked the hours he claimed, MCSO would be in violation of the Fair Labor Standards Act for not paying the employee for these hours. It is further concerning that the employee’s supervisor did not take any supervisory action when these incidents initially occurred and only reported them after a transfer. Even if the employee had the hours removed when challenged, the violations still occurred. In this case, we believe that there is a serious truthfulness issue and a potential issue of fraudulently claiming time worked. Neither was alleged or investigated by MCSO.

These two cases highlight our concerns with the review process employed by MCSO on its most serious cases. There is no available written documentation that would allow us to review or understand the decisions that were made. Without any information other than what has been provided, we believe that MCSO has failed to appropriately address egregious acts of misconduct by employees.

As in the past, during our next site visit, we will discuss with PSB personnel the investigations where we have identified concerns.

While MCSO has taken a step forward with the development of the checklist and investigative formats, MCSO will not be in Phase 2 compliance with this Paragraph until it addresses the more substantive issues we continue to find in our reviews of administrative investigations.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

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

During the previous reporting period, MCSO provided two completed internal investigations for this Paragraph. We agreed with the findings in the first case, and believed that the second case should have been exonerated instead of not sustained.

During this reporting period, MCSO completed and submitted three administrative investigations for this Paragraph.

In the first case, the complainant alleged that he was being targeted because of the type of vehicle that he drove. MCSO conducted an investigation and determined that there was no merit to the allegation. We agree with the finding of unfounded.

In the second case, the complainant alleged being racially profiled when a deputy or Posse member in a marked vehicle flashed his vehicle overhead lights and then pulled up next to the complainant and shined a spotlight into the vehicle the complainant was driving. The complainant also alleged that this person did the same thing to a second vehicle in front of her, and that she has observed this kind of conduct in the past. The complainant was not stopped or contacted. The complainant believed that this happened because of the complainant's race. The complainant did not know the race of the second driver on the date of this incident or the race of any other driver on other occasions. The investigation determined that it was a sworn employee driving the MCSO vehicle on the date the incident occurred. The employee remembered the incident and said that this is the method he uses to get drivers attention to get them to slow down without any intention of making a stop. This incident occurred during evening hours, and the employee said he did not know the race of the drivers in either vehicle that night. This employee is not assigned to patrol, has not received TraCS training, and does not know how to use the MDC computer. MCSO found the complaint of racial profiling to be unfounded. Since there

were no independent witnesses or other evidence, this complaint should have been not sustained. We also question the appropriateness of the method this employee uses to gain the attention of drivers he has no intention of stopping. MCSO exonerated this portion of the complaint.

In the third case, the complainant alleged that he had been discriminated against because he was a disabled veteran. He said he had not received the assistance he needed to make a telephone call while in the MCSO jail facility. He also made allegations against two other agencies. MCSO's investigation showed that there was likely no merit to the complaint against MCSO employees, but since MCSO was unable to identify any specific employee who might have been involved, it appropriately not sustained the allegation. MCSO followed up on the allegations against one of the other agencies, but did not follow up with the second one or provide information to the complainant so that he could make contact with them himself.

We have received and reviewed completed cases for three reporting periods. In the first seven cases reviewed, we found that the investigations were generally handled appropriately, but we disagreed with one finding. In that case, we believed the investigative finding could have been exonerated rather than not sustained. During this reporting period, we found that the three closed investigations were also generally complete, but we had concerns with the findings of one of the investigations. We believe the finding should have been not sustained instead of unfounded.

MCSO opened 10 new investigations relevant to this Paragraph during this reporting period and provided the general allegations for our review. We will review these cases once the investigations are complete.

Given that we have only received and reviewed a total of 10 completed cases over three reporting periods, we will continue to defer a Phase 2 compliance determination until we are able to conduct additional case reviews under this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: Deferred

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

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

As mentioned above, since the first several months of our tenure, MCSO has been reviewing its policies in response to Order requirements and our document requests. Many of the policies have been adjusted based on our feedback and that of the Plaintiffs' attorneys 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, during our December 2014 site visit, we established a schedule for the annual reviews required by the Order. We agreed that the cycle for this review requirement would be MCSO's fiscal year, which runs from July 1 to June 30.

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

Section 5: Pre-Planned Operations

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

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

COURT ORDER VI. PRE-PLANNED OPERATIONS

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

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

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

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

MCSO's organizational chart for SID no longer shows the Criminal Employment Unit or the Human Smuggling Unit. The former Human Smuggling Unit is now listed as the Anti-Trafficking Unit on the organizational chart.

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

During this reporting period, the ATU continued to investigate narcotics violations. The ATU also participated in several investigations not related to narcotics violations. None of these cases were related to any immigration or human smuggling activity.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

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

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

MCSO reported one operation by the Special Investigations Division this reporting period. This operation did not meet the criteria for a significant operation and was reported in compliance with other Paragraphs of the Order. This operation utilized nine MCSO personnel for a legitimate law enforcement operation. No arrests have been made, and the investigation remains ongoing.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

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

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

- a. documentation of the specific justification/reason for the operation, certified as drafted prior to the operation (this documentation must include analysis of relevant, reliable, and comparative crime data);*
- b. information that triggered the operation and/or selection of the particular site for the operation;*
- c. documentation of the steps taken to corroborate any information or intelligence received from non-law enforcement personnel;*
- d. documentation of command staff review and approval of the operation and operations plans;*

- e. a listing of specific operational objectives for the patrol;*
- f. documentation of specific operational objectives and instructions as communicated to participating MCSO Personnel;*
- g. any operations plans, other instructions, guidance or post-operation feedback or debriefing provided to participating MCSO Personnel;*
- h. a post-operation analysis of the patrol, including a detailed report of any significant events that occurred during the patrol;*
- i. arrest lists, officer participation logs and records for the patrol; and*
- j. data about each contact made during the operation, including whether it resulted in a citation or arrest.*

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

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

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

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

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

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

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

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

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

Based on a concern brought forward by the Plaintiffs' attorneys, and to provide clarification regarding the portion of this Paragraph that addresses the requirement for MCSO to notify the Monitor and Plaintiffs within 24 hours of any immigration-related traffic enforcement activity or significant operations involving "the arrest of 5 or more persons," we requested during our October 2015 site visit that MCSO provide a statement regarding this requirement each month. MCSO began including this information in its November 2015 submissions. During November and December 2015, MCSO reported that no arrests of five or more persons occurred in any significant operation or other qualifying event.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

Section 6: Training

COURT ORDER VII. TRAINING

a. General Provisions

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

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

Policy GG-2 (Training Administration), adopted January 24, 2014, was intended to provide policy guidance for all training programs. In its current form, however, GG-2 fails to establish any instructor criteria, such as legal requirements for the Order-mandated areas of Bias-Free Policing, Fourth Amendment, and Supervisor and Command Level Training. We were previously provided with a draft version of the proposed new policy, GG-1 (Peace Officer Training Administration). Our Team reviewed this policy and provided comments and recommendations to help MCSO develop instructor selection criteria and address the specific requirements of each training-related Paragraph of the Order. We did not receive a revised version of GG-1 or GG-2 during this reporting period.

During this reporting period, MCSO also did not provide us with a revised Training Division Operations Manual for review of consistency with GG-1 (Peace Officer Training Administration). It is critical that all training policies and procedures accurately portray MCSO's training processes. The Training Division Operations Manual has not received a final review.

During our October 2015 site visit, we reaffirmed our desire for MCSO to continue the process of including the Monitor, Plaintiffs, and Plaintiff-Intervenors in the instructor selection process for the 2015 Annual Combined Training and the 2015 Supervisory Responsibilities: Effective Law Enforcement Training. We recognize – and have discussed with the Training Division – the logistical difficulties associated with travel issues, caseloads, flight schedules, and social calendars; and have requested from them an ongoing status update of the instructor selection process for these training sessions. The identification and selection of instructors for the 2015 Annual Combined Training (a single, combined lesson plan that includes both the Bias-Free Policing and Fourth Amendment training) occurred on November 12, 2015, when we were provided with a “Training Instructor List.” The Parties had previously vetted the instructors that appeared on the list for delivery of the 2014 Bias-Free Policing, and Fourth Amendment, Detentions, Arrests, the Enforcement of Immigration-Related Laws.

Previous to our site visit, CID provided a “proposed instructor list for Body-Worn Camera Training, Supervisory Training, and TraCS Training” for our review, and documents titled “BWC Trainers Final and TraCS Trainers List Final.” MCSO delivered the latter two lesson plans without Monitoring Team input or approval. We learned that the Training Division had requested a PSB history check on all of the proposed instructors, and that none had “major discipline” in their past. On August 29, 2015, we responded to CID and expressed a concern

with the information provided and our inability to assess compliance under Paragraph 42 with the limited information. We were familiar with some of the names of the instructors provided, but requested additional information to include their educational backgrounds, and any AZ POST Instructor certifications or any specialty certifications obtained. We did not request the results of the PSB review, but rather what the criteria consisted of and what constituted “passing” this review. We also requested that this information be provided to the Plaintiffs and Plaintiff-Intervenors, as well. As of December 31, 2015, we have not received a response to our questions surrounding the PSB review.

During our July 2015 site visit, MCSO advised us that the Training Division was attempting to develop individual instructor folders. During our October 2015 site visit, these folders were not available for review. During our February 2016 site visit, we audited 10 instructor folders held at the Training Academy. Previously we had been advised that each folder contained an Instructor Selection Criteria Checklist, Skills Manager Employee Profile, Curriculum Vitae or Resume, and certificates received in accordance with the proposed instructor selection criteria of new policy GG-1. Each folder we audited was established in the uniform manner described. Each of the instructor files we reviewed identified the individual as an AZ POST certified General Instructor, and the certificate was included in the file. While it is not a policy requirement, we noted that not all instructors possessed undergraduate or graduate degrees. As a result of the adherence to proposed GG-1 policy guidance for PSB reviews, two instructors were identified as ineligible and removed from instructor status. As positive as this may sound, it was also discovered that PSB reviews were not conducted on three instructors reviewed. We caution MCSO that the selective application of policy-mandated instructor selection criteria will result in non-compliance assessments. This is an area that requires further review, considering most, if not all, instructors for Court-ordered training are not assigned to the Training Division as a permanent assignment.

During our February site visit, we, the Plaintiffs, and the Plaintiff-Intervenors reminded MCSO that the previous utilization of any instructor does not, by itself, provide approval for current use. MCSO should not assume that previously utilized instructors remain acceptable to all Parties.

Instructor selection for the 2015 Supervisor Responsibilities: Effective Law Enforcement training was not conducted during this period. The Parties’ review and approval of proposed instructors will be required.

In conjunction with instructor selection processes, MCSO should consider mandating train-the-trainer sessions for each newly developed lesson plan requiring the use of multiple instructors. There is significant value in the use of these sessions for the instructors, the participants, and the organization. We recommend that MCSO explore this possibility further, considering the noted the lack of acceptable instructor critique tools currently developed or in use by the Training Division.

No new instructors were identified for Court-ordered training during this reporting period.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

Previously we reviewed policy GG-2 (Training Administration), adopted January 24, 2014, that was intended to provide policy guidance for all training programs. MCSO previously provided us with a draft version of the proposed new policy, GG-1 (Peace Officer Training Administration). Our Team reviewed this policy and provided comments and recommendations to develop testing criteria and administration. The draft policy includes the Paragraph 43 requirements of no less than 60% live training and no more than 40% online training. It was also recommended that the passing grade requirement be modified to a more realistic goal of less than 100%, and that testing evaluations be conducted after the first test is completed by each deputy. We will review and comment on the proposed changes to policy GG-2 (Training Administration) as they become available, and provide continued recommendations to new policy GG-1 (Peace Officer Training Administration) prior to MCSO's finalization and implementation. The Training Division Operations Manual was not reviewed. Policy GG-1 (Peace Officer Training Administration) has not received final approval.

During this reporting period, MCSO delivered the 2014 Detention, Arrests, and Immigration Related Laws, and Bias Free Policing training to one class comprised of deputy recruits and Posse applicants. Previously we have commented on testing results and course assessments, and MCSO's unilateral decision to remove an area where participants could write in specific comments. This area provided significant information regarding instructor impressions by the students and the curriculum as perceived by the students. We continue to recommend that this section be returned to the assessment tool. We also continue to recommend that curriculum, testing, and documentation for previously approved training programs should not be altered in any manner. Consistency in these areas must remain intact. When any curriculum is revised or updated, the associated testing and documentation should also be revised. At that time, the previous curriculum version and documentation should be archived.

Throughout December 2015, MCSO delivered six classes for the 2015 Annual Combined Training. Our Team and the Parties were not afforded the review processes established by the Order for the test assessment tool. A 15-question test was administered to each student immediately following class completion. The test is graded with a Scantron capable of providing a test analysis to include a correct count and correct percentage for each question. This is a good starting point for MCSO for the conduct of test analysis, but further analysis is warranted at the completion of the training cycle to conduct a review of all tests, counts, and percentages. This should serve to provide feedback to MCSO on the adequacy of the lesson plan content, the delivery of the content by individual instructors, and the knowledge transfer that took place with each student. Information derived from these analyses should serve to revise and improve each lesson plan.

As of December 31, 2015, the final lesson plan and testing criteria for the 2015 Supervisor Responsibilities: Effective Law Enforcement had not been developed. The Plaintiffs' attorneys, the Plaintiff-Intervenors, and we received the revised version of the lesson plan "2015 Supervisor Responsibilities: Effective Law Enforcement" on December 1, 2015. This lesson plan and testing processes were not completed during this period.

Previously we reviewed and commented on the first segment of the EIS "Blue Team Entry System for IAPro" training. Due to its complexity and interrelatedness with several Paragraphs of the Order, our Team has not approved EIS training as a whole. On September 19, 2015, we reviewed and commented on the 2015 Early Identification System (EIS2) lesson plan, which was designed for inclusion in the 2015 Supervisor Responsibilities: Effective Law Enforcement Training. We continue to be critical of the testing requirements. We believe the testing component does not properly assess whether or not supervisors are equipped to initiate interventions and counseling.

We also provided recommendations in several other areas, including Threshold Alert Notification and Intervention, Employee Responsibilities, Supervisor Responsibilities, and Command Staff Responsibilities. Jointly, the Plaintiffs' and Plaintiff-Intervenors have set forth a number of serious concerns about the foundation for the EIS training that include the draft policy. Plaintiffs' attorneys requested that this policy be updated prior to finalizing the EIS curriculum. They provided recommendations to develop a more motivated and proactive supervisory approach to EIS, improve accountability mechanisms that ensure the proper function of EIS, and address technical capabilities to ensure that issues such as use of force reports and body-worn camera recordings are available to supervisors through the EIS system. During our February site visit, we addressed this issue with the EIU supervisor, who informed us that, as of December 31, 2015, he had not received a revised lesson plan for review. We expressed our concerns, as EI Pro Blue Team Entry is a component in the Supervisory Training. Both lesson plans remain under development and have not been approved.

MCSO delivered one class for the Order-mandated 2014 Blue Team Entry System for IAPro training during this reporting period. The test remains a three-question test.

MCSO delivered TraCS training approximately 31 times during this reporting period. Previously we reported that the Training Division did not provide a final, approved TraCS lesson plan, corresponding PowerPoint presentation, and test questions. During our October 2015 site visit, we were able to observe the afternoon competency session of the TraCS training program. This session required the student to work through different scenarios and enter data into the TraCS system utilizing a beta test component. The instructors engaged with the class, appeared versed in the TraCS system, and provided appropriate direction to the students. We did not observe the knowledge test. The competency-testing component appeared to be thorough. Documentation provided for this reporting period exposed a concern for the written testing process. MCSO initially provided us with a document labeled TraCS E-Learn Test, a 10-question test that was previously reviewed by our Team and appeared to be consistent with the intended objectives for the class. However, the test that MCSO actually utilized during this reporting period was an eight-question instrument that neither we nor the Parties reviewed prior to its use. Had MCSO not made the unilateral decision to deliver this training absent the review processes as provided for in the Order, it is likely this situation would not have occurred.

Body-Worn Camera Training was delivered approximately 26 times during this reporting period. Previously we reported that the Training Division did not provide a final, approved BWC lesson plan, corresponding PowerPoint presentation, and test questions. During our October 2015 site visit, on October 22, 2015, we observed the morning lecture and competency session of the of the Body-Worn Camera Training program. The MCSO instructor was upbeat, knowledgeable and confident, maintaining the interest of the small class of eight personnel. We noted however, a lack of competency-based tasks and testing. None of our recommendations to include competency testing had been implemented. Students were required to push the activation button for the camera one single time as demonstration of competency. These deficiencies may lead to failures to appropriately capture and document incidents in the field. MCSO provided us with the written test for Body-Worn Camera Training on December 21, 2015. Yet the test that MCSO actually utilized is a 20-question instrument that neither we nor the Parties reviewed prior to its use. Had MCSO not made the unilateral decision to deliver this training absent the review processes as provided for in the Order, it is likely this situation would not have occurred.

In the previous reporting period, we reported that MCSO delivered TraCS training and Body-Worn Camera Training absent our Team's final approval. We recognize MCSO's desire to move forward on training initiatives. Training, in general, greatly assists the reform effort when the final curriculum incorporates best practice, current knowledge, and both officer and public safety issues. But the delivery of training should not be viewed as a mundane, check-the-box effort. The complete review of developed instructional products – including lesson plans, scenarios, PowerPoint presentations, handouts, and assessments – when conducted properly, provides a solid foundation for organizational change. MCSO must refrain from unilaterally delivering training without the benefit of the review and approval processes required by the Order.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

Previously we reviewed policy GG-2 (Training Administration), adopted January 24, 2014, that was intended to provide policy guidance for all training programs. MCSO previously provided us with a draft version of the proposed new policy, GG-1 (Peace Officer Training Administration). Our Team reviewed this policy and provided comments and recommendations to develop and maintain the Order-mandated Master Training Calendar. Previously MCSO stated that a Master Court-Ordered Training Calendar and the use of standardized sign-in sheets would be included in a new training policy, GG-1 (Peace Officer Training Administration). We noted that within the draft policy, section Procedures: 4. C. 5. a-c addresses the Paragraph requirements for sign-in rosters; and Procedures: 6. A. B., addresses the use of a Master Training Calendar. These sections adequately address the requirements of this Paragraph.

During this entire reporting period, our monthly document requests for the Master Training Calendar and all revisions went without response from MCSO. During the previous reporting period, MCSO provided a Master Training Calendar covering the period of January 1, through December 15, 2015 that included only "Court Ordered Training." The classes identified – Supervisory Training, Annual Training, TraCS Training, and Body-Worn Camera Training – were marked as "TENTATIVE PENDING APPROVAL" and scheduled between September 22, and December 15, 2015. The document did not indicate approved, scheduled delivery dates for 2015 TraCS Training and 2015 Body-Worn Camera Training for the months of October through December 2015.

On December 9, 2015, MCSO provided us with a document labeled "2015 Annual Training Dates." This document indicated training dates of December 14-19, 2015; January 4-9, 11-16, and 19-26, 2016; February 1-6, 8-13, 16-20, and 22-25, 2016. MCSO did not provide a Master Training Calendar or revision that provided for these training programs or dates.

MCSO delivered the 2014 Bias-Free Policing and Detention, Arrests and Immigration-Related Laws Training to 42 personnel, on December 16-17, 2015. These personnel were a combination of 21 Posse applicants and 21 sworn personnel.

The Deputy Master Roster – December Report indicates that MCSO has a total of 726 sworn personnel who are required to receive Court Order-related training. This number reflects an increase of 12 personnel.

The Reserve Master Roster – December Report indicates that as of December 31, 2015, a total of 37 Reserve personnel will be required to receive the Order-mandated 2015 Annual Combined Training.

The Retired Reserve Master Roster – December Report indicates that a total of 30 retired Reserve personnel will be required to receive the Order-mandated 2015 Annual Combined Training.

The Posse Roster – December Report indicates that as of December 31, 2015, a total of 885 Posse personnel will be required to receive the Order-mandated 2015 Annual Combined Training.

Mandatory 2015 Annual Combined Training began on December 14, 2015.

Blue Team Entry System for IAPro was delivered once during this reporting period to 19 Sworn personnel according to the Blue Team – Sworn (December) Report.

TraCS Training was delivered to a total of 773 combined personnel between September and December. (MCSO did not provide September training numbers during the previous reporting period.)

MCSO delivered Body-Worn Camera Training to a total of 725 combined personnel between September and December. (MCSO did not provide September training numbers during the previous reporting period.)

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

Previously we reviewed policy GG-2 (Training Administration), adopted January 24, 2014, that was intended to provide policy guidance for all training programs. MCSO previously provided us with a draft version of the proposed new policy, GG-1 (Peace Officer Training Administration). Our Team reviewed this policy and provided our comments and recommendations. On January 25, 2016, we were provided with the first revisions to GG-1 (Peace Officer Training Administration). The language required by this Paragraph remains intact.

During this reporting period, we continued our review of the 2015 Supervisor Responsibilities: Effective Law Enforcement lesson plan. We remain critical of the lesson plan's lack of substantive training on leadership, ethics, or integrity; and the use of BIO audit forms for supervisory reviews, training specific to policy requirements, analysis of supervisory reviews of subordinates, and supervisory reviews of supervisors. The Plaintiffs' attorneys and Plaintiff-

Intervenors echoed our concerns in their comments, as well. We await the leadership components that are currently under development by the Training Division.

After our conference call with Defense counsel on October 15, 2015, most of our comments were accepted. We were advised that we would receive a future draft that would include the leadership components. No date for this draft was provided.

On December 1, 2015, we received a revised version of the 2015 Supervisor Responsibilities: Effective Law Enforcement lesson plan.

On December 2, 2015, we conducted a conference call with MCSO and the Parties. It was our intent to address all pending recommendations to the 2015 Annual Combined Training to achieve approval by the Parties; and to conduct an initial review of the newly received 2015 Supervisor Responsibilities: Effective Law Enforcement lesson plan. Unfortunately, the compressed timeframe between receipt of the lesson plans and review did not allow for resolution of all issues for both training programs.

MCSO informed us that the 2015 Annual Combined training would begin on December 14, 2015. We believed that the target date was ambitious given the state of the lesson plans, but the Plaintiffs and Plaintiff-Intervenors committed to expediting their final reviews, and the lesson plan was approved on December 8, 2015. During December 2015, MCSO delivered six classes for the 2015 Annual Combined Training.

During the same conference call, we discussed the Supervisory Training lesson plan. The Training Division and Defense counsel advised us that the only major changes in the lesson plan were additions to the leadership sections. These additions were primarily from an outside source (Blue Courage), rather than the vendor previously used by MCSO. Plaintiffs expressed frustration that throughout the review process, MCSO summarily dismissed their comments without justification. The Plaintiff-Intervenors also took issue with MCSO's rejection of their recommendations, and requested more justification on what prompted the rejections. We and the Plaintiffs and Plaintiff-Intervenors all raised concerns about the lack of explanation for MCSO's past problems in supervising; and the failure to emphasize the supervisor's role in promoting positive policing.

We also reaffirmed our previously stated concerns with the selection process for appropriate supervisory instructors. We reminded MCSO that instructor selection is subject to the review process outlined in Section IV of the Order.

In recognition of the extensive delays in developing this program, we reinforced to the Parties that they would be required to adhere to the 14-day review period that began on December 1, 2015. We returned combined comments from us and the Parties on December 29, 2015 to MCSO. Our review noted continued limited modifications to previously identified areas of concern. Clearly, no Supervisory Training would be delivered in 2015.

We continue to collaborate with attorneys for the Plaintiffs, the Plaintiff-Intervenors, and the Defendants on the review of what is now the 2016 Supervisor Responsibilities: Effective Law Enforcement curriculum. It is expected that the final approved curriculum will incorporate adult-learning methods and include PowerPoint presentations, interactive learning exercises, and lecture. This lesson plan has now been reviewed several times in response to submissions from MCSO. The review process is ongoing. We have not approved the Supervisory Training program.

Previously the Plaintiffs, Plaintiff-Intervenors, and we provided recommendations for the Body-Worn Camera Training Lesson Plan and PowerPoint presentation. Our recommendations included competency-based testing that will allow for demonstration of proper placement, wearing, activation, malfunction identification, and downloading, required modifications to GC-17 (Employee Disciplinary Procedures) for failure to activate, and required modifications to the vehicle stop contact form to document the use of BWC on traffic stops. After delivery of 26 Body-Worn Camera Training sessions, on December 18, 2015, we received the final lesson plan. This lesson plan incorporated our comments. MCSO also provided the PowerPoint presentation and the competency based, pass/fail BWC “scenario.” Notably absent was the knowledge-testing component.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not applicable

Phase 2: Not in compliance

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

MCSO previously provided us with a draft version of the proposed new policy, GG-1 (Peace Officer Training Administration). Our Team reviewed this policy, and provided comments and recommendations to help MCSO adopt seven training cycle steps for all training developed; and include all lesson plans in the Training Division, as a central repository.

Supervisory Training: Despite incremental progress during this reporting period in the development of Supervisory Training, MCSO’s supervisors have still not received this training.

2015 Annual Combined Training: On December 8, 2015, MCSO received approval of the lesson plan for the Order-mandated 2015 Training on Bias-Free Policing, and Fourth Amendment, Detentions, Arrests, and the Enforcement of Immigration-Related Laws (currently titled 2015 Annual Combined Training), in accordance with Paragraphs 48 and 50.

During our October 2015 site visit, we reaffirmed to MCSO that it the Order requires the inclusion of the Monitor, Plaintiffs, and Plaintiff-Intervenors in the instructor selection for all Order-related training. The identification and selection of instructors for the 2015 Annual

Combined Training occurred during this reporting period. On November 16, 2015, we were provided with a list of outside instructors that had been selected by MCSO to deliver this training program. The list was comprised of individuals that the Parties and we had previously vetted and approved to deliver the 2014 Bias-Free Policing and Detentions, Arrests, and Immigration Related Laws Training. During our recent site visit, we reminded MCSO personnel that the previous utilization of any instructor does not, by itself, provide approval for current use. MCSO should not assume that previously utilized instructors remain acceptable to all Parties.

EIS Blue Team Training: During this reporting period, MCSO delivered Blue Team EIS training. Due to the complexity of the EIS training, and a need for segmented training, which has not been developed, we have not approved all EIS training.

Previously, both the former EIU lieutenant and the Training Division advised us that all future lesson plans and scheduling of classes would be coordinated through the Training Division. On September 1, 2015, we received the first revision to the EIS lesson plan, "EIS2," which is included in the 2015 Supervisory Responsibilities: Effective Law Enforcement lesson plan. This lesson plan followed the format adopted by the Training Division. On September 19, 2015, we provided our comments to MCSO on the draft lesson plan. There was consensus that one hour was insufficient to provide direction on EIS as a leadership tool, and that the testing assessment required further work.

On September 17, 2015, the Plaintiffs provided review comments, primarily focused on the provision of additional guidance for supervisors on the substance of interventions and counseling; the inclusion of accountability mechanisms to ensure the proper functioning of EIS; additional clarity on whether or not EIS will provide supervisors with ready access to body-worn camera recordings; attaching use of force and other reports; and the inclusion of critical feedback from all EIS users. As of December 31, 2015, MCSO has not provided any updates on this lesson plan. This review process must be completed for inclusion within the 2016 Supervisory Training lesson plan.

TraCS Training: During the previous reporting period, we had not yet approved the lesson plan when on September 17, 2015, MCSO conducted a TraCS train-the-trainer session for 19 personnel, according to the Class Response analysis: TraCS (Traffic and Criminal Software) Report. During our October 2015 site visit, on October 22, 2015, we observed the afternoon competency session of the TraCS training program, but were unable to attend the lecture portion. This session required the student to work through different scenarios and enter data into the TraCS system. The instructors were engaged with the class, appeared well versed in the TraCS system, and provided excellent oversight and direction to the students. Between September 1, and December 31, 2015, MCSO conducted 31 TraCS classes. As of December 31, 2015, we had not received a final TraCS lesson plan, PowerPoint presentation, and testing assessment tool.

The TraCS (September-December) Sworn Reports indicate that 712 of 726 personnel were trained.

The TraCS (September-December) Reserve Reports indicate that 37 of 37 personnel were trained.

The TraCS (September-December) Retired Reserve Reports indicate that 24 of 30 personnel were trained.

We had not previously received the training numbers for September.

Body-Worn Camera Training: During the previous reporting period, we had not yet approved the lesson plan when on September 16, 2015; MCSO conducted a Body-Worn Camera train-the-trainer session for 20 personnel. During our October 2015 site visit, on October 22, 2015, we observed the morning lecture and competency session of the Body-Worn Camera Training program. The MCSO instructor was upbeat, knowledgeable, and confident, maintaining the interest of the small class of eight personnel. We noted, however, a lack of competency-based tasks and testing. None of our recommendations to include competency testing had been implemented. Students were required to push the activation button for the camera one single time to demonstrate competency. These deficiencies may lead to failures to appropriately capture and document incidents in the field. Between September 21, and December 31, 2015, MCSO delivered 26 Body-Worn Camera Training classes.

The Body-Worn Camera (September-December) sworn reports indicate that 717 of 726 personnel were trained.

The Body-Worn Camera (September-December) reserve reports indicate that two of 37 personnel were trained.

The Body-Worn Camera (September -December) retired reserve reports indicate that six of 30 personnel were trained.

We had not previously received the training numbers for September.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not applicable

Phase 2: Not in compliance

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

Previously we reviewed policy GG-2 (Training Administration), adopted January 24, 2014, that was intended to provide policy guidance for all training programs. MCSO provided us with a draft version of the proposed new policy, GG-1 (Peace Officer Training Administration). Our Team reviewed this policy and provided comments and recommendations.

We continue to recommend that during annual reviews, MCSO should update each lesson plan with new developments in law, participant feedback and comments, training evaluations, and internal review processes. We will review and comment on the proposed changes to policy GG-2 (Training Administration), and new policy GG-1 (Peace Officer Training Administration) prior to MCSO's finalization and implementation. Compliance will be determined based upon

whether or not MCSO's new policy GG-1 (Peace Officer Training Administration) and revised policy GG-2 (Training Administration) and other related policies, comport with the requirements of this Paragraph and are followed in practice. These policies should delineate the procedures and establish the duties and responsibilities of all contributors to the MCSO training process, and will enable the Training Division to oversee and ensure the quality of all training provided by, or under the direction of, MCSO.

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

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

b. Bias-Free Policing Training

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

On October 15, 2015, we received the second revision of the 2015 Annual Combined Training lesson plan. We provided our comments on November 6, 2015. On December 1, 2015, we were provided with a new revised version of the 2015 Annual Combined Training lesson plan. This revision incorporated some of the recommendations, but was obviously not in final format. This lesson plan remained under development and not approved.

On December 2, 2015, we conducted a conference call with MCSO and the Parties. It was our intent to address all pending recommendations to the 2015 Annual Combined Training to achieve approval by the Parties; and to conduct an initial review of the newly received 2015 Supervisor Responsibilities: Effective Law Enforcement lesson plan. Unfortunately, the compressed timeframe between receipt of the lesson plans and review did not allow for resolution of all issues for both training programs.

MCSO informed us that the 2015 Annual Combined training would begin on December 14, 2015. We believed that the target date was ambitious given the state of the lesson plans, but the Plaintiffs and Plaintiff-Intervenors committed to expediting their final reviews, and the lesson plan was approved on December 8, 2015. During December 2015, MCSO delivered six classes for the 2015 Annual Combined Training.

During December 2015, MCSO delivered six classes for the 2015 Annual Combined Training.

The Order-mandated 2014 Training on Bias-Free Policing was delivered to 19 sworn members (newly graduated deputy recruits), according to the Required Training (December) Sworn Report.

The Order-mandated 2014 Training on Bias-Free Policing was delivered to seven Posse members, according to the Required Training (December) Posse Report.

The 2015 Annual Combined Training was not delivered in October and November 2015. Classes began in December 2015.

The Deputy Master Roster – December Report indicates that MCSO has a total of 726 sworn personnel who are required to receive Court Order-related training. This number reflects an increase of 12 personnel. The 2015 Annual Combined Training (December) Sworn Report indicates that 66 personnel had been trained.

The Reserve Master Roster – December Report indicates that as of December 31, 2015, a total of 37 Reserve personnel will be required to receive the Order-mandated 2015 Annual Combined Training. The 2015 Annual Combined Training (December) Report indicates that no personnel had been trained.

The Retired Reserve Master Roster – December Report indicates that a total of 30 retired Reserve personnel will be required to receive the Order-mandated 2015 Annual Combined Training. The 2015 Annual Combined Training (December) Report indicates that no personnel had been trained.

The Posse Roster – December Report indicates that as of December 31, 2015, a total of 885 Posse personnel will be required to receive the Order-mandated 2015 Annual Combined Training. The 2015 Annual Combined Training (December) Posse Report indicates 114 personnel had been trained.

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

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

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

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

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

We approved the lesson plan for the 2015 Annual Combined Training on December 8, 2015. MCSO is in Phase 2 compliance with this Paragraph.

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

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

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

As reported in Paragraph 48, the Parties and we approved the 2015 Annual Combined Training lesson plan on December 8, 2015. This lesson plan incorporates the requirements of Paragraphs 48 and 50.

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

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

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

- a. an explanation of the difference between various police contacts according to the level of police intrusion and the requisite level of suspicion; the difference between reasonable suspicion and mere speculation; and the difference between voluntary consent and mere acquiescence to police authority;*
- b. guidance on the facts and circumstances that should be considered in initiating, expanding or terminating an Investigatory Stop or detention;*
- c. guidance on the circumstances under which an Investigatory Detention can become an arrest requiring probable cause;*
- d. constitutional and other legal requirements related to stops, detentions and arrests, and the enforcement of Immigration-Related Laws, including the requirements of this Order;*
- e. MCSO policies related to stops, detentions and arrests, and the enforcement of Immigration-Related Laws, and the extent to which past instructions to personnel on these topics were incorrect, a correction of any misconceptions about the law or MCSO policies;*
- f. the circumstances under which a passenger may be questioned or asked for identification;*

- g. *the forms of identification that will be deemed acceptable if a driver or passenger (in circumstances where identification is required of them) is unable to present an Arizona driver's license;*
- h. *the circumstances under which an officer may initiate a vehicle stop in order to investigate a load vehicle;*
- i. *the circumstances under which a Deputy may question any individual as to his/her alienage or immigration status, investigate an individual's identity or search the individual in order to develop evidence of unlawful status, contact ICE/CBP, await a response from ICE/CBP and/or deliver an individual to ICE/CBP custody;*
- j. *a discussion of the factors that may properly be considered in establishing reasonable suspicion or probable cause to believe that a vehicle or an individual is involved in an immigration-related state crime, such as a violation of the Arizona Human Smuggling Statute, as drawn from legal precedent and updated as necessary; the factors shall not include actual or apparent race or ethnicity, speaking Spanish, speaking English with an accent, or appearance as a Hispanic day laborer;*
- k. *a discussion of the factors that may properly be considered in establishing reasonable suspicion or probable cause that an individual is in the country unlawfully, as drawn from legal precedent and updated as necessary; the factors shall not include actual or apparent race or ethnicity, speaking Spanish, speaking English with an accent, or appearance as a day laborer;*
- l. *an emphasis on the rule that use of race or ethnicity to any degree, except in the case of a reliable, specific suspect description, is prohibited;*
- m. *the MCSO process for investigating Complaints of possible misconduct and the disciplinary consequences for personnel found to have violated MCSO policy;*
- n. *provide all trainees a copy of the Court's May 24, 2013 Findings of Fact and Conclusions of Law in Melendres v. Arpaio and this Order, as well as a summary and explanation of the same that is drafted by counsel for Plaintiffs or Defendants and reviewed by the Monitor or the Court; and*
- o. *Instruction on the data collection protocols and reporting requirements of this Order, particularly reporting requirements for any contact with ICE/CBP.*

The Parties and we approved the lesson plan for the 2015 Annual Combined Training on December 8, 2015.

During December 2015, MCSO delivered six classes for the 2015 Annual Combined Training.

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

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

e. Supervisor and Command Level Training

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

Previously we reviewed policy GG-2 (Training Administration), adopted January 24, 2014, that was intended to provide policy guidance for all training programs. MCSO previously provided us with a draft version of the proposed new policy, GG-1 (Peace Officer Training Administration). Our Team reviewed this policy and provided a recommendation to include within the document the language of Paragraph 52. On January 25, 2016 we were provided with the first revisions to GG-1 (Peace Officer Training Administration). An initial review by our Team found that, in general, previously provided comments had been given consideration. Specific requirements related to this Paragraph were addressed in 3. Law Enforcement Training: E.1-3. We will review and comment on the proposed changes to policy GG-2 (Training Administration), and new policy GG-1 (Peace Officer Training Administration) prior to MCSO's finalization and implementation. We will determine compliance based upon whether or not MCSO's new policy GG-1 (Peace Officer Training Administration) and revised policy GG-2 (Training Administration) comport with the requirements of this Paragraph and are followed in practice.

During this reporting period, we continued our review of the 2015 Supervisor Responsibilities: Effective Law Enforcement lesson plan. We remain critical of the lesson plan's lack of substantive training on leadership, ethics, or integrity; and the use of BIO audit forms for supervisory reviews, training specific to policy requirements, analysis of supervisory reviews of subordinates, and supervisory reviews of supervisors. The Plaintiffs' attorneys and Plaintiff-Intervenors echoed our concerns in their comments, as well. We await the leadership components that are currently under development by the Training Division

After our conference call with Defense counsel on October 15, 2015, most of our comments were accepted. We were advised that we would receive a future draft that would include the leadership components. No date for this draft was provided.

On December 1, 2015, we and the Parties received a revised version of the 2015 Supervisor Responsibilities: Effective Law Enforcement lesson plan. On December 2, 2015, we conducted a conference call with MCSO and the Parties to address all pending recommendations to the 2015 Annual Combined Training to achieve approval by the Parties; and to conduct an initial review of the newly received 2015 Supervisor Responsibilities: Effective Law Enforcement lesson plan. Unfortunately, the compressed timeframe between receipt of the lesson plans and review did not allow for resolution of all issues for both training programs.

During the conference call, we discussed the Supervisory Training lesson plan. The Training Division and Defense counsel advised us that the only major changes in the lesson plan were additions to the leadership sections. These additions were primarily from an outside source (Blue Courage), rather than the vendor previously used by MCSO. Plaintiffs expressed frustration that throughout the review process, MCSO summarily dismissed their comments without justification. The Plaintiff-Intervenors also took issue with MCSO's rejection of their recommendations, and requested more justification on what prompted the rejections. We and the Plaintiffs and Plaintiff-Intervenors all raised concerns about the lack of explanation for MCSO's past problems in supervising; and the failure to emphasize the supervisor's role in promoting positive policing.

We also reaffirmed our previously stated concerns with the selection process for appropriate supervisory instructors. We reminded MCSO that instructor selection is subject to the review process outlined in Section IV of the Order.

In recognition of the extensive delays in developing this program, we reinforced to the Parties they would be required to adhere to a 14-day review period that began on December 1, 2015. We returned combined comments from our Team, the Plaintiffs, and the Plaintiff-Intervenors on December 29, 2015 to MCSO. Our combined review noted only limited modifications to the previously identified areas of concern. Clearly, no Supervisory Training would be delivered in 2015.

We continue to collaborate with attorneys for the Plaintiffs, the Plaintiff-Intervenors, and the Defendants on the review of what is now the 2016 Supervisor Responsibilities: Effective Law Enforcement curricula. It is expected that the final approved curriculum will incorporate adult-learning methods and include PowerPoint presentations, interactive learning exercises, and lecture. This lesson plan has now been reviewed several times in response to submissions from MCSO. The review process is ongoing.

We have not approved the Supervisory Training program.

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

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not applicable

Phase 2: Not in compliance

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

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

Between October 1, and December 31, 2015, our seventh reporting period, MCSO has continued making incremental progress on the 2015 Supervisor Responsibilities: Effective Law Enforcement Training program. A multi-day training schedule has been proposed for this training session.

We continue to recognize a consistent theme in the misconduct investigations we are reviewing as part of our other Court-assigned responsibilities, and that is a lack of supervisory training for anyone with supervisory authority, regardless of rank. No Supervisory Training was delivered during 2015.

Compliance Status:

Phase 1: Not applicable

Phase 2: Not in compliance

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

Section 7: Traffic Stop Documentation and Data Collection

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

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

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

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

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

a. Collection of Traffic Stop Data

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

- a. the name, badge/serial number, and unit of each Deputy and posse member involved;*
- b. the date, time and location of the stop, recorded in a format that can be subject to geocoding;*
- c. the license plate state and number of the subject vehicle;*
- d. the total number of occupants in the vehicle;*
- e. the Deputy's subjective perceived race, ethnicity and gender of the driver and any passengers, based on the officer's subjective impression (no inquiry into an occupant's ethnicity or gender is required or permitted);*
- f. the name of any individual upon whom the Deputy runs a license or warrant check (including subject's surname);*
- g. an indication of whether the Deputy otherwise contacted any passengers, the nature of the contact, and the reasons for such contact;*
- h. the reason for the stop, recorded prior to contact with the occupants of the stopped vehicle, including a description of the traffic or equipment violation observed, if any, and any indicators of criminal activity developed before or during the stop;*

- i. *time the stop began; any available data from the E-Ticketing system regarding the time any citation was issued; time a release was made without citation; the time any arrest was made; and the time the stop/detention was concluded either by citation, release, or transport of a person to jail or elsewhere or Deputy's departure from the scene;*
- j. *whether any inquiry as to immigration status was conducted and whether ICE/CBP was contacted, and if so, the facts supporting the inquiry or contact with ICE/CBP, the time Supervisor approval was sought, the time ICE/CBP was contacted, the time it took to complete the immigration status investigation or receive a response from ICE/CBP, and whether ICE/CBP ultimately took custody of the individual;*
- k. *whether any individual was asked to consent to a search (and the response), whether a probable cause search was performed on any individual, or whether a pat-and-frisk search was performed on any individual;*
- l. *whether any contraband or evidence was seized from any individual, and nature of the contraband or evidence; and*
- m. *The final disposition of the stop, including whether a citation was issued or an arrest was made or a release was made without citation.*

MCSO developed several policies that, in concert, incorporate the requirements of these Paragraphs. These include: EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) dated September 22, 2014; EB-2 (Traffic Stop Data Collection) dated September 22, 2014 and amended December 17, 2015; EA-5 (Enforcement Communications), amended October 29, 2015; and CP-8 (Preventing Racial and Other Bias-Based Profiling), dated September 5, 2014. We note that these four policies underwent several revisions, and all were finally approved in September 2014 and disseminated during the Fourth and Fourteenth Amendment training conducted from September through December 2014. According to documents received, 99% of the sworn, compensated personnel were trained, and all existing Posse members attended the training as of the close of the reporting period.²

To capture the information required for this Paragraph, MCSO created, and we reviewed, the Vehicle Stop Contact Form, the Vehicle Stop Contact Form Supplemental Sheet, the Incidental Contact Receipt, and the Written Warning/Repair Order, all in electronic form, for those motorists who commit a traffic violation or are operating a vehicle with defective equipment and provided with a warning. We also reviewed the Arizona Traffic Ticket and Complaint Forms issued for violations of Arizona Statutes, Internet I/Viewer Event Unit printout, Justice Web Interface printout, and any Incident Report associated with the event. We selected a sample of 105 traffic stops conducted by MCSO deputies from October 1, through December 31, 2015 for purposes of this review; and assessed the collected data from the above-listed documents for compliance with Subparagraphs 54.a.-54.m. All of the listed documentation was used for our review of the following subsections of this Paragraph.

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

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

Paragraph 54.a. requires MCSO to document the name, badge/serial number, and unit of each deputy and Posse member involved. Our review indicated that in the 105 vehicle traffic stops, there were 35 cases where the deputy's unit had another deputy assigned to the vehicle or another deputy unit or Posse member was on the scene (140 total deputies on the scene). There was one instance where the primary deputy failed to document his own name on the VSCF. In another instance, the secondary deputy's unit number was incorrect. There were 25 cases where backup or secondary units were on the scene; and in five cases, these units were not documented on the VSCF. For this reporting period, the primary deputies indicated their own unit and serial numbers for every stop they initiated. We review the Vehicle Stop Contact Form, I/Viewer Event document, the Justice Web Interface, and the CAD printout to determine which units are on the scene. We should note that if back-up units arrive on a scene and do not announce their presence to dispatch, CAD does not capture this information. We previously recommended that MCSO create a drop-down box to identify additional passengers in a vehicle, and it has worked well. We recommended that MCSO place a mandatory field on the Vehicle Stop Contact Form that indicates the number of units on the scene that would automatically create a drop-down box for additional units to be listed. CID personnel advised that they would look into this technical change during our July 2015 site visit, and subsequently made the change during this reporting period.

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

The identity of personnel on such scenes is a core issue in this case, and we shall consistently evaluate the agency's measure of compliance with this requirement. We found that the deputies' names, and serial and unit numbers, were listed, with few exceptions, on all required forms and identified on the Vehicle Stop Contact Form. The Order requires that all deputies on the scene be identified on the appropriate forms. We noted seven instances where this was not done. Progress increased during this quarter from the previous reporting period's 93% compliance rate to 95%. MCSO was in compliance with this Subparagraph for the first quarter of 2015 and was again in compliance for this quarter; however, MCSO must demonstrate some consistency between reporting periods (the previous quarter was non-compliant). MCSO is compliant with this Subparagraph.

Paragraph 54.b. requires MCSO to document the date, time, and location of the stop, recorded in a format that can be subject to geocoding. Our reviews of the CAD printout for all 105 traffic stops in the sample indicate that the date, time and location is captured with the time the stop is initiated and the time the stop is cleared. In our previous reporting period, we noted 23 instances where the GPS coordinates could not be located on the documentation received (CAD printout/I/Viewer). We contacted MCSO, who provided us with additional information that indicated the GPS coordinates for 17 of the 23 instances. For this reporting period, we experienced similar issues and MCSO, at our request, provided the GPS coordinates for those missing locations in all but one case. In the future, CID will provide us with a printout of all case numbers in the sample containing the associated coordinates. (The CAD or I/Viewer system contains the coordinates in about 85% of the cases.)

We note that occasionally the CAD time of stop and end of stop times may not be exactly the same time as those listed on the Vehicle Stop Contact Form, due to extenuating circumstances the deputy may encounter. We found six instances where the start or end time on the Vehicle Stop Contact Form differed by five minutes or more from the CAD printout without any explanation from the deputy involved in the stop. MCSO uses GPS to determine location for the CAD system. GPS collects coordinates from three or more satellites to enhance the accuracy of location approximation. The data from the satellites can be decoded to determine the longitude and latitude of traffic stop locations should that be necessary. We have recommended that BIO conduct an inspection of GPS coordinates during its monthly audits of the traffic stop data. The CAD data system was upgraded in 2014 to include the geocoding of traffic stops. MCSO remains in compliance (95%) with this Subparagraph.

Paragraph 54.c. requires MCSO to document the license plate and state of the subject vehicle. In our last four quarterly reports, we noted improvement in deputies' ability to capture this information. During this reporting period, we found that deputies properly recorded the vehicle tag number and state of issuance in 104 cases. Seven of the stops were of vehicles titled in another state. We found that many of the stops made by deputies were for speeding, invalid license plates or expired vehicle registrations. In one case where we listened to the CAD audio portion of the stop, the deputy advised dispatch of the correct tag number of the vehicle but indicated an incorrect number on the VSCF. MCSO is in compliance with this Subparagraph with a rating of 99%.

Paragraph 54.d. requires MCSO to document the total number of occupants in the vehicle when a stop is conducted. There were a total of 106 traffic stops or encounters with the public in our sample, since one stop involved two motorcycles racing (same event number). In 35 of these stops, more than one occupant occupied the vehicle (56 total passengers). The Vehicle Stop Contact Form, completed by the deputy on every traffic stop, is utilized to capture the total number of occupants and contains a separate box on the form for that purpose. There was one traffic stop where the deputy listed six passengers (local tour vehicle) but was unable to identify the ethnicity or gender of five occupants in the rear of the tour bus. The deputy documented on the Vehicle Stop Contact Form his inability without some difficulty to retrieve this information. MCSO's compliance rate is 100% for this Subparagraph (see Para. 54f). MCSO is in compliance with this Subparagraph.

Paragraph 54.e. requires MCSO to document the perceived race, ethnicity, and gender of the driver and any passengers, based on the officer's subjective impression. (No inquiry into the occupant's ethnicity or gender is required or permitted.) In 35 of the 105 stops, there was more than one occupant in the vehicle. In our review of the traffic stops, we identified one stop where the deputy failed to identify the ethnicity of the driver on the Vehicle Stop Contact Form. In this specific case, the deputy stopped the driver for an improper plate and issued a warning. The deputy did not indicate the ethnicity of the driver. The compliance rate for identifying the race/ethnicity and gender of the driver is 99%.

Our review indicated that there were 35 stops where 56 passengers were identified as occupants of the vehicles. In three cases, the deputy failed to identify the race/ethnicity or gender of one or more passengers although the drop-down box for passenger information was clearly visible on the VSCF. In one of these cases, involving a tour bus, the deputy advised that he could not see all the passengers and so advised on the VSCF. In the remaining two cases (three passengers), the deputies advised that their view was obstructed, and they could not identify the ethnicity or gender of the passengers. The two deputies did not advise why their view was obstructed or provide any other documentation. When a deputy indicates two or more passengers in the vehicle on the Vehicle Stop Contact Form, a drop-down box automatically displays additional boxes for the deputy to document the passengers' information. MCSO has advised us that it has instructed deputies not to indicate the word "unknown" when describing the race/ethnicity of drivers or passengers. The compliance rate for identifying the race/ethnicity and gender of the passengers is 95%.

The persons stopped included 49 white male drivers, 24 white females, 18 Hispanic males, six Hispanic females, three Black males, two Black females, two Indian/Alaskan males, and one Asian/Pacific Islander male. We could not find any indications of apparent bias in the sample of traffic stops we reviewed. In addition, when BIO conducts audits of the traffic stop data, it issues memorandums to the individual districts so that they can learn of any deficiencies and provide corrective action. Most of the deficiencies have been corrected. We have observed continued improvement in deputies' abilities to complete Warning/Repair Forms. The District captains are required to respond to BIO with comments on violations, or with corrective action if required. We review the internal audits and associated matrices conducted by MCSO, and occasionally we will disagree with their findings.

There were 51 instances where deputies chose to issue warnings to drivers instead of issuing a citation. Forty-eight percent of the 105 traffic stops we reviewed resulted in a written warning. The ethnic breakdown of those receiving warnings somewhat reflected the numbers indicated in the number of total stops. The breakdown of those motorists issued warnings is as follows: 27 white males (55%); 11 white females (46%); seven Hispanic males (44%); three Hispanic females (50%); two Black males (67%); and one Asian/Pacific Islander female. There were two stops of Black females; and in both instances, citations were issued. In the remaining three cases involving Indian/Alaskan or Asian/Pacific Islander descent, one warning was issued.

We reviewed documentation where BIO forwards memorandums to the District Commanders when their audits found that deputies were not following protocol when completing required documentation for traffic stops. Previously, deputies did not indicate the race, ethnicity, or gender of passengers when no contacts were made with them. The Order requires MCSO deputies to document the perceived race, ethnicity, and gender of any passengers whether contact is made with them or not. MCSO is aware of the deputies' failure to indicate the race/ethnicity of passengers when no contact is made with them, and has made a technical change to TraCS that now includes a drop-down box on the VSCF to automatically add additional passenger fields on the form when the deputy indicates the total number of occupants in the vehicle. We have observed that the efforts put forth by MCSO staff have improved the capture of the ethnicity and gender of passengers. The Order does not require the names of passengers unless a passenger is contacted and the reason for the contact is documented. In those instances where contact is made, the passenger's name should be listed on the Vehicle Stop Contact Form.

MCSO previously achieved compliance with this Subparagraph. There were a total of 161 occupants (105 drivers and 56 occupants), with three passengers not being identified by race, ethnicity, or gender, for a compliance rate of 98%. MCSO will remain in compliance with this Subparagraph.

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

For this reporting period, we found that in the 105 traffic stops conducted all but one had license plate checks run, and there were 84 stops where the driver or a passenger had a warrant check run. There were two stops that involved the deputy running a warrant check on the passenger. In one of the cases, the passenger was arrested for liquor violations; and in the second case, the passenger was checked for a valid driver's license due to the deputy releasing the vehicle to the passenger in lieu of towing the vehicle. The percentages of warrant checks run by deputies by ethnicity of drivers stopped for traffic violations is as follows: white males, 78%; white females, 63%; Hispanic males, 89%; Hispanic females, 100%; Black males, 100%; and Black females, 100%. There was a significant increase from the previous reporting period of warrant checks on Hispanic and Black drivers, and we will pay particular attention to this issue in the future. We reviewed one motorcycle license plate check run by a deputy that was not listed on the VSCF, and we could not determine its origin. MCSO's compliance rate is 99%, and it is compliant with this Subparagraph.

Paragraph 54.g. requires the deputy to document whether contact was made with any passengers, the nature of the contact, and the reasons for the contact. There were six instances where deputies made contact with passengers. In five cases, the deputy had a valid reason for the contact. In three cases, the deputy asked passengers (vehicle owner), if they had a valid driver's license; in one case the deputy was asked a question by a passenger; and in another case the deputy arrested a passenger for a liquor violation. In the remaining case, the deputy did not indicate that a passenger was contacted on the VSCF, but a review of the deputy's notes at the bottom of the citation clearly shows that the deputy initiated contact with the passenger. In three instances, the deputy on the scene properly recorded the name and ethnicity/gender of the passenger on the VSCF. MCSO continues to make changes to the Vehicle Stop Contact Form to make the forms easier for the deputies to complete and capture the information required by the Order.

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

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

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

where passengers were contacted. For the first quarter of 2016, we will pull additional samples of these cases (passenger contacts) for a more complete review. MCSO's compliance rate for this Subparagraph is 84%, but MCSO will remain in compliance with this Subparagraph due to its previous compliance rate of 100%. Consistent with our methodology, once MCSO has achieved compliance with this Paragraph, it risks falling out of compliance if it is not in compliance for two successive quarters.

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

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

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

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

Some stops vary in time for any number of reasons that may, or may not, be justified. We looked at all stops in our sample, and found one traffic stop where the duration of the stop was excessive. The deputy did not offer any valid explanation for the reason the stop was extended. There were 10 other extended stops that were justified due to the circumstances of the stops.

(See 25.g. and 25.h. for details of the extended stops.) When we review the extended stops, we examine issues such as whether or not a crime was involved, whether the vehicle was towed, or whether there were other extenuating circumstances that caused the delay.

When we compared the traffic stop beginning and ending times for all cases reviewed during the quarter, we found six stops (or 6%) where the times indicated on the CAD printout and Vehicle Stop Contact Form differed by more than five minutes without any explanation by the deputy. In our experience reviewing MCSO's traffic stop forms, these instances are attributed to input error. Supervisors, during their review of their subordinates' traffic stops, should correct these deficiencies or ensure that additional training is provided. Deputies accurately entered beginning and ending times of traffic stops in 94% of cases reviewed.

All traffic stops resulting in citations contained the time of issuance. We found one case where the time of issuance on the citation was four minutes prior to the deputy advising dispatch of the stop, and another case where the deputy indicated the citation was issued seven minutes prior to the stop times listed on the VSCF and CAD printout. The supervisors conducting the review of the deputies' traffic stops should have discovered the deficiencies. MCSO correctly entered the time citations in 97% of cases.

MCSO is in compliance with this Subparagraph.

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

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

Paragraph 54.k. requires MCSO to document whether any individual was asked to consent to a search (and the response), whether a probable-cause search was performed on any individual, or whether a pat-and frisk search was performed on any individual. In our review, we did not find any indications where an individual was asked for a consent search or of any individual who was frisked during the stop. We identified seven instances where an arrest was made for a criminal traffic offense and five of the violators were cited and released. Two of the traffic stops resulted in a physical arrest; in one case, the driver of the vehicle was arrested on an outstanding warrant after the deputy ran a warrant check and a search incident to arrest occurred. In the remaining

case, the arrest was for DUI. In this case, the deputy did not indicate if a search incident to arrest occurred or whether the transporting unit conducted the search prior to transport. In the majority of cases where MCSO charges violators for a criminal traffic violation, the violator is cited and released. MCSO remains in compliance with this Subparagraph.

Paragraph 54.l. requires MCSO to document whether any contraband or evidence was seized from any individual, and the nature of the contraband or evidence. During our review of the collected traffic stop data during this reporting period, we noted three cases where the deputies made a criminal traffic arrest and seized the offending driver's license plate or license and placed it in evidence. The three cases involved a white male, a white female, and a Black female. There were no other stops where contraband or evidence was seized. MCSO is in compliance with this Subparagraph.

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

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

We reviewed policy EA-5 (Enforcement Communications), amended October 29, 2015, which complies with the Paragraph requirement.

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

We visited two districts during our February 2016 site visit, and there were no indications from any personnel that there were recurring issues with the unique identifier (MCSO's Event Number that is dispatched out of Communications for every traffic stop).

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

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

To determine compliance with this requirement, we reviewed 105 traffic stop cases and reviewed the CAD printouts and the Vehicle Stop Contact Forms for all stops. We reviewed the Warning/Repair Forms, when applicable, for those stops where a warning was issued or the vehicle had defective equipment. The unique identification number assigned to each event was listed on all CAD printouts for every stop. We found three instances where the original event numbers (MC numbers) listed on the CAD printout did not match the event numbers listed on the VSCF, citation, or Warning Repair Form. In most cases, this deficiency can be attributed to the deputy inputting incorrect data. MCSO is compliant with this Subparagraph with a rating of 97%.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

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

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

During our 2015 inspections of the traffic stop records located at the districts, we discovered that the paper records of traffic stops generated prior to TraCS implementation were not secure. We spoke with CID personnel on how to remedy this situation while we were on site. The paper records are maintained at the districts and follow assigned personnel when they are transferred. MCSO did have a protocol that requires written traffic stop data to be located at the districts, but it did not include maintaining the integrity and accuracy of the paper records. We advised MCSO during our April 2015 site visit that these issues must be addressed by a written protocol or modification of the policy. During our July 2015 site visit, we visited four districts and inspected the security of the written traffic stop data in three; two of the districts' data was secure, and one was not secure and in violation. On September 8, 2015, MCSO issued Administrative Broadcast 15-96, which addressed the security of paper traffic stop forms. The new procedure requires that paper forms (prior to April 1, 2014) be kept in a locked cabinet box at the district. Any personnel who require access to those files must contact the division commander or his designee who will unlock the cabinet. Once the deputy accesses his file a TraCS file log must be completed and signed by the deputy. During our February 2016 site visit, we visited Districts 4 and 6; and inspected the written (paper) files and the TraCS file log. All records were locked and secure. We conducted a random review of written traffic stop data in both of the above-mentioned districts to ensure that the written (paper) traffic stop data was maintained for five years. Staff was able to provide the appropriate documentation.

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

traffic stop data. During our October 2015 site visit, MCSO advised us that it was in the process of amending policy EB-2 (Traffic Stop Data Collection) to include the requirements set forth in Administrative Broadcast 15-96. EB-2 (Traffic Stop Data Collection) was amended on December 17, 2015. The approved policy also requires regularly scheduled audits on a monthly, quarterly, and annual basis. MCSO is now in compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

The system for providing “receipts” is outlined in EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) and EB-2 (Traffic Stop Data Collection), both effective September 22, 2014. MCSO initially developed and submitted a body-worn camera policy that did not meet all the requirements of the Order. MCSO submitted copies of the original policy to the Monitor and Plaintiffs on December 24, 2014 for comments. MCSO incorporated our comments into the new policy, GJ-35 (Body Worn Cameras), issued on June 24, 2015. GJ-35 addresses the part of the Order that requires supervisors to review the recordings to check whether deputies are accurately reporting stop length. In addition to the new policy, BIO developed a Body-Worn Camera matrix for their inspectors to review camera recordings. It would be appropriate for supervisors conducting their reviews of subordinates’ video to use the same form.

Every person contacted on a traffic stop will be provided with an Arizona Traffic Ticket or Complaint (Citation), a Written Warning/Repair Order (Warning), or an MCSO Incidental Contact Receipt. During this reporting period, there were 51 incidents where the deputy gave a warning to the motorist for a traffic violation; and in two of these cases, the deputy failed to have the violator sign the Warning/Repair Form. In six other cases where warnings were issued, the involved deputies documented that their scanners were not working and they were unable to document a signature indicating a receipt. The deputies wrote “SERVED” in the box requiring a signature for the warning. In order to verify compliance that the violator received the required “receipt” from the deputy, a signature is required, or, if the violator refuses to sign the deputy may note the refusal on the form. We cannot verify that motorists have been given a receipt without a signature on the form or the deputy advising of the refusal of the receipt from the driver. Placing “SERVED” in the signature box without any explanation does not comply with the requirement. We acknowledge that deputies made the effort to document why a receipt was not obtained. The percentage of scanners that would not scan driver’s signatures was reduced by 50% this quarter. This is a considerable improvement over the previous reporting period.

During our October 2015 site visit, MCSO personnel advised us that there are alternatives that deputies can use to capture the required signatures, such as photographing the signature and adding it as an attachment. There was one Incidental Contact Form provided by MCSO during this reporting period. MCSO's compliance for this portion of the Subparagraph is 96%. We note that deputies have made progress completing the VSCF, Arizona Traffic Complaint and the Warning/Repair Form. MCSO is aware of the technical deficiencies with the scanners and we have observed progress in this area.

In the 54 cases where drivers were issued citations, we found one instance where the driver did not sign the Arizona Traffic Citation; and in four cases, the deputy indicated on the form that the driver's signature would not scan. MCSO's compliance rate for documenting the receipt of citations at the conclusion of a stop is 97%.

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

However, MCSO's implementation plan was somewhat optimistic. District 6 was the only district in which the body-worn camera program was fully operational by the end of 2015. Our traffic stop sample from District 6 only contained two cases with associated video. Our review of both recordings indicated that the length of the traffic stop was accurately recorded and coincided with the times on the CAD printout and the VSCF.

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

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

The policies go further to include that the dissemination of Criminal History Record Information (CHRI) is based on federal guidelines, Arizona Statutes, the Department of Public Safety, and the Arizona Criminal Justice Information System; and that any violation is subject to fine. No secondary dissemination is allowed. We reviewed an internal MCSO memorandum of April 12, 2014 that required all TOC (Terminal Operator Certification) personnel in these positions to be re-certified on a new testing procedure developed by the Training Division and the Systems Security Officer. During our February 2016 site visit, we met with a Deputy Chief and the Commander of Records and Identification, who indicated that MCSO had been vigilant in security of the data systems and had previously prosecuted violators. They indicated no unlawful intrusion into their systems had been detected during this reporting period.

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

b. Electronic Data Entry

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

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

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

We reviewed a printout of all vehicles assigned to Patrol from November 1, 2015. There were a total of 243 vehicles assigned to the Districts. There were 179 marked vehicles equipped with the TraCS e-citation system (All marked cars are TraCS-equipped.) The remaining 64 vehicles are unmarked, and 50 of those vehicles are equipped with TraCS. We also inspected marked vehicles to verify that MCSO vehicles that conduct traffic stops on a routine basis are equipped with the ability to input traffic stop data from the field.

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

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

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

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

c. Audio-Video Recording of Traffic Stops

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

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

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

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

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

MCSO evaluated on-person body cameras from other jurisdictions and selected a vendor (TASER International). We had recommended that MCSO deputies conduct a functionality test at the beginning and end of their tour of duty, and it was included in the policy revision GJ-35 (Body Worn Cameras) along with the other requirements in this Paragraph. The policy states the requirement that deputies are subject to discipline if they fail to activate the video and audio equipment as soon as the decision to initiate the stop is made and continue recording through the end of the stop. The policy also addresses how non-functioning equipment will be repaired or replaced. We will review these requirements when the body-worn cameras are fully implemented. We were able to review the video/audio of two traffic stops that occurred in December 2015. Both stops met the requirements of the Order. The quality of the video was excellent, even at night, and the clarity of the audio recordings was very good. We reviewed both recordings at District 6 with the Plaintiffs and Plaintiff-Intervenors in attendance. MCSO will not be in compliance with this Paragraph until the body-worn cameras are deployed and used in accordance with policy and the Order.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

Policy EB-2 (Traffic Stop Data Collection) includes the requirement that MCSO retain written traffic stop data completed on the Vehicle Stop Contact Form for a minimum of five years after it is created, unless a case involving a traffic stop remains under investigation by the Office or is subject of a Notice of Claim, civil litigation or criminal investigation, in which case MCSO shall maintain such data or recordings for at least one year after the final disposition of the matter, including appeals. The retention period for body-worn camera recordings is three years in compliance with this Paragraph, subject to the same exceptions listed above (investigation or litigation).

MCSO has developed and issued a protocol and policy that requires the original hardcopy form to be kept at the district level and filed separately for each deputy. When a deputy is transferred, his written traffic stop information will follow him to his new assignment. The Technology Bureau maintains electronic traffic stop data, and we reviewed the bureau's protocol for maintaining the integrity of the data. MCSO has developed a protocol for reviewing the on-body camera recordings and for responding to public records requests in accordance with the Order. During our July 2015 site visit, MCAO advised us and the Plaintiffs' attorneys that MCAO would develop the manual for the release of body-worn camera recordings, and that the draft would be completed by September 30, 2015. MCAO subsequently provided a draft of the operational manual, described below. MCSO developed and submitted a draft policy EA-4 (Body-Worn Cameras), which did not meet the requirements of the Paragraph. We, along with the Plaintiffs, provided MCSO with suggestions to correct the deficiencies in the initial draft. MCSO advised us that it incorporated our concerns into the new draft (EA-4 was renumbered to GJ-35) that was submitted and approved on June 24, 2015. The new policy governing the use of on-person cameras considers accountability measures to ensure compliance and activation of video cameras for traffic stops. MCSO completed a draft of MCSO's Body-Worn Camera Operational Manual in September 2015 and presented it for our review. The manual requires two supervisory reviews of on-body camera recordings per deputy per month and how responses to public records requests relating to the recordings will be administered. MCSO will be in Phase 1 compliance with this Paragraph when the Body-Worn Camera Operational Manual is

finalized, approved, and issued. During our February 2016 site visit, MCSO and MCAO advised us that the Body-Worn Camera Operational Manual had not yet been approved or disseminated and thus is not in compliance with the Paragraph. Accordingly, MCSO will not be in Phase 2 compliance with this Paragraph until the retention requirements of the written traffic stop data are implemented, the body-worn camera recordings can be verified, and the Body-Worn Camera Operational Manual is approved.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

d. Review of Traffic Stop Data

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

MCSO policies and procedures pertinent to this Paragraph include EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), dated September 22, 2014; EB-2 (Traffic Stop Data Collection), dated September 22, 2014; GJ-33 (Significant Operations), dated September 5, 2014; GH-5 (Early Identification System Policy), dated November 18, 2015; and GH-4 (Bureau of Internal Oversight Policy and Procedures), dated May 29, 2015.

In addition to these policies and procedures, we reviewed the MCSO Benchmark Inventory prepared by Arizona State University (ASU) after our July 2015 site visit (PDF file labeled “MCSO Benchmark Inventory FINAL,” dated July 24, 2015) delineating other possible internal and external benchmarks based on ASU’s review of the scientific literature that ASU believes might be potential candidates for inclusion in EIU’s monthly, quarterly, and annual evaluations of traffic stop data. We also reviewed EIU monthly analyses of traffic stop data for the months of October-December 2015 reported to us as part of our ongoing monthly production request.

During our February 2016 site visit, we met with the EIU leadership to discuss, among other issues, if they had made changes to or were considering revising the procedures and thresholds for benchmarks they use to conduct monthly analyses of traffic stop data. EIU leadership informed us that there were no changes to the thresholds during the quarter. In a meeting that included ASU staff, we addressed data reliability and validity matters pertaining to traffic stop data from TraCS that are used by EIU to look for possible cases of racial profiling and other biased-based policing. Ensuring that the data EIU uses is critical to the establishment of a protocol as required by this Paragraph.

ASU's audit of TraCS data presented to us during our October 2015 site visit raised a question about the selection of traffic stop events that would be used in EIU's monthly, quarterly, and annual analyses. ASU reported on this question using a "drop out analysis," which is the procedure ASU personnel used to delete certain traffic stop data records from the unfiltered dataset provided to them by EIU. ASU provided a reasonable explanation of how the unfiltered data file for the July 2014 through June 2015 period containing 32,904 records was "cleaned" resulting in a final dataset containing 28,123 records. ASU reported that 300 records were dropped reflecting traffic stops that were actually training records as opposed to real stops; or open records where a deputy is tasked with completing a field in the TraCS system. The remaining 4,481 records reflected multiple reported records for traffic stops because they involved information on passengers collected during some of the stops. (TraCS adds a record for a unique stop when there is a passenger contact, meaning that a single traffic stop might generate multiple records whenever passengers are present.) ASU combined the multiple records that might exist for a traffic stop into a single traffic stop record, thereby reducing the file to the one we received on December 30, 2015. ASU reported that it provided the computer code used to clean TraCS data to address these matter to the EIU, which should enable EIU to improve TraCS data for its ongoing analyses.

We remain concerned about the lack of documentation describing how EIU established its thresholds used to set alerts for deputies possibly engaging in racial profiling or other biased-based policing. MCSO does not have the means to explain how current thresholds were established. A protocol required by this Paragraph must include documentation of how thresholds were set, as well as the means to record future changes to them. It should also reflect the categories of benchmarks as prescribed by Paragraph 67, as well as any other benchmarks that the EIU may choose to use in its analyses. During our October 2015 site visit, we discussed ASU's efforts to help the EIU establish thresholds for the benchmarks required by the Order, including possibly adding other benchmarks commonly cited in the scientific literature. During our February site visit, ASU presented a preliminary draft report involving the use of some benchmarks using the July 2014 through June 2015 traffic stop data. This report is discussed further in Paragraph 66 below.

We were pleased with EIU efforts to address the serious problem of false alerts. False alerts occur in about half of the alerts set each month. According to EIU, the most prominent cause of false alerts is unexcused absences. EIU is finalizing definitions for certain benchmarks for our review; we expect that these new definitions will vastly reduce this problem.

One new development during this quarter was our receipt of a cleaned data file containing traffic stop data covering the July 2014 through June 2015 period. MCSO provided this data file to us nearly six months after the close of the subject time period, making it difficult for us to prepare adequately for our February site visit. We expect that future efforts to provide data to the Monitor will be more expeditious as data cleaning tools developed by ASU become incorporated in the protocol required by this Paragraph.

We used the July 2014 through June 2015 traffic stop data to begin a review of the benchmarks and thresholds EIU uses to conduct its monthly analyses. The lack of documentation about how the current benchmarks and thresholds were set to analyze traffic stops remains a serious concern. However, the provision of the traffic stop data provided us an opportunity to assess for the first time the integrity of the numeric values of the thresholds used by EIU. We provided our preliminary analysis of thresholds to BIO/EIU staff during our February site visit. It assessed the benchmark used to identify possible cases of racial profiling (the number of traffic stops per deputy per month) and the benchmarks used to search for racial bias (the citation rate; the length of civil traffic stops; the search rate for a race/ethnicity per deputy; searches where no items were seized; and the passenger contract rate). We presented an analysis showing how the threshold for the benchmark about the number of traffic stops per month (10 or more stops per month) appeared biased favoring the selection of deputies working in busy geographic areas over those in less busy areas. Our analysis also found that the thresholds used for the five benchmarks related to racial bias were so mathematically restrictive that they resulted in too few deputies being selected. We discussed the merit of moving toward a “rule-based system” of thresholds whereby the rules would jettison fixed numeric values for thresholds in favor of more representative statistically based metrics (e.g., flagging deputies above two standard deviations from the statistical mean). EIU was receptive to the concept of using rules rather than numeric thresholds for the benchmarks. In closing out this discussion, we agreed to the necessity of giving EIU time to review our analysis, including working with ASU to seek guidance, with the intent of furthering the discussion before our next site visit.

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

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

MCSO issued GH-5 (Early Identification System Policy), dated November 18, 2015, that states that the EIU is part of the Bureau of Internal Oversight (BIO) and describes, among other things, the organizational structure and operational responsibilities of the EIU related to the requirements of this Paragraph. MCSO will achieve Phase 1 compliance with Paragraph 65 once it has trained to this policy. MCSO will only achieve Phase 2 compliance with this Paragraph after successful implementation of the policy and the sustained organization of EIU.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

MCSO policy EB-2 (Traffic Stop Data Collection), dated September 22, 2014, references periodic analyses of traffic stop data to occur on a monthly, quarterly, and annual basis in order to check for possible individual-level, unit-level, or systemic problems. MCSO policy GH-4 (Bureau of Internal Oversight Policy and Procedures), dated May 29, 2015, includes a discussion of non-audit services that shall be performed that include the monthly evaluation of traffic stop data and monthly, quarterly, and annual analyses of traffic stop data to look for possible individual-level, unit-level, or systemic problems related to racial profiling or biased-based policing. In addition, GH-5 (Early Identification System Policy), dated November 18, 2015, identifies the EIU as the unit within the BIO responsible for conducting the annual agency-wide comprehensive analysis of traffic stop data, and specifies thresholds in IAPro approved by us in EB-2 dated September 22, 2014.

We note that GH-5 (Early Identification System Policy), dated November 18, 2015, defines the responsibilities of the EIU, which includes analyzing traffic stop data on a monthly, quarterly and annual basis (section 5.J) and criteria for searching for warning signs of other indicia of possible misconduct (section 5.D). We further note that the categories of thresholds pertaining to traffic stops presented in GH-5 are consistent with the requirements of Paragraph 67 below. However, we note above in Paragraph 65 that MCSO needs to train to this new policy. Once this training has occurred, MCSO will be in Phase 1 compliance with this Paragraph.

With regard to Phase 2 compliance, we note that work on the annual comprehensive study is being facilitated by ASU. MCSO contracted with ASU on April 8, 2015 to collaborate with MCSO on work pursuant to this Paragraph. The contract with ASU states that it will partner with MCSO on end products to include the implementation of monthly, quarterly, and annual reports. During our February site visit, ASU presented a draft report containing preliminary findings of its evaluation of traffic stop data representing the July 2014 - June 2015 period. We were provided the draft evaluation report subject to the condition that it be returned at the end of the meeting. The report contained descriptive statistics and included a few simple statistical tests to determine the potential existence of racial bias. Since the report was a draft that had not yet been vetted with MCSO, copies were collected after the meeting. We will provide comments on the report's findings once we receive the final version. ASU and BIO staff noted that future analyses would likely include the use of more sophisticated statistical techniques based on the scientific literature (e.g., involving inferential analysis) to search for warning signs or indicia of racial profiling or other biased-based policing. It is important to highlight our own preliminary review of benchmarks and thresholds discussed in Paragraph 64 that raised questions about the statistical validity of the benchmarks and thresholds currently being used by EIU. Phase 2 compliance with this Paragraph requires that MCSO finalize and implement annually a valid statistical methodology that is based on the scientific literature; and that the methodology include the use of benchmarks and thresholds reviewed by the Monitor, pursuant to the process described in Section IV of the Order.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

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

We reviewed pertinent MCSO policies and procedures including EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), dated September 22, 2014; EB-2 (Traffic Stop Data Collection), dated September 22, 2014; and GJ-33 (Significant Operations), dated September 5, 2014. We note that EB-2 (Traffic Stop Data Collection), dated September 22, 2014, uses the language of Paragraph 67 as part of its policy for periodic analyses of traffic stop data collection. GH-5 (Early Identification System Policy), dated November 18, 2015, also uses the language of Paragraph 67. Therefore, MCSO is in Phase 1 compliance with this Paragraph.

Regarding Phase 2 compliance with this Paragraph, the EIU provides monthly analyses and documents describing the benchmarks used to set alerts for possible cases of racial profiling or other misconduct using traffic stop. These analyses and documents are informative in showing how benchmarks and thresholds are being used to conduct weekly, monthly, and quarterly analyses looking for individual, unit, or systemic problems. These analyses are conducted by beat and ZIP code, and MCSO-wide; they may eventually include police beats. However, we remain concerned that the analyses conducted by EIU continue to use thresholds that are based on opinion rather than statistical validation. As was highlighted in our comments pertaining to Paragraph 64, our own analysis of thresholds suggests that they are not adequately robust to set alerts for deputies potentially engaged in racial profiling or other biased-based policing. To achieve Phase 2 compliance with this Paragraph, MCSO must establish and memorialize in a protocol benchmarks and thresholds that are not arbitrary or static, but instead reflect local area variation in traffic stop behavior. Therefore, MCSO is not in Phase 2 compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

- e. *the resource needs and allocation during the Significant Operation; and*
- f. *any Complaints lodged against MCSO Personnel following a Significant Operation.*

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

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

During the current reporting period, October through December 2015, MCSO responded to our monthly document request regarding significant operations with a memorandum from each district's command staff, in addition to the Investigations Bureau, outlining their significant operation activity. In that vein, each district's command staff has notified us by memorandum that their officers have not been involved in any significant operations or immigration-related traffic enforcement activity during the months of October, November, and December 2015. During our February 2016 site visit, both BIO and CID staff confirmed that there had not been any significant operations conducted since Operation Borderline. Finally, during visits to district offices in February 2016, command staff for Districts 2, 3, 4, and 6 corroborated that no significant operations had been conducted within their districts. Therefore, MCSO is in both Phase 1 and Phase 2 compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

MCSO published GH-5, the Early Identification System policy and procedure on November 18, 2015. Training on EIS, including orientation to the new policy, will occur during the upcoming Supervisory Training. Until such training takes place, MCSO is not in Phase 1 compliance with this Paragraph.

As noted in our previous quarterly reports, MCSO's response to the request for information for this Paragraph described a new drop-down menu for supervisors making notations about their subordinates that allow the supervisor to choose from a list of MCSO policies regarding the notations they are making. These include: EA11 (Arrest Procedures); CP2 (Code of Conduct); CP3 (Workplace Professionalism); CP8 (Preventing Racial and Other Bias-Based Profiling);

EB1 (Traffic Enforcement, Violator Contact, and Citation Issuance); and EB2 (Traffic Stop Data Collection); among other criteria.

The EIS policy describes an EIPro screen allowing supervisors to review all information regarding the persons under their command. There remain several exceptions to this list that are significant. These include, but are not limited to: the details of internal and external complaints (which at this time remains in testing stages); and an indicator in the EIS system that an officer has made an arrest or investigatory stop, that a supervisor can then use as a prompt to review the associated Incident Reports. (These reports are currently located in the FILEBOUND system and are not currently available in EIS.) As described above, supervisors are able to use a drop-down menu that trigger concerns the supervisor has about deputies' "workplace professionalism," "preventing Racial and Other Bias-Based Profiling," and the like as enumerated in the policy. During our February site visit, the EIS lieutenant, and supervisors from several districts visited, showed us the drop-down menus and how supervisors can remain updated on the activity of their assigned personnel. The district supervisors also demonstrated how additional features incorporated into TraCS – one field signifying review of traffic stops of subordinates and a second in which the supervisor can make comments regarding the stop itself – improved the ability of first-line supervisors to assess the work of their subordinates and also allowed lieutenants and commanders of the districts to ensure that these reviews were taking place. During previous site visits, there remained some confusion during our meetings with CID personnel whether these two fields, or the notations by supervisors in Blue Team, would be the preferred mechanism for the routine and monthly evaluations required by supervisory personnel. We, the Plaintiffs' attorneys, and the Plaintiff-Intervenors offered several suggestions on this issue; and MCSO committed to evaluate the best practice for discussion during the next site visit. During our February 2016 site visit, BIO and CID personnel explained how supervisors will be trained to use these fields once the Supervisory Training was approved. The result will be a more timely review of traffic stop activity by supervisory personnel.

In addition, even though MCSO is creating a mechanism for line supervisors to view some details of completed internal and external complaints involving their subordinates, line supervisors must still contact PSB staff to have access to more complete information relating to internal and external complaints involving their subordinates. This deficiency has been repeatedly noted in our onsite meetings with MCSO personnel. MCSO is working with the vendor of the software to ensure that only immediate supervisors have purview over completed complaint synopses. At present, there is no mechanism for such controls, so MCSO has opted to retain the "PSB" process until these issues can be ameliorated.

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

subordinates; and only 33% had written notes about discussing discriminatory policing with their subordinates. The inspection reports from April and June 2015 showed significant improvements across all categories of review. For example, the inspections show that the rate of average compliance scores for patrol supervisory notes peaked in April at 100%; dipped slightly in May and June; and then fell dramatically to 78%, 53%, and 74% respectively for the months of July, August, and September. The average compliance rates peaked again in October at 100%, and then dropped to 89% and 80%, respectively, in November and December 2015. Such remarkable fluctuations suggest that MCSO must institute a wider training and reminder practice to ensure that supervisors are carrying out their required functions. Both BIO and CID personnel stated that districts are sent monthly reports noting these fluctuations and include suggestions to increase compliance. The Supervisory Training, still under development, includes a number of warnings regarding these mandatory monthly reviews. We will continue to work with MCSO to improve the consistency of these findings.

In addition, EIU personnel review supervisory responses to alerts sent out for investigation to district supervisors. During the fall of 2015, the alert investigation process was moved from an “email based system” to Blue Team. This dramatically improved the efficiency of processing alert investigations. Supervisors are regularly prompted about the outstanding alerts regarding their deputies when they log in to Blue Team. Supervisors must also explain how they conducted their investigation, including documentation of conversations with their deputies, as well as how it was closed. These reports then make their way back through the chain of command where each person must review and approve the actions taken by the line supervisor. Following this, the alert is returned to EIU. We began requesting and reviewing a random sample of these investigations and have been generally satisfied in the way supervisors have dealt with a wide range of behavior from “unexplained absences” to “traffic stops whose characteristics trigger alert thresholds.” As discussed later in the report, we continue to find instances where supervisors’ notes are not as thorough as they should be given the tools at their disposal.

EIU personnel have also developed a set of self-populating supervisory tables that provide supervisors throughout the agency with the ability to pull up all traffic stops for a single deputy for review; as well as the ability to compare significant traffic stop details such as length of traffic stop, citation rates, arrest rates, and the like across their entire squad of deputies or any subset therein. These are significant advancements for supervisory personnel. The BIO inspections reports for supervisory notes also include reminders to district personnel that supervisors are responsible for conducting individual discussions with their personnel about the stops they are making, and supervisors must document these discussions to meet the requirements of the Order. We anticipate that as supervisors become more familiar with these tools, and are trained to the requirements of their position, that the compliance rate for supervisor activities will improve over time.

In future site visits, we will address with EIU and supervisory personnel the evolution of these new supervisory tools and responsibilities.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

As discussed in response to Paragraphs 64 and 65, we reviewed EB-1 (Traffic Enforcement, Violator Contacts and Citation Issuance), as well as EB-2 (Traffic Stop Data Collection). Most recently, MCSO has published GH-5 (Early Identification System). Training on EIS, including orientation to the new policy, will occur during the upcoming Supervisory Training. Until such training takes place, MCSO is not in Phase 1 compliance with this Paragraph.

MCSO is making strides toward a more complete implementation of EIS processes. We have received new alert definitions and Administrative Broadcast drafts further detailing the responsibilities of supervisors as outlined in GH-5 (EIS). We have commented on these and returned them to MCSO for further development. When these are implemented, we will evaluate them in our future reports.

As a result of our past suggestions about the lack of specificity regarding the clearing of alerts triggered in the EIS, MCSO has produced a synopsis of alerts on a monthly basis as well as a more complete description of how those alerts have been handled or assigned. MCSO is also working on documentation to clarify all of the agency's activities surrounding the handling and disposition of alerts, including definitions of key terms. In that vein, in December 2015, EIU requested feedback on clearance types for EIS alerts through a memorandum. We responded with additional questions regarding these alert definitions, and discussed these issues in more detail during our February 2016 site visit.

As a result of these discussions, MCSO personnel proposed the expansion of a new category of alerts they have called "artificial" alerts. Artificial alerts are the category that is used to capture previous false alerts with additional detail and refinements. In creating the "artificial" category, MCSO is attempting to improve the type of information that is available about the alerts generated within the EIS system. With the addition of other alert clearance types and a further delineation of what will be captured in the artificial category – entry errors, duplicate records, and the like – MCSO anticipates that the overwhelming majority of issues surrounding false

alerts that dominated these reports in past months will be reduced. However, these alerts will continue to exist, but will be more easily separated from those alerts that are of primary importance in the supervisory process. As a result of some refinements already in place, EIU was able to clear 79% of alerts in November and 77% of alerts in December. Coupled with the ongoing changes being developed by EIU, we anticipate a transparent process that allows for supervisors in the field to focus on the behaviors of officers that may be problematic.

EIU staff provided information on the methodology used to analyze traffic stop data on a weekly and monthly basis. These documents, and communication during the latest site visit with ASU personnel, have clarified how EIU tries to identify “outliers,” “racial profiling,” and “improper conduct.” ASU personnel presented a preliminary draft of their annual report during a meeting, but we were unable to retain a copy or review it in detail. We will comment on the document once it is finalized and accepted by MCSO. We also presented in a separate meeting during our February site visit an analysis we conducted using the annual dataset provided by MCSO. In this analysis, we showed how MCSO might use more statistically defensible thresholds. We provided MCSO and its contractor copies of these analyses. As we have discussed in earlier reports, the alerts outlined in the EIS Supervisory Manual are based upon the experience of EIU personnel and may, therefore, not uncover all aspects of biased policing not captured by these definitions and protocols. We will continue to evaluate alternatives and work with MCSO during future site visits. The refinement of the threshold limits should also decrease the “false or artificial” alerts currently included in the monthly EIU reports.

The EIU has now produced several reports and spreadsheets pertaining to alerts during this and prior reporting periods. The reports summarize the alerts and how they were handled; while the spreadsheets add additional details regarding the investigations by EIU staff or the assignment of these alerts to district supervisors for a more thorough review, including an interview with the deputy whose behavior triggered the alert. The spreadsheet analysis provides context to the activity of EIU staff investigations. In addition, for the past several months we have requested a random sample of completed alert investigations that have been forwarded to supervisors so that we can review the processes that supervisors use during their investigations. In the past, the transmission of alert investigations to the supervisors took place via email. One of the problems with this system was that there was no reminder process built in, and so it depended upon the diligence of EIU personnel to follow up repeatedly. This often resulted in investigations languishing for long periods of time, even in cases where supervisors had conducted their investigations and applied a remedy but had failed to email those results back to EIU.

MCSO has now developed an approach to these investigations in Blue Team. When an alert is triggered, EIU personnel evaluate the issue to ensure that it has not already been handled, or falls within one of the false/artificial categories. If EIU determines that a district investigation is appropriate, EIU forwards the alert through Blue Team. When a supervisor logs in to Blue Team, the supervisor will see a notification that “x” number of incidents has been assigned to him/her for work-up. Supervisors, according to EIS policy, have 14 days to complete these assigned investigations. A description of the alert and any supporting documents are made available through this process. In the event that the alert references Incident Reports, those IR numbers are provided so that supervisors can evaluate those documents in the FILEBOUND system. At the conclusion of the investigation, following a discussion with the employee, the

supervisors must document in Blue Team the actions they took in response to the alert including counseling, training, ride-alongs, etc. This information is forwarded back via Blue Team through the chain of command. Each step requires the command staff to approve the actions taken by the line supervisor. EIU closes the alert when all of these steps have been completed and the issues triggering the alert have been addressed.

This new process is a dramatic improvement over the email system previously used. MCSO developed an initial Administrative Broadcast announcing these steps to supervisors. We have commented on that broadcast, suggesting that it could be improved if it included, in particular areas, language directly from the EIS policy. We will evaluate the implementation and use of these systems in future reports. However, the random samples of alert investigations we have requested provide information that the Blue Team process is working well for the supervisors who have been using it. Supervisors are noting when they have already addressed the issues raised in the alerts, or instituted action plans when necessary.

In addition, BIO conducts monthly and quarterly inspections on a variety of issues relevant to the activity of officers and supervisors alike. For instance, in the case of "Incident Report Inspections" BIO draws a 20% random sample of IRs along with any arrest IRs that indicate a "Lack of Identity". Using the FILEBOUND system BIO reviews the sufficiency of the IRs for arrest procedures (EA-11), code of conduct (CP-2), biased policing (CP-8), among other requirements. During the third and fourth quarters of 2015, the BIO report shows that overall compliance rates have increased to 95%. This is up from the overall compliance rates for the first two quarters of the year. More importantly, the Inspection Report highlights areas that supervisors and district commanders should focus on in the future, such as notification of supervisors in the "lack of identity" cases, which in the third quarter was 89% and in the fourth quarter was 63%. BIO provides district personnel with the information and recommendations necessary for corrections to be made. These inspections are invaluable for supervisory personnel. They also indicate that deputies and supervisors are meeting the memorialization requirements of the Order.

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

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

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

We have been provided access to all existing data. During our February 2016 site visit, we were briefed on the annual review of data being conducted by MCSO's contractor, ASU. Although we still do not have a draft of the report, during our site visit, ASU personnel presented tables of analyses they had completed ranging from the processes they went through to clean the data provided by MCSO to the analysis of traffic stop data based upon the criteria provided by MCSO. All Parties were able to ask questions regarding the ongoing evaluation. We will comment on the report when it is officially released. In addition, we were provided a copy of the raw data ASU is using for its analyses. We were able to conduct additional analyses to show MCSO different options it may consider in setting thresholds and conducting analyses looking for any evidence of behavior that is outside the norm. The value of these sessions is that it provides an open dialogue about the alternatives available to MCSO to refine how they analyze the traffic stop data. We will continue working with MCSO and its contractor to make the most out of the information available.

As noted in Paragraph 70, the additional spreadsheet analysis tracking the alert status of cases of concern has improved our view of the supervisory process. Moreover, the addition of two specific TraCS fields that allow supervisors to acknowledge review of traffic stops and add comments pertinent to those traffic stops would appear to alleviate concerns that we have raised in the past. In addition, the inspections conducted by BIO – the Patrol and Supervisory Note Inspections, Incident Report Inspections, County Attorney Disposition Inspections, among others – have been informative and raise issues that will be investigated in future document requests and site visits. We have already noted that the prior method of reporting the County Attorney Disposition Report on “turndowns” had provided limited detail, and MCSO responded by providing all of the information we requested to come to a better understanding of these processes. In addition, the Incident Report inspection shows that while the overall compliance rate is extremely high, there is still a lapse of communication between deputy and supervisor when the subject stopped does not have adequate identification. We will revisit these issues in future site visits to ensure that processes are being put into place to reduce issues such as these. We anticipate that once the Supervisory Training is complete, that some of these issues will be reduced. We will also continue to work with both BIO and EIU to ensure that the two additional fields for supervisors in TraCS are effectively used and improve the ability of supervisors to complete their monthly review of deputy activity.

We also will continue to observe and evaluate the introduction of new software systems that impact the ability of supervisors to effectively supervise their subordinates. In that vein, during our July 2015 site visit, EIU personnel informed us that they had developed a new set of self-populating supervisory tables that will provide supervisors throughout the agency with the ability to pull up all traffic stops for a single deputy for review; as well as the ability to compare significant traffic stop details such as length of traffic stop, citation rates, arrest rates, and the like across their entire squad of deputies. These are significant advancements for supervisory personnel. During our October 2015 and February 2016 site visits, we met with supervisors of several districts who stated that they routinely employed the self-populating tables in their

monthly evaluation of subordinates. We will continue to meet with line supervisors to gauge how they are using these new tools, keeping in mind that they may not be employed across the entire agency until such time as the new Supervisory Training curriculum is approved and finalized.

During a conference call in December 2015 regarding EIS issues and the inclusion of arrest Incident Reports into the EIS database, MCSO informed us that it began using an independent system, FILEBOUND, which stores Incident Reports and could be used by supervisory personnel to search for reports involving the deputies under their command. After some discussion regarding the capabilities of the system, we made plans to receive more information during the upcoming site visit. FILEBOUND works off of an Optical Character Recognition (OCR) system that allows MCSO to scan Incident Reports into a database with a storage capacity that appears limited only by the amount of money MCSO is willing to spend on it. MCSO has used earlier versions of FILEBOUND to track Orders of Protection. In 2014, MCSO began investigating the use of this program for Incident Reports. The FILEBOUND system went live in July 2014. At present, MCSO has all Incident Reports from 2015 stored in the database. MCSO plans to continue to maintain the database (by scanning all new IR reports into the system), and work backwards to incorporate the paper IR documents from back to 2008. Prior to 2008, everything was on microfilm and cannot be scanned into the system. In 2015, MCSO scanned approximately 30,000 IRs into the system.

FILEBOUND allows users to search via IR numbers, names of deputies, or any other text that may be pertinent to the type of issue that users wish to investigate. This makes it a flexible system for supervisors. However, there is no mechanism to link FILEBOUND directly to the EIS system. While the EIS system can reference an IR number, supervisors are required to access FILEBOUND to review the actual report. While this is not the ideal situation, we observed during our site visit how a supervisor could access actual IRs while working in the EIS by switching to the FILEBOUND system. This alleviates the concerns we and the Parties had regarding supervisors having to physically relocate to obtain copies of reports referenced in the EIS. However, at this time, there is no indicator in the EIS system that informs the supervisor that their deputies have made arrests or investigatory stops. The EIS system should include a prompt that informs the supervisor to go to the FILEBOUND system to review Incident Reports pertaining to arrests or investigatory stops.

During the meeting, MCSO described that when an alert investigation is sent to a supervisor, the alert will also include a list of IR numbers, where applicable; and users can pull up the full text of any IR that has been scanned in to the system. However, since it will take some time to actually scan historical documents into the system, it is unclear how useful it will be for supervisors to look back into the history of their deputies for the next couple of years. As a contemporary investigative tool, it appears to meet the needs of the organization. During our site visit, we found that command staff were familiar with FILEBOUND and were able to readily pull up Incident Reports involving their subordinates. However, at present, MCSO does not have a plan in place that provides an indicator in the EIS database that would inform supervisors how many arrests and investigatory stops exist in the FILEBOUND system for them to review. We will continue to discuss with MCSO what is necessary to comply with the Order.

To this point, we have had access to all data that we have requested. We will continue to expect access to these reviews as they are completed.

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

Section 8: Early Identification System (EIS)

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

a. Development and Implementation of the EIS

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

On November 18, 2015, MCSO published policy GH-5, Early Identification System. This policy has gone through several drafts over the prior eighteen months. Training on EIS, including orientation to the new policy, will occur during the upcoming Supervisory Training. Until such training takes place, MCSO is not in Phase 1 compliance with this Paragraph.

The Early Intervention Unit (EIU) staff continue to do a noteworthy job of providing data, conducting audits, and developing an EIS system that incorporates pieces of information from across the organization. Moreover, BIO personnel have shown through the Supervisory Note Inspections how quickly MCSO has responded to the finding that less than 70% of supervisors were effectively using many of the EIS tools available for supervision during the early months of 2015. BIO staff noted these deficiencies, and recommended supervisory training and instruction to facilitate the use of the tools that were being made available for supervisory functions. As a result, we have seen months where the average compliance among supervisors exceeded 95%, in April, June, and November; as well as months where the average compliance rate dipped into and below 80%, in July, September, and December. This suggests that we have not yet witnessed a wholesale adoption of the tools available to supervisors, which may be partly due to the fact that MCSO has just published the EIS policy and continues to work on the Supervisory Training.

In addition, EIU personnel have drafted an Administrative Broadcast to show supervisors how to use the Blue Team system, rather than the old email process, to receive and conduct alert investigations pertaining to the deputies under their command. We have commented on the text and presentation of the Broadcast material and returned these to MCSO. In future site visits, we will evaluate the dissemination of these tools to supervisory personnel. In the interim, supervisors are already using these tools, as evidenced by our discussion with supervisory personnel during our February site visit. Additionally, as indicated above, EIU has continued to refine the definition of alert clearance types in order to make the “alert process” more transparent. These refinements have been communicated to all Parties and were the topic of discussion at several meetings during our February site visit. EIU personnel seem committed to exploring every option to improve the way information is handled within the EIS.

Finally, MCSO must become more transparent in the way that it develops options for the EIS policy and database. For example, beginning in December 2014, MCSO told us that it was investigating ways to incorporate Incident Reports covered by the Order into the EIS. At each subsequent site visit, MCSO representatives implied that they were continuing to look at software solutions. During our October 2015 site visit, MCSO advised us that it was departing from the plan to incorporate Incident Reports into the database. During a conference call in December 2015, MCSO informed us of an independent software system, FILEBOUND, which it had been using to store electronic Incident Reports. During our February 2016 site visit, MCSO provided additional information about this system to us, and we observed supervisory staff at the districts utilizing it. We have subsequently received some software and training documentation; however, we do not currently have a list of users approved to utilize this system. Moreover, MCSO had apparently gone live with this system in July 2014, and these were the first two instances in which we, the Plaintiffs, or the Plaintiff-Intervenors were ever advised that these systems existed.

We will continue to evaluate and discuss with MCSO the sufficiency of this system. Our ongoing evaluation will include how MCSO plans to indicate for supervisory personnel and data analysts, when arrests or investigatory stops have occurred so that they can be reviewed by supervisors and how required data elements in EIS will be available for analysis of deputy activity in these crucial areas. MCSO must advise us, the Plaintiffs, and the Plaintiff-Intervenors of significant acquisitions and deployment of software related to the EIS, as well as significant changes in direction, before they are acquired or implemented.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

MCSO published the policy GH-5 (Early Identification System) on November 18, 2015. Training on EIS, including orientation to the new policy, will occur during the upcoming Supervisory Training. Until such training takes place, MCSO is not in Phase 1 compliance with this Paragraph. In addition, EIU personnel have developed drafts of an Administrative Broadcast for handling alerts in Blue Team and worked on refining definitions regarding alert clearance types. Both of these yielded further discussion and suggestions for improvement. We will evaluate these as they are introduced and refined during subsequent reporting periods.

However, the EIU has come together well to this point. A lieutenant coordinates the unit, with three sergeants working on investigations, one analyst, and one administrative staff member under the auspices of the Bureau of Internal Oversight. MCSO provided an updated organizational chart for the Bureau of Internal Oversight that incorporates the EIU personnel. EIU staff continue to conduct data analysis using data they have compiled from sources across the organization – including CAD, RMS, Blue Team, TraCS, EIPro, and others. These analyses look for deputies who “hit” thresholds created by EIU personnel. As discussed previously, both MCSO’s contractor and we have conducted analyses on the annual dataset created by ASU. The ASU analyses uses the benchmarks and thresholds provided by MCSO. Our analyses use a statistically grounded mechanism to identify outliers. Once we have access to the final report of ASU, we will evaluate all of the options open to MCSO for future analyses and the modification of any threshold limits now employed. EIU personnel also regularly monitor alerts that are triggered by the thresholds they have set. MCSO has provided us with monthly reports of how these alerts are being handled. In addition, EIU has improved the alert transmission process with district supervisors by incorporating the alert investigations into the Blue Team system. This offers a tremendous advantage over the previous email system because it affords an easy way for supervisors to acknowledge receipt of alerts that they need to investigate, in the timeframe they need to be investigated, and make notations in Blue Team regarding any actions they may have taken. Each supervisor investigation and outcome is then sent back through the chain of command for approval and closure by EIU personnel once it is verified that the issue in the alert has been addressed. EIU personnel have also gone through several iterations of definitions relevant to the EIS policy and practice. They have sought our feedback and made modifications based upon this feedback.

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

As we discussed in our last report, the leadership of the EIU changed between July and October 2015. It is clear from our meetings that, although the institutional memory of the unit may be lacking, the current leadership is enthusiastically moving forward and embraces the development of statistical tools to deal with the current issues involving false/artificial alerts, development of an Administrative Broadcast to introduce new features of EIS, among other subjects. Although full compliance with this Paragraph requires an approved EIS policy, and the associated training, it is clear that the EIU is functioning as expected. Therefore, compliance for Phase 2 of this Paragraph is deferred.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Deferred

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

The Early Identification System policy, GH-5, was published on November 18, 2015. Training on EIS, including orientation to the new policy, will occur during the upcoming Supervisory Training. Until such training takes place, MCSO is not in Phase 1 compliance with this Paragraph.

Beginning with our site visits in September 2014, EIU personnel have provided insight into the ways that they used the data to conduct weekly and monthly analysis looking for “outliers,” “potential questionable behavior,” and “racial profiling.” As a result of these discussions, we requested more documentation to support the analysis conducted. Similar to our observations in Paragraphs 64 and 65, the documentation provided since the beginning of 2015 provides insight into what EIU personnel are doing; however, the process remains largely “qualitative” since it relies heavily on judgments of EIU personnel. MCSO has contracted with an outside vendor, ASU, to conduct the annual review of traffic stop data. Since our April 2015 site visit, we have met for extended periods of time with ASU personnel, and found that they possessed the expertise necessary to convert the qualitative alert process to a quantitative one. During our February 2016 visit, ASU personnel presented a draft of their analysis of the annual data. All Parties were able to ask questions and seek clarification based upon the presentation. However, we were not allowed to retain a copy of the report; therefore, we are unable to judge whether it can lead to a less qualitative process.

Additionally, during our February meetings, we presented our own analyses of the data and provided copies to both MCSO and ASU to facilitate a more robust discussion of options in the near future. We continue to suggest that rather than using static alert thresholds, that the contractor develops a statistical model/method of finding “outliers.” We will work with both the contractor and MCSO to evaluate the methods they develop, the outcomes they produce, and the policy statements upon which these are founded. We cannot make determinations about whether their methods actually get us closer to a statistically valid examination of discriminatory/biased policing until such time as we are able to evaluate the conclusions they come to and the method they use to arrive at these conclusions.

The issue of how Incident Reports, required by the Order (Paragraph 75), would be included in the relational database has been at the core of many meetings since December 2014. During our site visits between December 2014 and October 2015, MCSO assured us that it was working on a software solution. However, during our October meetings, MCSO command personnel stated that they were rethinking the need to incorporate Incident Reports and evaluating their options as an organization. During a December 2015 telephone conference regarding EIS issues, MCSO command personnel stated that MCSO was currently storing Incident Reports in the FILEBOUND system. (See Paragraph 71 for a complete description of FILEBOUND.) This system was described as accessible to supervisory personnel, searchable with keywords, but not able to communicate with the software of the EIS system. We set aside several meetings during our February site visit to deal with the issue of whether the FILEBOUND system would be sufficient to address the requirements of the Order. It is clear that not all Incident Reports are required to be included in the relational database of EIS; however, those pertaining to arrests and investigatory detentions must be indicated in some form.

MCSO is researching several questions regarding how it might facilitate the indication of arrests and investigatory stops into the EIS system. While the Incident Reports themselves might not require inclusion into the EIS database, MCSO needs to include an indicator for supervisors regarding how many arrests and investigatory stops their deputies have conducted so that they can employ the FILEBOUND system to evaluate these. In addition, MCSO must include the data necessary, on arrests and investigatory stops, in the EIS database so that it can be queried for any potential bias associated with those arrests or investigatory stops. At present, MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

- a. *all misconduct Complaints or allegations (and their dispositions), excluding those made by inmates relating to conditions of confinement or conduct of detention officers (i.e., any complaint or allegation relating to a traffic stop shall be collected and subject to this Paragraph even if made by an inmate);*
- b. *all internal investigations of alleged or suspected misconduct;*
- c. *data compiled under the traffic stop data collection and the patrol data collection mechanisms;*
- d. *all criminal proceedings initiated, as well as all civil or administrative claims filed with, and all civil lawsuits served upon, the County and/or its Deputies or agents, resulting from MCSO Patrol Operations or the actions of MCSO Patrol Operation Personnel;*
- e. *all arrests;*

- f. all arrests in which the arresting Deputy fails to articulate probable cause in the arrest report, or where an MCSO Supervisor, court or prosecutor later determines the arrest was not supported by probable cause to believe a crime had been committed, as required by law;*
- g. all arrests in which the individual was released from custody without formal charges being sought;*
- h. all Investigatory Stops, detentions, and/or searches, including those found by the Monitor, an MCSO supervisor, court or prosecutor to be unsupported by reasonable suspicion of or probable cause to believe a crime had been committed, as required by law;*
- i. all instances in which MCSO is informed by a prosecuting authority or a court that a decision to decline prosecution or to dismiss charges, and if available, the reason for such decision;*
- j. all disciplinary action taken against employees;*
- k. all non-disciplinary corrective action required of employees;*
- l. all awards and commendations received by employees;*
- m. Training history for each employee; and*
- n. bi-monthly Supervisory observations of each employee.*

MCSO published policy GH-5, Early Identification System, on November 18, 2015. Training on EIS, including orientation to the new policy, will occur during the upcoming Supervisory Training. Until such training takes place, MCSO is not in Phase 1 compliance with this Paragraph.

During our October 2015 site visit, EIU personnel informed us that they had incorporated the transmission of alert investigations into the Blue Team system. This will allow supervisors to see all incidents involving their employees that require a follow-up investigation. In addition, the alert description will include relevant information, like complaints or Incident Reports, which the supervisor should review during their investigation. However, as noted below, the indication that some of these reports exist are still not included directly in the relational EIS database. This Blue Team process also requires that supervisors complete their investigation within 14 days as prescribed by GH-5, and include a description of actions they took as a result of their investigation. The supervisors' findings are routed through the chain of command, using Blue Team, and the alert will eventually be closed by EIU. This is a much more transparent and efficient system than existed when EIU personnel used emails to relay information about alerts to supervisors. EIU personnel also created an Administrative Broadcast for supervisors describing this process. We provided feedback on this Broadcast and will summarize the outcome in future reports.

One of the ongoing issues regarding elements of the relational database involves access to details about internal and external complaints involving subordinates (Subparagraphs 75.a. and 75.b. of this Paragraph) for supervisory review. During our October 2015 site visit, EIU personnel showed the pilot testing of a software modification that would allow supervisors to view some

details of completed internal and external complaint investigations. However, during testing with the software vendor, it became apparent that opening these details to supervisors also opened them to persons who should not have purview of these incidents. MCSO continues to work with the vendor on a solution to this problem. In the meantime, supervisors must continue to contact PSB for information regarding complaints involving their subordinates. We will continue to monitor the inclusion of these elements through document review and examination during future site visits.

Finally, from December 2014 through October 2015, MCSO advised us that the Technology Bureau was working to ensure that Incident Reports would be included in the relational database that combines to make the entirety of the EIS data system more complete. (Subparagraphs 75.e. through 75.h. may be impacted.) However, during our October 2015 site visit, MCSO informed us that they were no longer pursuing such an electronic inclusion of Incident Reports and had no alternate options planned. During a December 2015 conference call, MCSO informed us that Incident Reports were being electronically stored in a system called FILEBOUND (see Paragraph 71 for a complete description). This system affords the scanning of documents into the database, where users can search the database on a variety of levels; however, it is not compatible with the current EIS software. The system is accessible to supervisors as long as they have requested access. We have requested additional information about the system and will evaluate its sufficiency in future reports. In particular, the training supervisors in the FILEBOUND system and a list of supervisors who have requested access to this system. Our concern, which is shared by MCSO and plaintiffs, is that at least some Incident Reports, as noted in the BIO inspections, involve arrests and investigatory stops that are covered under this Paragraph. We are satisfied that FILEBOUND is readily available to supervisors and are awaiting a list of all supervisors who have requested access to this system. MCSO must include an indication within the EIS system that prompts supervisors to go to the FILEBOUND system to review arrests and investigatory stops of their deputies. Moreover, MCSO must include data elements, within EIS, that would allow these arrests and investigatory stops to be analyzed for potential indications of biased behavior on the part of officers. We will continue to work with MCSO to resolve such issues and will evaluate these during future site visits. MCSO, therefore, is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

EB-2 (Traffic Stop Data Collection) requires the capture of the information necessary for EIU personnel to link a deputy's traffic stops, along with the racial and ethnic make-up of those stopped, to the actions the deputies take in those stops. MCSO meets these requirements in several ways. For instance, EIU conducts a monthly alert analysis that indicates whether deputies are marking race as "unknown" in TraCS. This is an extremely rare occurrence. In addition, the integrity analyses conducted by our personnel have shown that this information is rarely missing from the TraCS data supplied by MCSO. Moreover, when discrepancies do arise, MCSO has developed solutions. For instance, during our July and October 2015 site visits, we discussed a few instances in which the CAD data indicated that back-up officers arrived at the scene of a traffic stop but were not indicated on the original officers TraCS form. MCSO subsequently modified TraCS to provide drop-down boxes for back-up officers that are automatically created when the number of officers on the scene exceeds one. The same modification was made for vehicle passengers and has improved the information available for review in the EIS system. We will continue to monitor the modification of TraCS. MCSO is in compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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 working, each district has equipment within its offices that would allow a deputy to input his/her traffic stop information before the end of their shift (EB-2, Traffic Stop Data Collection, 4A1).

In addition, the Deputy Chief of the Technology Management Bureau provided a letter in response to our document request that comprehensively shows the deployment of personal computers and printers across the districts and specialty units. During inspections of districts during our April, July, and October 2015 site visits, we were able to visually confirm the availability of replacement squads equipped with TraCS and computers at each of the district offices should vehicle systems fail. The letter is also a testament to the security of the system. At present, it would appear that the technology and equipment available in the agency meets the requirements of the Order.

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

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

The EIS policy, GH-5, was published on November 18, 2015. Training on EIS, including orientation to the new policy, will occur during the upcoming Supervisory Training. Until such training takes place, MCSO is not in Phase 1 compliance with this Paragraph.

Prior to the publication of GH-5, the Deputy Chief of the Technology Management Bureau provided a letter in response to Paragraph 78. On the second page of this memorandum, there is a description of the security of the database and server. This information has been reiterated in the new 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. These appear to meet the requirements of the Order. In addition, as noted in Paragraph 75 regarding complaints, MCSO is still working with the vendor to provide supervisor access to this information without allowing those without purview the ability to view this information as well. This is an indicator of how important security of the system is to MCSO. However, until such time as applicable Supervisory Training is delivered, MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

MCSO published GH-5, Early Identification System, on November 18, 2015. Training on EIS, including orientation to the new policy, will occur during the upcoming Supervisory Training. Until such training takes place, MCSO is not in Phase 1 compliance with this Paragraph.

Moreover, as previously discussed, MCSO does not have a fully “integrated” database. In the interim, MCSO personnel in the EIU and BIO have done a credible job pulling together data to conduct analyses and inspections looking for behavior that may appear to be outside the norm. However, at present, MCSO is not in Phase 1 compliance with this Paragraph. In previous Paragraphs, we have revealed several concerns that impact the operation of the EIS. Cumulatively, they preclude the EIS from being “fully implemented.” These include, but are not limited to: 1) the ability of supervisors to have immediate access to complaints involving their subordinates; 2) the list of supervisors with access to FILEBOUND as an independent resource of information not tied to EIS but available to supervisory personnel; 3) a means of indicating the number of Incident Reports for arrests and investigatory stops that the supervisor should review for their subordinates; and 4) the data necessary for analysts to evaluate whether bias occurred during arrests and investigatory stops noted in number 3 above.

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. EIU personnel are in the process of refining an Administrative Broadcast to explain this new process to supervisors and are also planning to include it in the Supervisor Training curriculum.

BIO inspections have shown how they use information drawn from a variety of sources to gauge whether supervisors are fulfilling their required roles (Patrol Supervisory Note and IR Inspections). When BIO identifies issues in the reports, BIO shares recommendations for improvement with the districts. .

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

Both the EIU and BIO have been responsive to our requests and suggestions; we continue to work effectively with them.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

b. Training on the EIS

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

MCSO has published GH-5, Early Identification System, on November 18, 2015. Training on EIS, including orientation to the new policy, will occur during the upcoming Supervisory Training. Until such training takes place, MCSO is not in Phase 1 compliance with this Paragraph.

In response to our request for documentation, MCSO provided a training schedule for TraCS. The scheduled training for TraCS has been carried out routinely, and the Training Calendar and curriculum were provided in documents dated November 18, 2015. More importantly, MCSO has now put into practice a mechanism to memorialize who has received this training and when. However, the Supervisory Training required under Paragraphs 52 and 53 remains under development in consultation with us and the Parties.

Finally, we have discussed in previous Paragraphs the inability of supervisors to access complaints against their subordinates without the assistance of PSB. MCSO is working with the vendor to find a solution to this issue. We have also discussed the use of FILEBOUND (see Paragraph 71) to review Incident Reports for arrests, investigatory stops, and the like. While this system is available to supervisors, and allows them to search using a variety of levels, it is an independent system that cannot communicate with EIS. We believe the FILEBOUND system meets the needs of supervisory access to both arrests and investigatory stops; however, MCSO must include in EIS an indication of how many arrests and investigatory stops their deputies have conducted so that they know which reports to search for within the FILEBOUND system. Moreover, MCSO needs to include data relevant to these arrests and investigatory stops within EIS in order to evaluate whether any bias might have occurred. During future site visits, and interim communications, we will evaluate how MCSO is proceeding.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

c. Protocol for Agency and Supervisory Use of the EIS

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

- a. comparative data analysis, including peer group analysis, to identify patterns of activity by individual Deputies and groups of Deputies;*
- b. identification of warning signs or other indicia of possible misconduct, including, but not necessarily limited, to:

 - i. failure to follow any of the documentation requirements mandated pursuant to this Order;*
 - ii. racial and ethnic disparities in the Deputy's traffic stop patterns, including disparities or increases in stops for minor traffic violations, arrests following a traffic stop, and immigration status inquiries, that cannot be explained by statistical modeling of race neutral factors or characteristics of Deputies' specific duties, or racial or ethnic disparities in traffic stop patterns when compared with data of a Deputy's peers;*
 - iii. evidence of extended traffic stops or increased inquiries/investigations where investigations involve a Latino driver or passengers;*
 - iv. a citation rate for traffic stops that is an outlier when compared to data of a Deputy's peers, or a low rate of seizure of contraband or arrests following searches and investigations;*
 - v. complaints by members of the public or other officers; and vi. other indications of racial or ethnic bias in the exercise of official duties;**
- c. MCSO commander and Supervisor review, on a regular basis, but not less than bimonthly, of EIS reports regarding each officer under the commander or Supervisor's direct command and, at least quarterly, broader, pattern-based reports;*
- d. a requirement that MCSO commanders and Supervisors initiate, implement, and assess the effectiveness of interventions for individual Deputies, Supervisors, and units, based on assessment of the information contained in the EIS;*
- e. identification of a range of intervention options to facilitate an effective response to suspected or identified problems. In any cases where a Supervisor believes a Deputy may be engaging in racial profiling, unlawful detentions or arrests, or improper enforcement*

of Immigration-Related Laws or the early warning protocol is triggered, the MCSO shall notify the Monitor and Plaintiffs and take reasonable steps to investigate and closely monitor the situation, and take corrective action to remedy the issue. Interventions may include but are not limited to counseling, Training, Supervisor ride-alongs, ordering changes in practice or procedure, changing duty assignments, Discipline, or other supervised, monitored, and documented action plans and strategies designed to modify activity. All interventions will be documented in writing and entered into the automated system;

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

MCSO published GH-5, Early Identification System, on November 18, 2015. Training on EIS, including orientation to the new policy, will occur during the upcoming Supervisory Training. Until such training takes place, MCSO is not in Phase 1 compliance with this Paragraph.

In addition, during our October 2015 site visit, we discussed several significant issues that remain problematic. During our discussion of alert thresholds, referred to in the EIS policy, MCSO advised us that no documentation about how these thresholds were created exists. This remains a concern since the protocol referenced in this Paragraph requires that MCSO be able to document how thresholds are set and modified over time. MCSO personnel stated that they would conduct the necessary historical investigation and provide it to us in the near future. Additionally, we discussed alternatives for creating a more statistically grounded set of alert thresholds. We will continue to pursue these alternatives with MCSO and the agency's data consultant. Since the Supervisory Training is not yet finalized MCSO is not in Phase 1 compliance with this Paragraph.

However, MCSO is making progress regarding the ability of supervisors to review completed citizen or internal complaints pertaining to the deputies under their command (Paragraph 81.b.v.). As pilot tests of a software solution continued to show problems pertaining to privacy, MCSO was returning to the software developer to explore alternate strategies.

In addition, EIU personnel have developed a new set of self-populating supervisory tables that will provide supervisors throughout the agency with the ability to pull up all traffic stops for single/multiple deputies for review. We continue to evaluate how effectively supervisors across the agency are using these tools.

Recent BIO inspection reports show that only about 80% of supervisory personnel were using Blue Team and Supervisory Notes to the fullest potential in December 2015. In prior months, the average compliance of supervisors ranged from 53% in August, to 100% in April and October 2015. MCSO suggests that the dramatic shifts we see in the average compliance of supervisors in these inspection reports are due largely to the lack of training of supervisory personnel. The finding that supervisors used the tools in excess of 95% in four months out of the last year shows that they are familiar with them. MCSO must ensure that supervisors are using these tools to their utmost potential.

Another inspection report by BIO, Incident Reports, shows the consistent and steady improvement over the four quarters of 2015, with the final two quarters of compliance being above 95%. Since the indicators reviewed by BIO comprise many of the areas outlined in the EIS policy – timeliness of reports, supervisor memorialization, probable cause, etc. – it makes clear that when expectations are set within the agency, those goals can be accomplished.

Finally, audits of the TraCS data conducted by Arizona State University contractors noted several significant data issues that would impact any analysis performed pursuant to this Paragraph. There were a large number of duplicate entries, missing data, and errors in data entry that could impact the results one receives from any data query. Some of these issues were easily addressed with a new data coordination protocol and others will be handled through training or retraining of personnel as the issues become apparent. Once a complete report of the contractor's findings becomes available, we will be able to evaluate the relevant issues for this Paragraph. We also provided MCSO and its contractor with a set of analyses we conducted on the annual dataset. These analyses support using thresholds that are generated by comparing to norms and identifying outliers statistically, rather than MCSO's current practice of setting arbitrary static values. In future site visits, and interim communications, we will discuss all of the options arising from these analyses with MCSO and the ASU data contractor.

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

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

Section 9: Supervision and Evaluation of Officer Performance

COURT ORDER X. SUPERVISION AND EVALUATIONS OF OFFICER PERFORMANCE

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

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

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

We conducted interviews with supervisors and commanders from three districts during our February 2016 site visit to determine if there is compliance with the policy.

We conducted interviews with a District 4 lieutenant and the District 4 Commanding Officer. MCSO had not yet established which type of arrests supervisors would be required to respond to. In District 4, supervisors respond to incidents based on their own discretion, but they are required to respond to any arrests involving use of force, situations with multiple arrests, criminal pursuits, and incidents where a deputy was injured. During our February site visit, the Deputy Chief of Patrol advised us that a Briefing Board would be issued to all MCSO personnel requiring field supervisors to respond to the scene of arrests involving assaults on deputies, felony pursuits, officer-involved shootings, uses of force, and critical incidents as defined by MCSO policy. This directive will subsequently be incorporated into GB-2 (Command Responsibility). MCSO provided us with a draft of a Briefing Board which states that effective on the issue date, GB-2 (Command Responsibility) is revised to include the requirement that supervisors, "Respond to the scene of certain arrests, including but not limited to, immigration related arrests, assault on or injury to an employee, any arrest that involves use of force requiring documentation in a use of force report, felony pursuits, and any critical incident, as specified in Policy GJ-2, Critical Incident Investigations."

No Field Interview (FI) cards were completed in District 4 during this reporting period. MCSO command staff previously advised us that MCSO would discontinue the procedure of completing Field Interview cards on the Justice Web Interface (JWI). MCSO informed us that deputies would be directed to complete Incident Reports in situations where they previously would have filled out FI cards. MCSO has included this new procedure involving field interviews in EA-3 (Field Interviews). MCSO provided a draft of EA-3 for our review, and we returned it with comments and suggestions. We also advised MCSO that the data from these types of Incident Reports needs to be tracked in the Early Identification System (EIS), pursuant to the requirements of Paragraph 75.

During our site visit to District 4, we noted that citizen complaint forms, in Spanish and English, were available to the public. The complaint forms were housed in a weatherproof box posted outside the front door. We reviewed the property and evidence procedures, including an inspection of the room where property and evidentiary items are kept. License plates and identification cards seized are documented in Incident Reports, and the property is securely stored in the Property and Evidence Room. All property and evidence is picked up weekly and transferred to the Property and Evidence Division. With regard to District 4 evidence procedures, our review did not uncover any major deficiencies. We recommend that District 4 document the location (locker number) where each evidentiary item is stored, on the inventory list.

We recognize the District 4 Commander for taking the initiative to review all arrests reports from the district. The additional review by command personnel is not required by the Order, but it serves as an additional quality control measure, and sends a clear message to supervisors and deputies that they are accountable for the quality of their work product.

During our visit to District 6, we met with the District 6 Commanding Officer. District 6 personnel advised us that supervisors are required to respond to all critical incidents, including uses of force and any situations involving a response by detectives. No FI cards were generated in the district during the current reporting period. In our review of property and evidence procedures during this site visit, we found District 6 to have the most detailed and comprehensive process. MCSO advised us that supervisors observe the placement of all property and evidence into evidence lockers, and a supervisor and/or administrative staff person observes when the Property Custodian removes the property or evidence for transfer to the Property and Evidence Division. District 6 personnel also attach, to the front of the locker, a receipt with a description of the items stored in each locker.

We discussed several issues with the District Commander, including the deficiencies with supervisor-deputy discussions related to traffic stops, and deficiencies noted on Employee Performance Appraisals. District 6 personnel advised us that District 6 supervisors meet with their deputies after the completion of each shift to discuss any stops or detentions that occurred during the shift. We believe this is a positive step to ensure that if there are any issues or deficiencies noted, they are addressed in a timely manner.

In our visit to District 6, we observed that citizen complaint forms were not readily accessible to the public. District 6 has complaint forms available only during business hours. District 6 personnel advised us that the weatherproof box where complaint forms are to be kept had not been installed yet.

During our visit to District 3, we met with the Commanding Officer and a District 3 lieutenant. Supervisors are directed to respond to the scene of critical incidents as defined by policy (As per by GJ-2 [Critical Incident Investigations], MCSO defines these as “any incident that involves the use of force by an employee resulting in death or serious physical injury, the intentional discharge of a firearm by an employee in the performance of his lawful duties, or the death of a prisoner or inmate, by any means, while in the custody of the Office.) In the absence of an Office-wide specific directive, supervisory response to incidents involving arrest is discretionary. There were no FI cards generated in the district during this reporting period. We discussed several issues including deficiencies in documentation of supervisory discussions related to traffic stops, missing supervisory notes, and deficiencies in Employee Performance Appraisals. District 3 personnel advised us that a lieutenant reviews all arrest reports, which is an additional measure of control to ensure compliance. The property and evidence procedures were the same as District 4. All seized items are logged and secured in the Property and Evidence room, and picked up once a week by the Property and Evidence Division. We have the same suggestion for District 3 regarding property and evidence procedures; that is, to record the locker number where each evidentiary item is placed. District 3 had citizen complaint forms available, in Spanish and English, in a weatherproof box outside the main entry door. The District 3 Commanding Officer advised us that they are using a website called “Same Page” to exchange information between deputies, in order to remain abreast of crime trends and patterns. Deputies post information regarding the day’s events so that those starting their tour of duty are aware of relevant events of the prior shift. District 6 was the originator of this initiative, and it is being utilized there as well.

During our meeting with the District 3 Commander, we spoke about the importance of first-line supervision. During this site visit, MCSO command staff advised us that MCSO would begin employing a 4/10 configuration for patrol shifts (four work days, 10-hour days). We asked the District 3 Commander if he had enough supervisors to ensure compliance with the 1:12 ratio under the 4/10 plan. District 3 personnel advised that there are serious concerns about supervisory staffing. Under the proposed plan, District 3 may lose a supervisor, which will create periods with no supervisory coverage.

From our discussions with district commanders and supervisors – and in particular, as it relates to districts with a large land mass or districts with a large volume of calls for service – we sense that supervisors are finding it difficult to find sufficient time for adequate proactive supervision. As MCSO is presently evaluating a change in shift configuration, it may be an appropriate time to conduct a staffing study to ascertain the most effective and productive allocation of existing resources as it relates to field supervision.

During our February site visit, the Deputy Chief of Patrol advised us that MCSO has not been able to find an application that is compatible with MCSO’s Computer Aided Dispatch (CAD) system, in order to comply with the requirement for daily activity reports. During our October 2015 site visit, MCSO advised us that a solution would be in place by the end of 2015. Daily activity reports are not only required by this Paragraph, but are also essential for evaluating

compliance with several Paragraphs of this Section. It is imperative that MCSO find a solution, whether it is CAD-based or not. During our February site visit, MCSO stated that it would continue to work to find a solution, and promised that the Monitoring Team would receive a progress report by our next site visit in April. As previously stated, we appreciate the efficiency of an electronic reporting format based on the CAD system. However, we are concerned about the lack of progress MCSO has made in this area. We urge MCSO to consider other options, including paper-based daily activity reports, if no solution is found by our next site visit.

We reviewed a representative sample of 129 Incident Reports for **October 2015**, for the randomly selected dates of October 8 and October 11, 2015. Six reports were signed by a supervisor but not dated. Supervisors did not memorialize two reports. Seventeen crash reports contained the printed or signed name of the supervisor but no date of review. Supervisors memorialized all of the arrest reports we reviewed within the required 72 hours. We conducted a quality review on a 10% random sample of the reports reviewed. In one report, a sexual assault case, the victim's date of birth listed in the narrative did not match the date of birth listed in the "Persons" section of the report.

We reviewed a representative sample of 119 Incident Reports for **November 2015**, for the randomly selected dates of November 5 and November 16, 2015. In four of the reports, we could not determine if they were turned in by the end of the shift. Supervisors did not memorialize four reports within seven days. Nine crash reports included the supervisor's name printed, but not the date of review. A supervisor memorialized all of the arrest reports within the required 72 hours. We conducted a quality review on a 10% random sample of the reports reviewed, and other than the previous issues identified, we noted no deficiencies.

We reviewed a representative sample of 136 Incident Reports for **December 2015**, for the randomly selected dates of December 7 and December 13, 2015. Six Incident Reports were not turned in by the end of the shift. Two Incident Reports had no date of submission. Two Incident Reports had not been memorialized by a supervisor within the required seven days. Three DUI arrests were not submitted prior to the end of the shift, and supervisors did not memorialize two of these within the required 72 hours. Eighteen vehicle crash reports had the name of the supervisor printed, but no date of review.

In the previous two quarters, MCSO had improved in the timeliness of reports (submitted by the end of the shift) as well as the timeliness of supervisory reviews. It appears that MCSO has regressed in this area during this reporting period. MCSO agreed to provide us with a list of jail bookings so that we may select a random sample of arrests reports for review. This process will begin in January 2016. We will be reviewing arrest reports for quality and to ensure compliance with this Order.

MCSO has advised us that deputies are no longer completing Field Interview cards. Instead, deputies have been directed to complete Incident Reports to capture the same information. MCSO deputies did not generate any Field Interview (FI) cards during this reporting period, nor did they submit any Incident Reports for the same purpose. MCSO submitted a draft of EA-3 (Field Interviews), which delineates the procedures for completing Incident Reports in situations where FI cards would have previously been generated. We have reviewed the policy and provided MCSO with comments and suggestions.

As it relates to supervisory response to scenes of arrests, MCSO submitted a draft of a Briefing Board that revises GB-2 (Command Responsibility) to specify the type of incidents requiring supervisory responses. We were disappointed to find that MCSO has not made progress toward establishing daily activity reports. MCSO advised us that it will continue working on this endeavor, and will provide a progress report prior to our next site visit in April 2016. With regard to community engagement, we will be able to assess how often deputies engage in community policing activities once daily activity reports are established. Community policing involves more than attending or offering Office-sponsored events, such as “Coffee with the Sheriff.” We encourage MCSO to facilitate community-policing concepts at the deputy level, and to promote community partnerships that address quality of life concerns.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

To verify Phase 2 compliance with this Paragraph, we reviewed monthly rosters and shift rosters for the fourth quarter of 2015. We also reviewed the October, November, and December 2015 Patrol Bureau shift roster inspection summaries, which discuss the results of BIO’s examination of every MCSO shift roster during those months to verify that shifts did not exceed the 1:12 supervisor-to-deputies ratio.

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

During our February 2016 site visit, we visited and interviewed supervisors and commanders from Districts 3, 4, and 6. In our discussions, we learned that supervisors have no more than 12 deputies reporting to them, and that supervisors work the same days and hours as the deputies that report to them.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Deferred

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

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

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

For October, MCSO submitted 97 supervisory notes; none contained all the information required to meet the requirements of Paragraph 85. For November MCSO submitted 115 supervisory notes; one contained all the information required to meet the requirements of Paragraph 85. In addition, there were six deputies that had no review of traffic data for November. For December, none of the supervisory notes reviewed contained all the information required to meet the requirements of Paragraph 85. In addition, eight deputies lacked Blue Team entries regarding the monthly supervisor-deputy discussion.

It appears that there are still many supervisors that are simply reviewing traffic stop information in TraCS and rendering a conclusion as to whether or not the deputy conducted the stops and detentions in accordance with this Paragraph. We have also noticed repetitive language in the comments section of supervisory notes that appear to be cut-and-paste. It is understandable that there may be similarities between deputies in the documentation of supervisory notes. However, there should also be comments that are unique to each individual. This Paragraph requires that a discussion occur between the supervisor and each deputy to review each stop, including the reason for the stop or detention. There may be instances where these discussions are taking place, but are not being documented on supervisory notes. Nevertheless, unless the discussions are clearly documented, MCSO will not be in compliance with the requirements of this Paragraph. In each of our district visits, we have discussed the deficiencies associated with supervisory notes with the district commanding officer or a district lieutenant. We have also

addressed these issues with the Deputy Chief of Patrol. If the underlying issue is that supervisors in certain patrol districts do not have sufficient time during their shift to conduct these reviews, MCSO should consider adding supervisors to address this issue. An encouraging sign is that corrective actions for deficiencies for inadequate documentation of stops and detentions have increased, indicating that field supervisors are more attentive to these concerns.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

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

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

In our discussions with MCSO during our February site visit, we stressed the importance of daily activity reports in order to verify supervisory interaction with subordinates during their shift. During our meetings, the Deputy Chief of Patrol advised us that MCSO has not been able to find an application that is compatible with MCSO's Computer Aided Dispatch (CAD) system, in order to comply with the requirement for daily activity reports. Daily activity reports are not only required by this Paragraph, but are also essential for evaluating compliance with several Paragraphs of this Section. It is imperative that MCSO find a solution, whether it is CAD-based or not.

MCSO committed to providing us with a status update on the progress with this issue by our next site visit, in April. We are concerned about the lack of progress MCSO has made in this critical area. We urge MCSO to consider other options, including paper-based daily activity reports, if no solution is found by April.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

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

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

MCSO submitted a draft of policy GC-4 (Employee Performance Appraisals) in August 2015. We reviewed the draft policy, and returned it to MCSO with comments and suggestions. Subsequent to the revision of GC-4, MCSO revised the Employee Performance Appraisal (EPA) form. We reviewed the revised EPA form, and returned it with comments and suggestions.

We requested the performance appraisals for all deputies and supervisors who were evaluated during this reporting period. We received and reviewed performance evaluations submitted for 11 deputies and six supervisors who received evaluations in **October 2015**. The majority of deputies' appraisals reviewed were acceptable, with three being of excellent quality. As noted with previous performance evaluations, many lacked details regarding documented and observed behaviors and instead, relied on vague general comments. Five of the six supervisors were rated for the quality and effectiveness of supervision, but none were rated as to how well they

evaluated employee performance. One supervisor had been recently promoted and had been rated as a deputy. None of the six supervisors had comments related on their ability to identify and respond to misconduct.

We received and reviewed performance evaluations submitted for seven deputies and 12 supervisors who received performance evaluations in **November 2015**. We noted varied consistency in quality and detail of the reviews. Two of the seven deputy performance appraisals were well written; the rest were of average quality. Of the 12 supervisors' performance evaluations, two had been recently promoted and had been rated as deputies, and one did not have any direct reports. Of the 12 performance evaluations, seven contained comments or rated the supervisor for the quality and effectiveness of his/her supervision; two of the 12 appraisals rated the supervisor on his/her ability to identify and respond to misconduct. Only two of the 12 supervisors were rated on the quality of supervisory reviews. One particular performance evaluation of a supervisor was, in our opinion, not the quality work product we would expect from a command level officer.

We received and reviewed performance evaluations submitted for seven deputies and 11 supervisors who received evaluations in **December 2015**. As noted throughout our previous reviews, some supervisors submitted very detailed and well-written appraisals, while others were clearly not adequate. All of the 11 supervisors were rated for the quality and effectiveness of supervision. None of the 11 supervisors had comments or were rated on the quality of their personnel reviews. Only two of the 11 supervisors had comments on their ability to identify and respond to misconduct.

We have been addressing the deficiencies noted in employee performance appraisals with commanders and commanding officers of each of the districts we have visited. In addition, during our February site visit, we met with the Deputy Chief of Patrol and shared our observations as it relates to the consistency and quality of reviews. During our visit, we also met with MCSO Human Resources staff, who are revising the Employee Performance Appraisal (EPA) form. We discussed our observations and concerns with the current format and the quality of past reviews, and critiqued the draft of the new EPA form. We suggested several modifications to ensure that employee performance appraisals meet the requirements of this Order. We also emphasized that MCSO needs to provide training and detailed instructions to all supervisors to ensure consistency in reviews. GC-4 (Employee Performance Appraisals) will require further modification to reflect these changes to the EPA form.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

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

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

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

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

MCSO also submitted a memorandum dated January 6, 2015, from Executive Chief Trombi to Chief Deputy Sheridan which states, "As a direct result of US District Judge David G. Campbell's January 5, 2015 Order in *Puente Arizona v. Joseph Arpaio*, which was previously distributed via the Court Compliance Division, I have directed Deputy Chief Lopez to immediately cease any future and/or active/pending investigations related to ARS 13-2009(A)(3) and the portion of ARS 13-2008(A) that addresses actions committed 'with the intent to obtain or continue employment.' Additionally, I have directed Chief Lopez to immediately disband and

reassign deputies currently assigned to that investigative branch known as the Criminal Employment Unit and remove any such identifiers with our agency that indicate the existence of such a unit. These deputies shall be assigned to various other divisions/districts as deemed appropriate by office needs for resources.”

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

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

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

During our October 2015 site visit, we met with MCSO staff and attorneys. MCSO provided us with a copy of the Special Investigations Division’s Operations Manual. The Operations Manual now states, “The mission of the Maricopa County Sheriff’s Office Anti-Trafficking Unit is to identify, investigate, and apprehend individuals involved in the Transnational Criminal Organizations (TCO) that engage in the following crimes: the smuggling of narcotics, money laundering, home invasions, kidnapping, extortion, trafficking of weapons, and gang related crimes.”

MCSO has removed the enforcement of human smuggling laws from the mission statement of the Anti-Trafficking Unit, and no other specialized units have this mission and part of their duties. Based on these policy modifications, MCSO is now in Phase 1 compliance with this Paragraph. MCSO’s lack of specialized units that enforce immigration-related laws puts MCSO by default in Phase 2 compliance as well, but we will continue to monitor arrests and detentions as part of our review process to ensure that MCSO is in compliance with its own directives on this issue. Beginning with January 2016, we will be receiving a list of all jail bookings on a monthly basis. From the list, we will select a representative sample of arrest reports to review for compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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

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

We requested to inspect all reports related to immigration status investigations, any immigration-related crime, or incidents or arrests involving lack of identity. The Incident Reports submitted covered the period from October 1, to December 31, 2015. Any incident wherein a deputy requests supervisory permission to contact Immigration and Customs Enforcement (ICE) or Customs and Border Patrol (CBP), in order 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, and we did not see any evidence of immigration-related investigations or arrests.

The MCSO submission consisted of a total of 11 incidents that occurred during the time period requested. One incident involved an individual driving under the influence of alcohol. Five incidents involved individuals driving with suspended licenses, two of which had warrants. Four incidents involved individuals who had no valid driver's licenses. One incident was related to an identity theft investigation that did not result in an arrest. We reviewed all 11 incidents submitted for this reporting period; and found that in three incidents, the deputy had not documented his notification of the supervisor. During our February site visit, MCSO advised us that commencing in January 2016, it would submit a list of all jail bookings on a monthly basis. We will then select a random sample of arrests to review, as an additional measure of compliance with this Paragraph.

MCSO has yet to establish daily activity reports for deputies and supervisors. MCSO had advised us that it would establish daily activity reports by the end of 2015. Daily activity reports can be used to document any arrests or investigations related to immigration, immigration-related crime, identity fraud, or lack of identity documents, and corresponding supervisory approvals or disapprovals. A supervisor's daily activity report may also be used to document any deficiencies or corrective actions related to any arrest or investigation in violation of MCSO policy. During our February site visit, we reiterated the importance of establishing daily activity reports, not only to meet the requirements of this Order, but also as a tool to assess productivity and efficiency. MCSO stated that a progress report would be submitted to the Monitor prior to our next site visit in April.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

We reviewed 35 incidents involving traffic stops for **October 2015**. Out of 35 traffic stops, one involved an arrest of an individual with a warrant. One incident involved an individual who was cited and released for not having a license plate. All 35 stops had Vehicle Stop Contact Forms, and all had traffic citations or warnings. None of the Vehicle Stop Contact Forms contained any notations or signatures from a supervisor indicating that a review had taken place, and the date of the review. There were no notations by deputies on the Vehicle Stop Contact Forms, indicating

the time they were submitted, and there were no acknowledgements of receipt or review by the supervisor. We were unable to verify if any were turned in by the end of the deputy's shift, or if the supervisor reviewed the documentation within 72 hours as required by this Paragraph.

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

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

During our February site visit, we again addressed this concern related to memorialization of supervisory reviews with MCSO staff. MCSO advised us that supervisory reviews would be documented on Vehicle Stop Contact Forms by adding metadata at the bottom of the forms, with the reviewing supervisors' serial numbers, and dates and times of review. MCSO provided us with a sample VSCF showing the metadata memorialization of the supervisory review, subsequent to our February site visit. The proposed procedure adequately addresses the requirement for documentation of supervisory review within 72 hours. MCSO will also need to fulfill the requirement that deputies turn in all documentation regarding stops and detentions before the end of their shift, and do so in a manner that can be verified. We reviewed the sample of the memorialized VSCF and returned it to MCSO with our comments. Once supervisory reviews of VSCFs are established, each reviewed form will have the supervisor's serial number, date, and time of review. We will assess the quality of the supervisory reviews during our audits. Therefore, it is incumbent upon supervisors to conduct a detailed and thorough review, as we will note any deficiencies missed in our report.

As it relates to supervisory reviews for boilerplate and conclusory language, and lack of articulation of the legal basis for the stop, the VSCF itself is in an electronic format that requires little or no narrative. Many of the fields in the form are check-off boxes. The form also contains fill-in fields for driver, passenger, vehicle, and violation information. All documentation related to stops and detentions currently reviewed for compliance with this Paragraph is traffic-related and based on violations of traffic laws. We routinely review VSCFs, along with other documentation submitted, for quality and compliance, pursuant to the requirements of Paragraphs 25 and 54. Once supervisory reviews are memorialized on the VSCFs, we will identify any deficiencies found in supervisory reviews. We have advised MCSO that stops and

detentions that are not traffic-related also need to be tracked. MCSO submitted a draft of EA-3 (Field Interviews) for review. This policy delineates the procedures for documenting field interviews involving stops and detentions. We reviewed and provided comments on EA-3. In addition, during our site visit in February, we met with MCSO staff and discussed Paragraph 90 and Paragraph 75 requirements regarding stops, detentions, and EIS tracking.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

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

We reviewed traffic stop data reported by MCSO for its **October 2015** inspection. The Monitoring Team randomly selected 35 traffic-related events, which the Bureau of Internal Oversight (BIO) then audited for compliance. Of the 35 traffic-related events, MCSO reported that 28, or 80%, had no deficiencies noted. The Monitoring Team reviewed the same traffic-related events, independent of BIO's audits, as part of our compliance audit of Paragraphs 25 and 54. MCSO reported the following:

- Four of the 35 stops, or 11.4%, did not contain all matching information on the traffic stop data forms compared to CAD.
- One of the 35 stops, or 2.9%, did not document all license checks.

- Two of the 35 stops, or 5.7%, did not document the serial number and unit of all units involved in the stop.
- One of the 35 stops, or 2.9%, did not include a receipt containing a signature or acknowledgement that the subject was served, and the reason for no signature was not documented.
- One of the 10 audio reviews, or 2.9%, did not have the reason for the stop recorded with a description of the traffic or equipment violation observed, if any, prior to contact with the occupants, and any indicators of criminal activity developed before or during the stop.

This audit did not mention one area that was examined in previous audits: review of documentation of the time the stop began; the time the citation was issued; the time the individual was released without a citation; and/or the time the stop/detention was concluded.

During this inspection, MCSO determined the following:

- All of the stops reviewed included the traffic stop data matching on all TraCS forms.
- All of the stops reviewed documented the license plate state and number.
- All of the stops reviewed documented the total number of occupants.
- All of the stops documented the post-stop race/ethnicity.
- All of the stops reviewed documented where contact was made with passengers, the nature of the contact, and the reason for the contact.
- All of the stops documented the city location of the stop on the traffic stop data form.
- None of the stops reviewed involved any inquiry as to immigration status.
- None of the stops reviewed involved a consent to search request.
- All the stops reviewed documented contraband and evidence seized from the occupant of the vehicle, in incidents where it was applicable.
- All the stops reviewed documented the final disposition of the stop, including whether a citation was issued, an arrest was made, or the individual was cited and released.

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

We reviewed 97 supervisory notes for October 2015. For October, MCSO documented nine corrective actions related to traffic stops. Eight corrective actions were due to improperly completed VSCFs; one corrective action was a supervisor error. While it appears that most supervisors are reviewing traffic stop data on TraCS, most supervisors are not properly documenting their required monthly discussions with deputies. During our February site visit, as

with previous visits, we discussed this issue at length with the District Commanders, in the districts we visited, as well as with MCSO command staff.

We reviewed traffic stop data reported by MCSO for its **November 2015** inspection. The Monitoring Team randomly selected 35 traffic-related events, which the Bureau of Internal Oversight (BIO) then audited for compliance. Of the 35 traffic-related events, MCSO reported that 29, or 82%, had no deficiencies noted. The Monitoring Team reviewed the same traffic-related events, independent of BIO's audits, as part of our compliance audit of Paragraphs 25 and 54.

MCSO reported the following:

- Three of the 35, or 8.6%, did not have all matching information on the traffic stop data forms compared to CAD.
- Two of the 35 stops, or 5.8%, did not document the serial number and unit of all units involved in the stop.
- One of the 35 stops, or 2.9%, did not document the final disposition of the stop accurately.

During this inspection, MCSO determined the following:

- All of the stops reviewed included the traffic stop data matching on all TraCS forms.
- All of the stops documented license and warrant checks.
- All of the stops reviewed documented the license plate state and number.
- All of the stops reviewed documented the total number of occupants.
- All of the stops documented the post-stop race/ethnicity.
- All of the stops reviewed documented where contact was made with passengers, the nature of the contact, and the reason for the contact.
- All of the stops documented the city location of the stop on the traffic stop data form.
- None of the stops reviewed involved any inquiry as to immigration status.
- None of the stops reviewed involved a consent to search request.
- All the stops reviewed documented contraband and evidence seized from the occupant of the vehicle in incidents where it was applicable.
- All the stops reviewed documented the final disposition of the stop, including whether a citation was issued, or an arrest was made, or the individual was cited and released.
- All of the stops had receipts containing a signature or acknowledgement that the subject was served and the reason for no signature was documented.

We noticed what appears to be an error in the summary, listed in the eleventh bullet point, under the Matrix Procedures, indicating that MCSO is in 100% in compliance. MCSO states that all of the stops audited documented the final disposition – including whether a citation was issued or an arrest made or a cite-and-release was made – which contradicts the finding listed under “Observations” in which one of the 35 stops (MC15-258943) did not document the final disposition of the stop correctly.

BIO found 30 open, non-validated forms for the period of November 1-30, 2015. Each form is required to be validated.

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

We reviewed 115 supervisory notes for November 2015, and found that most supervisors are documenting traffic stops reviews on TraCS, but not specifically indicating that they met with deputies to discuss the stops or issues found. We also noted that six deputies from our random selection did not have supervisory notes entered for November. MCSO documented 20 corrective actions related to traffic stops for November. Nineteen corrective actions were related to errors and improperly completed or missing information on VSCFs. One corrective action related to lack of productivity.

We reviewed traffic stop data reported by MCSO for its **December 2015** inspection. The Monitoring Team randomly selected 35 traffic-related events, which the Bureau of Internal Oversight (BIO) then audited for compliance. 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. Of the 35 traffic stops reviewed, MCSO noted no deficiencies.

During this inspection, MCSO determined the following:

- All of the stops included all the matching information on the traffic stop data forms to CAD.
- All of the stops documented all license and/or warrant checks.
- All of the stops documented the serial number and unit of all involved in the stop.
- All of the stops documented the time the stop began, the time any citation was issued, the time release was made without citation, or the time the stop/detention was concluded.
- All of the stops included the reason for the stop recorded with a description of the traffic or equipment violation observed, if any, prior to contact with the occupants, and any indicators of criminal activity developed before or during the stop.
- All of the stops reviewed included the traffic stop data matching on all TraCS forms.
- All of the stops reviewed included the license plate state and number documented.

- All of the stops reviewed documented the total number of occupants.
- All of the stops documented the post-stop race/ethnicity.
- All of the stops reviewed included where contact was made with passengers, the nature of the contact, and the reason for the contact were documented.
- All of the stops documented the city location of the stop on the traffic stop data form.
- None of the stops reviewed involved any inquiry as to immigration status.
- None of the stops reviewed involved a consent to search request.
- All the stops reviewed documented contraband and evidence seized from any occupant of the vehicle in incidents where it was applicable.
- All the stops reviewed documented the final disposition of the stop, including whether a citation was issued, or an arrest was made, or the individual was cited and released.

MCSO also discovered during its inspection that there were 16 open, non-validated forms for December in the TraCS system. Each form is required to be validated. The Bureau of Internal Oversight determined that there was a 100% compliance rate for December, an 8.5% increase from the November compliance rate.

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

We reviewed 35 supervisory notes for December 2015. Most supervisors are documenting their monthly traffic data reviews on TraCS, but not documenting their monthly discussions with deputies. We believe that these meetings between supervisors and deputies to discuss deficiencies in traffic stops will benefit MCSO in the long run, even though some supervisors may have difficulty fitting these into their schedules. We also noted that eight deputies selected for review this month did not have supervisory notes entered. We discussed this issue of deputies missing supervisory notes with district commanders during our February site visit. MCSO documented 19 corrective actions for December, most of which were related to improperly completed VSCFs. The exceptions were: one instance where an individual was cited criminally for a non-criminal violation, a stop where the deputy failed to give a passenger a contact receipt, and a traffic stop where the deputy failed to complete a VSCF. Even though the BIO audit for December found 100% compliance in the random sample of traffic-related events, field supervisors identified 19 instances that required corrective actions. This is encouraging, as we believe that first-line supervisors should be identifying deficiencies and taking corrective action.

Traffic stops selected for audit are reviewed in detail for quality and compliance with Paragraphs 25 and 54. The reviews conducted pursuant to the requirements of this Paragraph are focused on the quality of supervisory reviews. MCSO presently does not have an auditable way to memorialize supervisory reviews of traffic stops. Until MCSO can submit Vehicle Stop Contact Forms with the reviewing supervisor's identity and date of review, we cannot conduct an audit to assess the quality reviews. MCSO advised us during our February site visit that metadata

containing the reviewing supervisor's serial number, along with the date of review, will be documented on Vehicle Stop Contact Forms (VSCFs). MCSO provided a copy of a revised VSCF, with the recorded supervisory review data, subsequent to our site visit. We returned the sample form with comments, adding that there also needs to be confirmation that deputies are submitting completed forms prior to the end of their shift. During our February site visit, we learned that the memorialized VSCF format would be in effect by March 2016.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

EA-11 (Arrest Procedures) was revised on September 5, 2014; and EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) was revised on September 22, 2104. EB-1 is compliant, in that it states that supervisors shall track each deputy's deficiencies or violations and the corrective action taken, in order to identify deputies who need repeated corrective action. EB-1 also states that supervisors shall take appropriate corrective or disciplinary action against supervisors who fail to conduct complete, thorough, and accurate reviews of deputies' investigatory detentions and stops. EB-1 states that supervisors shall track, through the Early Intervention System (EIS), each deputy's deficiencies or violations and the corrective action taken in order to identify deputies who need repeated corrective action. EB-1 also states supervisors shall notify the Professional Standards Bureau to ensure that each violation is documented in the deputy's performance evaluations and that the supervisory review shall be taken into account in the supervisor's own performance evaluations. EB-1 also states that MCSO shall take appropriate corrective or disciplinary action against supervisors who fail to conduct complete thorough and accurate reviews of deputies' investigatory detention and stops. EB-1 meets the requirements of Paragraph 92.

Policy GC-4 (Employee Performance Appraisals) is currently under revision and will contain the requirements of this Paragraph. We reviewed a draft of this policy and returned it to MCSO with comments. At the time of our October 2015 site visit, MCSO had not submitted GC-4 to the Plaintiffs and Plaintiff-Intervenors for review and comments. During our February 2016 site visit, we met with MCSO staff to discuss the revised Employee Performance Appraisal form. We recommended a number of suggestions to better ensure consistency of reviews. The consistency of performance reviews has been identified as an area of concern in past discussions with MCSO. The revisions we recommended to the new EPA form will, in turn, require

additional modifications to GC-4. For the period under review, and until such time as GC-4 is published and training is provided, MCSO is not in Phase 1 compliance with this Paragraph.

MCSO published GH-5 (Early Identification System) on November 18, 2015. GH-5 covers the policy requirements of Paragraph 97, but training on the policy has not been completed. GH-5 only partially addresses the requirements of Paragraphs 92 and 95. Policy GH-5 does not address the requirement for documentation of violations and deficiencies in stops, detentions, or arrests in Employee Performance Appraisals. The policy does not address the requirement for an assessment of the quality and completeness of the supervisor's review in Employee Performance Appraisals. These requirements will be covered in GC-4, and MCSO will be in compliance with this Paragraph once the policy is published and training is provided.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

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

We reviewed a representative sample of 129 Incident Reports for **October 2015**, for the randomly selected dates of October 8 and October 11, 2015. Six reports were signed by a supervisor but not dated. Two reports had not been signed by a supervisor. Seventeen crash reports had the printed or signed name of the supervisor, but no date of review. All of the arrest reports we reviewed were memorialized by a supervisor within the required 72 hours. A review for quality was conducted on a 10% random sample of the reports audited. As previously noted, in one report, a sexual assault case, the victim's date of birth listed in the narrative did not match the date of birth listed at the "Persons" section of the report.

We reviewed a representative sample of 119 Incident Reports for **November 2015**, for the randomly selected dates of November 5 and November 16, 2015. In four of the reports, we could not determine if they had been turned in by the end of the deputy's shift. Four reports were not memorialized by a supervisor within seven days. Nine crash reports had the supervisor's name printed, but not the date of review. All arrest reports were memorialized by a supervisor within the required 72 hours. We conducted a quality review on a 10% random sample of the reports, and noted no issues.

We reviewed a representative sample of 136 Incident Reports for **December 2015**, for the randomly selected dates of December 7 and December 13, 2015. Six Incident Reports were not turned in by the end of the shift. Two Incident Reports had no date of submission. Two Incident Reports had not been memorialized by a supervisor within the required seven days. Three DUI

arrests were not submitted prior to the end of the shift, and two of these were not memorialized by a supervisor within the required 72 hours. Eighteen vehicle crash reports had the name of the supervisor printed, but no date of review.

MCSO had shown improvement in this area in the last reporting period, but from our review of this quarter's Incident Reports, it appears that MCSO still needs to work on timeliness and consistency of supervisory reviews. On a positive note, most Incident Reports reviewed were well written.

During our February site visit, MCSO advised us that it would provide a list of all jail bookings on a monthly basis, starting with January 2016, so that we may request a random sample of arrest reports for review. This new procedure will help us to assess compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

We requested all Incident Memorialization Forms for the current reporting period. MCSO's submission consisted of seven Incident Memorialization Forms, provided as proof of compliance with Paragraph 94, for the reporting period from October 1, to December 31, 2015. Four incidents occurred in October 2015, two occurred in November 2015, and one occurred in December 2015.

As it pertains to incidents in October, one involved an arrest for possession of a weapon, but should have been charged as possession of a concealed weapon. Another involved an arrest for possession of drug paraphernalia and a drinking in public charge, but there was insufficient evidence to charge the individual with the latter. The third incident was a report that was not reviewed and signed by a supervisor within seven days. The fourth incident involved an arrest for shoplifting, where potential evidentiary items were found, but the deputy failed to adequately provide *Miranda* warnings.

As it pertains to November, one incident involved insufficient probable cause for a criminal traffic charge. The supporting documentation and disposition of the case were not submitted for our review. The second incident involved a failure to memorialize a supervisory review of an Incident Report within seven days.

With regard to December, one incident involved a report not reviewed and signed by a supervisor within seven days. The second incident involved a report with numerous issues, including inaccurate statements and grammatical errors. This incident was referred for internal investigation, and the subsequent follow-up by the chain of command is a good example of early identification and intervention.

For the last reporting period, MCSO submitted five Incident Memorialization Forms. For this quarter, there were seven Incident Memorialization Forms generated for incidents that occurred during this reporting period. During our February site visit, MCSO staff advised us that the coding system to identify arrest reports is now in place. In the near future, we will be able to request a random sample of arrest reports using this coding method. Concurrently, MCSO advised us that they would be providing a list of all jail bookings, on a monthly basis. From these booking lists, we are able to request representative samples of arrests for review. MCSO provided the booking list for January 2016, and we have submitted our request for a random sample of arrest reports.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

We reviewed EA-11 (Arrest Procedures) as revised on September 5, 2014; and the policy meets most of the requirements of Paragraph 95. Both EIS and a performance evaluation system are in development. Paragraph 95 requires that supervisors shall use EIS to track each subordinate's violations or deficiencies in the arrests and the corrective actions taken, in order to identify deputies needing repeated corrective action. EA-11 (Arrest Procedures), revised on September

5, 2014, comports with these requirements. EA-11 also requires that supervisors shall take appropriate corrective or disciplinary action against supervisors who fail to conduct complete, thorough, and accurate reviews of deputies' investigatory detentions and stops. EA-11 requires that supervisors shall track, through the Early Intervention System (EIS), each deputy's deficiencies or violations and the corrective action taken in order to identify deputies who need repeated corrective action. EA-11 also requires supervisors to notify the Professional Standards Bureau to ensure that each violation is documented in the deputy's performance evaluations, and that the supervisory review shall be taken into account in the supervisor's own performance evaluations.

MCSO submitted a draft of policy GC-4 (Employee Performance Appraisals) in August 2015. We reviewed the draft policy and returned it to MCSO with comments and suggestions. During our February site visit, we met with the MCSO Human Resources staff, who are revising the Employee Performance Appraisal (EPA) form. We discussed our observations related to the current EPA format and review process, and critiqued the draft of the new EPA form. We suggested several modifications to the new EPA form to ensure that employee performance evaluations meet the requirements of this Order, and that there is greater consistency in reviews. The suggested revisions to the EPA form will require further modification of GC-4, as the policy and EPA form are interrelated.

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

We reviewed performance appraisals for 29 sergeants who received performance appraisals during this reporting period. Twenty-three of the 29 appraisals contained comments related to the quality and effectiveness of supervision. Four of the 29 appraisals contained comments regarding the supervisor's demonstrated ability to identify and effectively respond to misconduct. Two of the 29 appraisals rated the supervisors on the quality of their reviews. There are clear compliance issues, but we are working with MCSO to ensure these are appropriately addressed with the combination of GC-4 and the revised EPA form. Once the policy is published and training is provided, the responsibility will be on supervisors to ensure Phase 2 compliance.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

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

We requested all Incident Memorialization Forms for the current reporting period. MCSO's submission consisted of seven Incident Memorialization Forms, which were provided as proof of compliance with Paragraph 94, for the reporting period from October 1, to December 31, 2015. Four of the incidents occurred in October 2015, two occurred in November 2015, and one occurred in December 2015.

As it pertains to incidents in October, one involved an arrest for possession of a weapon, which should have been charged as possession of a concealed weapon. Another involved an individual arrested for possession of drug paraphernalia and drinking in public, but there was insufficient evidence to charge the individual with the latter. The third incident was related to a report not reviewed and signed by a supervisor within seven days. The fourth incident involved an arrest for shoplifting, where evidentiary items were found, but the deputy failed to adequately provide *Miranda* warnings.

As it pertains to November, one incident involved insufficient probable cause for a criminal traffic charge. The supporting documentation and disposition of the case were not included in the submission. The second incident was a failure to memorialize a supervisory review of an Incident Report within seven days.

As it pertains to December, one incident involved a report not memorialized by a supervisor within seven days. The second incident involved a report with numerous issues, including inaccurate statements and grammatical errors. This incident was referred for internal investigation, and the follow-up by the chain of command is a good example of how this process should work. All the Incident Memorialization Forms submitted were reviewed and memorialized by a commander within the time required by this Paragraph. In each of the incidents mentioned, we reviewed the recommendations made by the supervisor and comments made by the reviewing commander. In each incident, there was a corrective action associated with the event. Commanders concurred with the corrective actions, most of which resulted in training and counseling of the deputies involved. In one particular case, the commander appropriately chastised a supervisor for not addressing the incident in a timely manner.

During our February site visit, we met with command-level officers from three districts and discussed the issues of concern we identified in this report. From our discussions, we believe that these individuals understand our concerns and have a sincere desire to move forward to bring this agency into compliance.

MCSO has previously asserted that the low number of memorialization forms is due to improved performance by deputies. During this reporting period, we were unable to audit any data that would support this position. Beginning with January 2016, we will conduct a monthly review of a representative sample of arrest reports to determine if deficiencies related to arrest reports are being properly identified. In addition, any and all documentation related to incidents that fall within the purview of this Paragraph need to be submitted with each entry.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

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

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

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

MCSO submitted a draft policy on the Early Identification System (EIS) in August 2015. We reviewed and returned the policy with comments and suggestions. During our October 2015 site visit, we met with the MCSO staff and attorneys regarding the EIS policy, who advised that the policy was awaiting final approval. GH-5 (Early Intervention System) was published on November 18, 2005. We reviewed GH-5 and it specifies that supervisors are required to conduct weekly reviews of subordinates’ Blue Team entries, bi-monthly reviews of each subordinate’s

EIS Dashboard and EI Pro application, and document the outcome of interventions. The policy also requires that commanders conduct weekly reviews of subordinate's Blue Team Supervisor Notes to ensure proper action was taken. In addition, commanders are required to conduct quarterly reviews of broader, pattern-based reports provided by EIS to assess the quality and effectiveness of interventions. GH-5 meets the policy requirements of this Paragraph. Training on the policy will take place during the upcoming Supervisory Training.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

d. Regular Employee Performance Review and Evaluations

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

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

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

MCSO submitted a draft of policy GC-4 (Employee Performance Appraisals) in August 2015. We reviewed the draft policy, and returned it to MCSO with comments and suggestions. Subsequent to the submitted revision of GC-4, MCSO revised the Employee Performance Appraisal form. We reviewed the revised EPA form and returned it with comments and suggestions. During our February site visit, we met with the MCSO Human Resources staff that is revising the Employee Performance Appraisal (EPA) form. We discussed our observations related to the proposed format, as well as concerns that have been raised as a result of reviews conducted during past audits. We suggested several modifications to ensure that employee performance appraisals meet the requirements of this Order, and that there is better consistency in performance appraisals. As a result of additional rating dimensions and other changes suggested to the new EPA form, GC-4 (Employee Performance Appraisals) will require further revisions and modifications. MCSO is aware of problems related to consistency in performance appraisals, as we have previously identified this concern. We also emphasized that MCSO needs to provide training and detailed instructions to all supervisors on GC-4 and the revised EPA form.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

MCSO submitted a draft of policy GC-4 (Employee Performance Appraisals) in August 2015. We reviewed the draft policy, and returned it to MCSO with comments and suggestions. MCSO advised us that it would be submitting the draft of GC-4 to the Plaintiffs and Plaintiff-Intervenors for review and comments.

During our February site visit, we met with the MCSO Human Resources staff regarding the revised Employee Performance Appraisal (EPA) form. We discussed concerns that have resulted from previous reviews of completed EPAs, and made suggestions for the draft of the new EPA form. We suggested several modifications to ensure that employee performance evaluations meet the requirements of this Order, and that there is more consistency in the way performance appraisals are completed. It was also emphasized that MCSO needs to provide training to all supervisors on GC-4 and the revised EPA form. As a result of additional rating dimensions and other changes suggested to the new EPA form, GC-4 (Employee Performance Appraisals) will require further revisions and modifications. Until such time as the GC-4 policy is published, and training is provided, MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

MCSO submitted a draft of policy GC-4 (Employee Performance Appraisals) in August 2015. We reviewed the draft policy, and returned it to MCSO with comments and suggestions. MCSO advised us that it would be submitting the draft of GC-4 to the Plaintiffs and Plaintiff-Intervenors for review and comments. During our February site visit, we met with MCSO staff and reviewed the proposed new Employee Performance Appraisal form. We made several suggestions that will facilitate compliance with the Paragraphs related to the evaluation of officer performance. Considering the interdependency of the policy and the EPA form, we recommended that the modifications made to the EPA be reflected in GC-4. Consequently, GC-4 will require additional adjustments.

We reviewed employee performance appraisals for 29 sergeants who received performance appraisals in the reporting period. Twenty-three of 29 appraisals contained comments related to the quality and effectiveness of supervision. Four of the 29 appraisals contained comments regarding the supervisor's demonstrated ability to identify and effectively respond to misconduct. Two of the 29 appraisals rated the supervisors on the quality of their reviews.

As we continue to note, both with deputy and supervisor performance appraisals, the thoroughness and detail vary widely. In addition, most of the Employee Performance Appraisals we reviewed for supervisors did not meet the requirements, as several dimensions that require evaluation were not addressed. During our February site visit, we met with MCSO and discussed issues of concern with current performance appraisals and proposed changes to the EPA form and GC-4. We recommended that MCSO conduct training on GC-4 and the new EPA form to ensure consistency in documentation and ratings.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

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

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

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

During our October 2015 site visit, we met with MCSO staff and attorneys. We received a copy of the Special Investigations Division's Operations Manual. The Operations Manual now states, "The mission of the Maricopa County Sheriff's Office Anti-Trafficking Unit is to identify, investigate, and apprehend individuals involved in the Transnational Criminal Organizations (TCO) that engage in the following crimes: the smuggling of narcotics, money laundering, home invasions, kidnapping, extortion, trafficking of weapons, and gang related crimes."

MCSO has removed the enforcement of human smuggling laws from the mission statement of the Anti-Trafficking Unit, and no other specialized units have this mission and part of their duties. Based on these policy modifications, MCSO is now in Phase 1 compliance with this Paragraph. MCSO's lack of specialized units which enforce immigration-related laws puts it by default in Phase 2 compliance as well, but we will continue to monitor arrests and detentions as part of our review process to ensure that MCSO is in compliance with its own directives on this issue. Beginning with January 2016, we will be receiving a list of all jail bookings on a monthly basis. From each monthly booking list, we will select a representative sample of arrests to review for compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

Section 10: Misconduct and Complaints

COURT ORDER XI. MISCONDUCT AND COMPLAINTS

a. Internally-Discovered Violations

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

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

During our early site visits, we noted that many MCSO supervisors were only vaguely aware of responsibilities outlined in GH-2 (Internal Investigations), and that MCSO was using inconsistent methods to conduct internal administrative investigations. We also noted that there was no checklist or investigative document protocols in place that would assist supervisory personnel charged with conducting administrative investigations. During this reporting period, MCSO adopted both a checklist and investigative document formats. Procedural training for all supervisors who conduct administrative investigations is in progress.

At the end of the final reporting period for 2015, we noted that PSB had added additional staff and replaced most of the existing administrative and criminal investigators assigned to the unit. We continue to have meetings and telephonic discussions with them regarding our concerns; and in some cases, our need for information. To date, they have been responsive to our requests and needs.

We have consistently noted our concerns regarding the internal investigative process, including: lack of clarity of the violation; allegations that are overly broad; lack of justification for outcome/discipline; and lack of appropriate documentation. PSB personnel have agreed that modifications may be needed in their policies, and they have contacted several other agencies to receive copies of their policies. PSB personnel are also continuing to work on a Supervisory Training module that will address how to conduct quality investigations.

During the last reporting period, we saw that some MCSO supervisors noted and appropriately addressed employee misconduct through the investigative process. Of the 66 administrative investigations that we reviewed during that reporting period, 25 were initiated internally. While many of those were related to deputy-involved traffic accidents or vehicle operations, others were examples of supervisors noting and taking action on observed employee misconduct.

During this reporting period, we reviewed all 59 administrative investigations submitted by MCSO for this Paragraph. Of these investigations, 13 of the 59 were initiated internally. Of these 13, nine involved the use and operation of vehicles. The remaining four involved: failure to meet standards (sustained; written reprimand); unprofessional conduct and other violations (sustained; demotion); inappropriate display of MCSO insignia (termination; Posse member); and insubordination (not sustained.)

MCSO has made some progress in addressing the many concerns we have documented. PSB has developed and finalized the investigation checklist and the investigative document formats. It was obvious when our Team member attended the first training session on these documents in February 2016 that the supervisory personnel in attendance did not have a good understanding of the requirements for conducting administrative investigations. Some expressed their appreciation that this type of training is now being conducted. While this training only addresses the *procedural* aspect of conducting administrative investigations, and comes more than one year after the identification of the many concerns with MCSO's administrative investigation process, it is a beginning. The Plaintiffs and Plaintiff-Intervenors have also noted their concerns with the amount of time it has taken MCSO to develop and implement these processes. It will still likely be a number of months before we see the benefit of the checklist and protocols, as supervisors will not be required to use the new process until they have been trained.

MCSO intends to conduct additional training on completing quality investigations that will be based on the pending revisions to its internal affairs policies. PSB personnel have attended outside investigative training and intend to share this training with other MCSO supervisors. We will continue to work with PSB personnel as they revise any policies and develop additional supervisory training on conducting quality personnel investigations.

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

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

b. Audit Checks

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

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

In our last report, we noted that PSB had temporarily suspended its IIU, or Internal Investigations Unit, after operating it only briefly to address Paragraph 103 in its oversight of integrity audits. Though it had no guiding policy or operational guidelines for testing in place, IIU had conducted one integrity test to determine if marijuana had been properly verified and documented prior to turning it over to the Drug Enforcement Administration (DEA) for destruction. During our October 2015 site visit, PSB's new commander informed us that her priorities for the bureau included developing clear investigative responsibilities and an investigative checklist, completing policies, and sending personnel to relevant training. She informed us that she had, accordingly, shuffled personnel to different assignments within PSB.

During our February site visit, MCSO informed us that it was considering shifting integrity test responsibilities from PSB to BIO. As the Order does not require that any particular organizational component fulfill all of the requirements in Paragraph 103, nor that the same component conduct the various checks, BIO can be responsible for conducting checks that would qualify under this Paragraph.

However, it appears that BIO's mission and capabilities are more suited to regular and random audit checks. By definition, a targeted integrity test is directed toward a particular individual or organizational component because of a specific concern, complaint, or articulable suspicion. Consequently, these are best left within the purview of PSB. First, PSB should be better resourced to conduct these checks; and second, it relieves BIO from being characterized or perceived as an entity that investigates misconduct. While BIO's audits always have the potential to uncover potential misconduct, its stated mission is more in line with promoting organizational excellence and correcting systemic issues.

We look forward to reviewing specific proposals from MCSO, to which we will provide appropriate reaction and direction. As noted previously, we have provided PSB with model integrity testing policies from a few law enforcement agencies with robust testing units, and we will continue to make ourselves available to assist MCSO in the development of the IIU or other entity tasked with these requirements and its related policies.

MCSO is not in compliance with this Paragraph.

Compliance Status:

Phase 1: Not in compliance

Phase 2: Not in compliance

c. Complaint Tracking and Investigations

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

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

In its submissions relative to this Paragraph, MCSO provides a list of supervisors who are notified when personnel under their supervision are summoned for an administrative investigation. There has been no system in place to document employee cooperation with investigations. The Plaintiffs' attorneys have also noted concerns with compliance with this Paragraph.

During the previous reporting period, PSB staff advised us that they developed draft checklist and investigative format documents for use by all supervisors conducting administrative investigations. They were in the process of obtaining a legal review before forwarding it for our review and comment.

During this reporting period, MCSO sent us its first draft of the PSB checklist and the investigative format documents. We responded with numerous suggestions and discussed our concerns during our October 2015 site visit. MCSO incorporated our recommendations into the second draft of the documents and provided a proposed training outline. We approved the checklist, investigative format, and training outline with the caveat that MCSO stress that this was not *investigative* training, but only *procedural* training. Counsel for the Plaintiffs and Plaintiff-Intervenors also provided input regarding the proposed checklist and forms. We discussed these protocols further with PSB during our February 2016 site visit, and a member of our Team attended the first training session that occurred at the Lake Patrol District on February 10, 2016. After this first training, we provided some suggestions to enhance the delivery of the training module. PSB will provide this training to all agency supervisory personnel who conduct administrative investigations and will provide us with their training schedule.

As the training is completed in each area of MCSO, supervisory personnel will utilize the formats for new administrative investigations and will be accountable for completion of the required checklists and investigative forms. While it will take some time to complete the training, and results will only be seen in cases submitted from supervisors once they are trained, we are encouraged that these protocols have been completed and that this training is in progress.

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

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

Our concerns with MCSO administrative investigations have been a recurring theme during each of our site visits and quarterly reports. We have consistently found problems with the investigations, the investigative findings, and the discipline assigned. As it relates to this Paragraph, we have noted that there is a lack of documentation of any review and consideration of the employee work history as required by this Paragraph. During our October 2015 and February 2016 site visits, we provided MCSO with specific examples of cases that illustrate the failure to complete or document the required reviews.

PSB personnel have acknowledged the lack of consistency in the agency's internal investigations and the need to provide training to all supervisors. PSB personnel have been working on proposed changes to the policies. During our February 2016 site visit, they told us that they would soon send us their first draft of the proposed policy revisions.

MCSO began training supervisory personnel on the required checklist and investigative format in February 2016. These protocols require that critical data is obtained, reviewed, and documented as part of the administrative investigation. As supervisory personnel are trained, they will be required to review and provide this information in their investigations. This will allow us to fully assess MCSO's compliance with this Paragraph.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

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

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

MCSO has two obligations under this Paragraph: to maintain and make records available. The Paragraph also covers the requirement that MCSO make un-redacted records of such investigations available to the Plaintiffs' attorneys as well. The Plaintiffs' attorneys advised us in during past reporting periods that MCSO had not produced certain information that they had requested on multiple occasions.

MCSO has been responsive to our requests, and it appears that the Plaintiffs' concerns have been addressed. During this reporting period, a new protocol for document sharing was instituted. MCSO, via its counsel, distributes responses to our document and site visit requests via a document sharing website. The Plaintiffs and Plaintiff-Intervenors have access to this information at the same time as we do, including documents applicable to this Paragraph.

Phase 1 is not applicable for this Paragraph.

Compliance Status:

Phase 1: Not applicable

Phase 2: In compliance

Section 11: Community Engagement

COURT ORDER XII. COMMUNITY ENGAGEMENT

a. Community Outreach Program

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

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

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

While MCSO is no longer obligated, pursuant to the Order, to engage in community outreach activities, we trust that the command staff understand the benefit in reaching out to the various communities in the agency's service jurisdiction. To date, we have observed little in the way of such outreach, and we encourage MCSO to step up its efforts to foster positive community relationships, both at the Office and district level.

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

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

On April 4, 2014 an amended Order (Document 670) gave us the requirement to hold public meetings. We held two community meetings during this reporting period. The first community meeting was held on October 21, 2015 at Frank Elementary School, located at 8409 S. Avenida del Yaqui, Guadalupe, AZ 85283. Guadalupe is located in MCSO Patrol District 1. The meeting was held from 6:30 p.m. until 9:00 p.m. Approximately 60 community members attended this meeting, the vast majority of whom were Hispanic, Latino, or Mexican. The meeting was conducted in English and Spanish.

A representative of the ACLU of Arizona offered remarks, focusing on the history of the *Melendres* case, adding that many residents of Guadalupe were pivotal in the *Melendres* case before the United States District Court for the District of Arizona. Her remarks also included mention of the Court ruling in May of 2013 that MCSO had illegally targeted Latino community members for traffic stops and detained them without lawful purpose because of their race.

A representative of the Department of Justice (DOJ) followed, explaining that DOJ is a Plaintiff-Intervenor in the *Melendres* case, a full partner in the ongoing legal processes.

A community member asked how the victims know that their rights are being violated if things do not change. The Monitoring Team representative replied that one of the cornerstones of the Court Order is the creation of the Community Advisory Board (CAB); and that one of the greatest assets of the CAB is its access to MCSO information and the opportunity to review and provide input on proposed policies, procedures, and training curriculum. We emphasized that the CAB provides community members the opportunity to have a voice in the changes that are taking place by communicating directly with the CAB members.

A CAB member offered remarks, stating that one aspect of the CAB's responsibilities is to report back to the community regarding MCSO progress in the reform process and gain the confidence of the community members so that they will come forward and help the CAB shape the changes in MCSO. The ACLU of Arizona representative added that the ACLU of Arizona welcomes participation of people of the Plaintiffs' class who represent a cross-section of Maricopa County.

An MCSO representative offered remarks, identifying his position in MCSO, and stating that MCSO is undergoing a great deal of change. He emphasized that MCSO was making changes to better assist the community in receiving the justice it deserves. The MCSO representative noted that one of the significant changes is the introduction of body-worn cameras for the MCSO deputies, which will provide MCSO with the ability to identify deputies whose actions may violate the rights of members of the community. He concluded by emphasizing that this is a collaborative effort; and that MCSO is actively involved in this process, to bring the best outcomes for all community members.

A Monitoring Team representative explained to the meeting attendees our role and responsibilities to the community, the progress being made, as well as challenges ahead in implementing the Order. We made it clear that MCSO did not have the authority to enforce immigration laws, except to the extent that it is enforcing Arizona and federal laws. We also explained to those in attendance that we would continue to have a regular presence in Maricopa County and we provided our contact information to all parties. We advised the attendees that the Monitor has the authority to take complaints or compliments about MCSO, and to ensure that complaints are investigated completely. Further, we explained that the Monitoring Team ensures that MCSO complies with the Court Order, and that MCSO deputies provide professional law enforcement support to the community. We stated that this includes the development and implementation of policies, procedures, and training designed to provide the community with the most professional service possible.

Questions from the attendees included inquiries about the schedule for conducting the required training, the process for the Monitoring Team to review complaints about MCSO, and the responsibility of the Maricopa County Board of Supervisors as it pertains to MCSO. We responded to all inquiries, as did Plaintiffs' representatives, or members of MCSO, as appropriate. For those who declined to ask their questions publicly, we provided forms to document complaints or concerns.

The second community meeting during this reporting period was held in MCSO Patrol District 2 at Heatherbrae Elementary School, located in the Maryvale neighborhood of Phoenix, at 7070 West Heatherbrae Drive, Phoenix, AZ 85033 on December 2, 2015. Approximately 17 community members attended the meeting.

A representative of the ACLU of Arizona offered remarks, focusing on the history of the *Melendres* case, adding that ACLU of Arizona became involved in the *Melendres* case in 2008, along with the Mexican American Legal Defense and Educational Fund (MALDEF), the Immigrant Rights Project of ACLU, and the Covington Law Firm. Her remarks included emphasizing the criticality of community engagement and the important role the Court-appointed Community Advisory Board (CAB) plays in effective communications with community members regarding the reform process.

Following remarks by the ACLU representative, a representative of DOJ stated that DOJ brought litigation of its own against MCSO, which included claims of retaliation and other violations against people in the jails with limited English proficiency. She stated that Constitutional policing is a top priority for DOJ, and that DOJ wants to work with the Plaintiffs and the Monitoring Team to make MCSO policing the best it can be.

A CAB member offered remarks, emphasizing that the CAB's main role is to communicate with community organizations and community members to determine their perceptions of whether or not there have been changes in MCSO's support to, and interaction with, the community.

The MCSO representative offered remarks indicating that the reform effort is not adversarial with the Monitoring Team but is, in fact, collaborative. He stated that one of the technological advances has been the use of body-worn cameras, and that 40 deputies in the field would be equipped with body-worn cameras on October 22, 2015.

We explained that the Court Order requires MCSO to implement best police practices, which are common in most police departments. We noted that while MCSO made a slight improvement over our last quarterly report, we believe that much more progress needs to be made. We made it clear that MCSO did not have the authority to enforce immigration laws, except to the extent that it is enforcing Arizona and federal criminal laws. We responded to a number of questions from the attendees, which included concerns regarding what is perceived as a very slow reform process and whether any disciplinary action with regard to MCSO has been taken as a result of the slow progress.

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 60 community members were in attendance at the meeting in Guadalupe, and approximately 17 community members came to the meeting in the Maryvale neighborhood of Phoenix. Both meetings allowed ample opportunity for attendees to ask questions or offer comments. Participants used the roving microphone we provided. Monitoring Team personnel moved throughout both meetings, providing microphones for those who wished to ask questions or offer comments. Community members asked questions and offered comments, many of which were critical of MCSO. Attendees voiced frustration with the slow progress MCSO is making in complying with the Court Order. A key objective of both meetings was to let those in attendance know that the Monitor has the authority, provided by the Court, to receive complaints about any activity involving MCSO personnel and ensure that an investigation is adequately conducted. Forms were made available for this purpose. After the meeting, all Monitoring Team personnel remained behind to individually answer questions, and did so until the last attendee left the building.

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

Selected members of the Monitoring Team in Maricopa County, some of whom are bilingual, attended the meetings in Guadalupe and the Maryvale neighborhood of Phoenix. Spanish translation was provided to ensure that all remarks, questions, and answers were understood by the Spanish-speaking attendees. In addition, representatives of ACLU of Arizona, DOJ, and MCSO offered remarks at the meetings. MCSO was well represented and recognized for their attendance. Several of the MCSO personnel in attendance at both meetings play instrumental roles in the implementation of the Court's Order.

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

Preparations for both meetings began well in advance of the meeting dates. Issues such as site selection, advertisement in local radio and print media in English and Spanish, agenda creation, and meeting logistics are of utmost importance in the planning stages. We sent emails to community leaders and media representatives soliciting their assistance in informing community members of the meetings and encouraging their attendance at the meetings. 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 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 meetings.

The selection of venues for both meetings was based on accessibility, adequate meeting space, adequate parking, and ease in locating the meeting site. The meetings in Guadalupe and the Maryvale neighborhood of Phoenix were widely publicized. Advertisements, in both English

and Spanish, appeared in print media with the widest circulation in the areas in which the meetings were held. These ads were also included in the media outlets' Facebook pages and websites. Extensive radio spots in Spanish and English were used to announce both meetings, and we distributed flyers announcing the meetings in the vicinities of the meeting venues. The ACLU of Arizona also submitted the notice of the meetings to numerous online calendars and its local radio media contacts.

b. ~~Community Liaison Officer~~ Monitor

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

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

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

At the community meetings in Guadalupe and the Maryvale neighborhood of Phoenix, we and the Plaintiffs' representatives explained the breadth of the Order to the community members in attendance. The MCSO representative thanked the community members for attending the meeting, and stated that MCSO wanted to hear the community members' comments and complaints. Members of the PSB attended the meeting to receive any complaints from attendees.

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

c. Community Advisory Board

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

We have worked closely with the Plaintiffs' counsel to support and provide guidance to the three-member CAB. On October 20, 2015, the Monitoring Team met with CAB members and a representative of the ACLU of Arizona to discuss plans for future community meetings and meetings with community leaders. On December 1, 2015, the Monitoring Team, CAB members, and a representative of the ACLU of Arizona met with Latino community leaders from Maricopa County to provide an overview of their roles in working toward MCSO compliance with the Court Order. We also requested the community leaders' input on how we can best communicate the requirements of the Court Order and MCSO progress in satisfying those requirements to the community members. A member of the Monitoring Team also met with a CAB member and representatives of the ACLU of Arizona on December 28, 2015 to discuss strategies for future community meetings and other possible community engagement activities.

In addition, CAB members attended our October 21, 2015 community meeting in Guadalupe and our December 2, 2015 meeting in Phoenix, offering remarks to the audience in Spanish and English. CAB members encouraged the community members to be involved in the communication between the community and the Monitoring Team, citing our Court-directed responsibility for oversight of the MCSO reform process. CAB members informed the attendees that the CAB meets with community members and solicits their input regarding MCSO progress in the reform process; and that the CAB routinely reports community feedback and concerns to the Monitoring Team. A CAB member also explained that survey sheets were available for providing input to the Monitoring Team.

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

The CAB is currently comprised of three community members. None of these members are, or have been, MCSO employees, named as class representatives in this matter, or attorneys involved in the *Melendres* litigation. One of the CAB members resigned from the CAB at the end of 2015 due to other commitments. The ACLU of Arizona is actively working to identify a replacement who is not an MCSO employee or any of the named class representatives, nor any of the attorneys involved in the *Melendres* case.

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.~~*

On October 20, 2015, CAB members met with the Monitoring Team and a representative of the ACLU of Arizona to discuss plans for future community meetings and meetings with community leaders. On December 1, 2015, the CAB members, Monitoring Team, and representatives of the ACLU of Arizona met with Latino community leaders from Maricopa County to provide an overview of their respective roles in working toward MCSO compliance with the Court Order and in organizing community engagement efforts. A CAB member met with a member of the Monitoring Team and representatives of the ACLU of Arizona on December 28, 2015 to discuss strategies for future community meetings and other possible community engagement activities.

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

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

Section 12: Concluding Remarks

We note again that the pace of MCSO's compliance with the Order's requirements remains unacceptably slow. We assess compliance with 89 Paragraphs of the Order. MCSO is in Phase 1 compliance with 46 of those Paragraphs, or 61%. In 14 Paragraphs, Phase 1 compliance is not applicable – that is, a policy is not required. MCSO is in Phase 2, or operational compliance, with 34 Paragraphs, or 38%. This compliance rate increased by only one percentage point from that of the previous reporting period. While we note the slight increase in policy compliance, and do not minimize the importance of implementing sound policies, complying with the Order in practice is a more effective gauge of MCSO's commitment to the reform efforts.

We do not regard our duties as merely a “paper review,” and during every site visit we make it a point to visit MCSO's patrol districts and speak with rank-and-file deputies as well as supervisory and command personnel. Invariably, we find a number of committed and well-intentioned personnel who see many of the changes brought about by the Order as positive, even if in certain instances the reform efforts add to their daily workload. In the past, they have not been provided with the resources and training to perform many of their duties, particularly in the areas of supervision and accountability, in accord with generally accepted best practices. This is why the Supervisory Training and the training in conducting internal investigations, both currently under development, are so critical. Similarly, the deployment of a robust Early Intervention System, when properly used, will force supervisor/deputy interactions that would otherwise not take place, with the goal of addressing potentially problematic behavior before it becomes serious and perhaps career-ending.

We also note that in some respects, the districts can, at times, function like autonomous law enforcement agencies. The sheer geographical size of Maricopa County no doubt contributes to this dynamic. Some autonomy is good, and allows for operational flexibility to address enforcement and other issues that may be unique to a particular district. MCSO must ensure, however, that as it pertains to the Order's requirements, they are being implemented in a uniform fashion.

During our most recent site visit, MCSO advised us that it was transitioning from its current work schedule to a work week consisting of four 10-hour days. While MCSO is free to adopt whatever work schedule it chooses – and this schedule is utilized in many law enforcement agencies – we cautioned, and continue to caution, the agency that such a transition is no small undertaking and should be planned in detail. We asked to be provided with their implementation plans and regular progress reports so that we can assess the impact, if any, on compliance with the Order's requirements.

In our last report, we alluded to our additional responsibility of reviewing MCSO's Property Unit operations. Over our past two site visits, we have made physical inspections of the unit and conducted interviews with key personnel, and have confirmed the status and location of certain seized items. Like other document requests identified in this report, the receipt of documentation in response to our requests was inordinately delayed. This is unacceptable. The Court ordered that "MCSO is not to destroy any materials stored in its property unit until such time as the Monitor may review the unit and its operation more fully with Defendants." Nonetheless, we learned that MCSO inadvertently destroyed over 130 items without our approval. The commanding officer of Property and Evidence blamed this on an "administrative error." As stated in our last report, we will document our observations and recommendations for the unit in a separate report when our review is complete.

The Monitoring Team has been in place for in excess of two years. Our experience with Court-ordered reform projects has been extensive. We find the Maricopa County Sheriff's Office to be unacceptably behind the progress that should have been made by this point in the process.

Appendix: Acronyms

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

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