TWENTY-FIRST REPORT
Independent Monitor
for the
Maricopa County Sheriff's Office

Reporting Period – Second Quarter 2019

Chief (Ret.) Robert S. Warshaw
Independent Monitor

November 12, 2019

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Section 1: Introduction

This is the twenty-first report issued in my capacity as the Court-appointed Monitor in the case of *Manuel de Jesus Ortega Melendres, et al., v. Paul Penzone, et al.* (No. CV-07-02513-PHX-GMS), and documents activities that occurred during the second quarter of 2019, April 1-June 30, 2019.

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

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

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

As of the last reporting period, MCSO asserted Full and Effective Compliance with 24 Paragraphs of the First Order, as that term is defined in the First Order. After review, I agreed with their assertions. During this reporting period, on June 3, 2019, MCSO asserted Full and Effective Compliance with two additional Paragraphs, Paragraphs 34 and 106. On June 25, 2019, I agreed with MCSO's assertions, granting MCSO in Full and Effective Compliance with 26 First Order Paragraphs. (See Section 2 of this report.) MCSO retains the obligation to document that the Office remains in Full and Effective Compliance with these Paragraphs.

On June 3, 2019, the Court issued an Order returning responsibility for the quarterly community meetings to the Monitor, and bolstering the working relationship between the Monitoring Team and the Community Advisory Board (CAB). During our July site visit, MCSO's two appointees to the CAB resigned their positions. We held two productive meetings with the Plaintiffs' appointed CAB members. During the first, we discussed opportunities to expand the CAB's role in planning the quarterly community meetings; providing input on MCSO's policies and training programs; and seeking and providing community input on MCSO operations, particularly as they affect the Plaintiffs' class. In the second meeting, which immediately followed the first, the Chief Deputy and the Executive Deputy Chief for Compliance joined us

for an open and frank discussion regarding ways to improve the relationship between the CAB and MCSO. Among other changes, the June 3, 2019 Order requires that MCSO "cooperate with the Monitor" to ensure "that members of the CAB are given appropriate access to relevant material, documents, and training so the CAB can make informed recommendations and commentaries to the Monitor." We are hopeful that once the Sheriff appoints his replacements to the CAB that this body will prove to be a valuable resource to the Office and the reform efforts, and that MCSO will continue its cooperation and support.

The June 3, 2019 Order also addressed MCSO's Constitutional Policing Plan (CPP). In 2017, MCSO first drafted its nine-goal CPP to address systemic issues identified in the Traffic Stop Annual Reports (TSARs), as required by Paragraph 70. In February 2019, MCSO filed a motion with the Court seeking to modify its Plan. The Court did not approve the revisions, noting that the proposed plan "simply lacks the requisite specificity to ensure that the goals of Paragraph 70 are met." It appears that the agency has yet to make any significant progress on its plan recently. We will discuss the CPP with MCSO and the Parties at our upcoming site visit.

During the last reporting period, we noted MCSO's steady, ongoing improvement in the overall quality of administrative misconduct investigations. While those cases investigated by PSB personnel were again 94% compliant for this reporting period, we saw a significant *decrease* in compliance for those cases investigated and reviewed by District personnel. District compliance dropped 19%, from 77% to 58%, during this reporting period; and many of the deficiencies we identified were substantive. This decrease in District compliance also had the largest adverse impact on overall compliance for all administrative misconduct investigations, which dropped from 84% to 73%. This is especially concerning given the amount of investigative training that MCSO has provided, and the fact that MCSO personnel now have several years of experience working with the requirements for properly completing and reviewing investigations. We encourage MCSO executive staff to provide additional oversight or take other actions, as necessary, to address this decrease in compliance.

Paragraph 22 requires that MCSO leadership and supervising deputies and Detention Officers unequivocally and consistently reinforce to subordinates that discriminatory policing is unacceptable. While MCSO has been in compliance with this Paragraph since our thirteenth quarterly status report (covering April through June 2017), MCSO, and the Parties began to collectively recognize that the manner in which the "reinforcement" was provided had become rote and potentially ineffective.

In July 2018, MCSO proposed a plan to reinvigorate the reinforcement process. The plan consisted of two parts, to be implemented in the first and second halves of each calendar year. Within the first six months, supervisors will have discussions, either individual or group; and view videos from the Training Division library with assigned employees, reserve deputies, and Posse members. The videos were to be made available through the HUB (MCSO's online training platform), and attestation of the training would be documented in the HUB. Within the last six months of each calendar year, supervisors shall ensure that all employees, reserve

deputies, and Posse members complete their annual review and acknowledgment of office policy. In addition, employees will be required to view a video from the Sheriff or his designee, which reinforces the policy. Again, the training would be acknowledged via the HUB.

Given that the plan was approved in the latter half of 2018, MCSO implemented the second part of the plan first, and successfully documented its compliance with the plan prior to the end of the year. Late in this reporting period, MCSO informed us that the agency had not developed the videos required for the first part of the plan; and given that the end of the first half of the year was upon us, MCSO would not be able to comply with their plan as proposed. MCSO informed us that they were returning to their initial approach of having individual discussions with deputies to reinforce the requirements of Office policy and the Orders. We advised that this reinforcement must occur before the end of June in order to retain compliance with Paragraph 22. During our July site visit, MCSO presented us with a draft inspection, which purported to show compliance, but we determined that the sample size was too small and did not include representative samples from all of the employees and volunteers required. We subsequently selected the samples for the audit, and we are awaiting the results. We and the Parties thought MCSO's new plan showed promise, and we are disappointed that MCSO could not execute it despite having nearly one year to put it into practice.

Section 2: Methodology and Compliance Summary

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

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

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

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

The tables below summarize the compliance status of Paragraphs tracked in this report.[1] This is our twelfth quarterly status report in which we report on MCSO's compliance with both the First and Second Orders. During this reporting period, MCSO's Phase 1 compliance rate with the **First Order** decreased by one percentage point, to 96%. MCSO's Phase 1 compliance rate with the **Second Order** increased by one percentage point, to 100%.

[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 183 for Phase 1. The number of Paragraphs included in the denominator totals 207 for Phase 2.

During this reporting period, MCSO's Phase 2 compliance rate with the **First Order** decreased by two percentage points, from 78% to 76%. This number includes Paragraphs that we consider to be in compliance and those that are now in Full and Effective Compliance (FAEC), as described above. (See below for the list of Paragraphs that are in Full and Effective Compliance.) During this reporting period, MCSO's Phase 2 compliance rate with the **Second Order** increased by two percentage points, from 89% to 91%.

Twenty-First Quarterly Status Report **First Order Summary**		
Compliance Status	**Phase 1**	**Phase 2**
Not Applicable	20	6
Deferred	0	3
Not in Compliance	3	20
In Compliance	77	71[2]
Percent in Compliance	**96%**	**76%**

Twenty-First Quarterly Status Report **Second Order Summary**		
Compliance Status	**Phase 1**	**Phase 2**
Not Applicable	20	10
Deferred	0	2
Not in Compliance	0	8
In Compliance	103	103
Percent in Compliance	**100%**	**91%**

[2] This number includes those Paragraphs that are deemed in Full and Effective Compliance.

MCSO's Compliance with the Requirements of the **First Order** *(October 2, 2013)*										
	Report 1	**Report 2**	**Report 3**	**Report 4**	**Report 5**	**Report 6**	**Report 7**	**Report 8**	**Report 9**	**Report 10**
Phase 1	4%	10%	44%	40%	51%	57%	61%	60%	67%	60%
Phase 2	0%	0%	26%	25%	28%	37%	38%	39%	44%	49%
	Report 11	**Report 12**	**Report 13**	**Report 14**	**Report 15**	**Report 16**	**Report 17**	**Report 18**	**Report 19**	**Report 20**
Phase 1	63%	79%	88%	85%	85%	85%	85%	97%	97%	97%
Phase 2	50%	57%	67%	62%	65%	64%	66%	77%	75%	78%
	Report 21									
Phase 1	96%									
Phase 2	76%									

MCSO's Compliance with the Requirements of the **Second Order** *(July 20, 2016)*										
	Report 1	**Report 2**	**Report 3**	**Report 4**	**Report 5**	**Report 6**	**Report 7**	**Report 8**	**Report 9**	**Report 10**
Phase 1	N/A									1%
Phase 2	N/A									43%
	Report 11	**Report 12**	**Report 13**	**Report 14**	**Report 15**	**Report 16**	**Report 17**	**Report 18**	**Report 19**	**Report 20**
Phase 1	10%	12%	72%	75%	77%	77%	78%	78%	99%	99%
Phase 2	46%	60%	63%	66%	72%	75%	80%	81%	90%	89%
	Report 21									
Phase 1	100%									
Phase 2	91%									

Paragraph	MCSO Asserted Full and Effective Compliance	Monitor's Determination
9	12/28/18	Concurred on 1/28/19
10	12/28/18	Concurred on 1/28/19
11	12/28/18	Concurred on 1/28/19
12	12/28/18	Concurred on 1/28/19
13	12/28/18	Concurred on 1/28/19
23	12/28/18	Concurred on 1/28/19

Paragraph	MCSO Asserted Full and Effective Compliance	Monitor's Determination
26	12/28/18	Concurred on 1/28/19
27	3/22/19	Concurred on 4/22/19
28	12/28/18	Concurred on 1/28/19
29	12/28/18	Concurred on 1/28/19
30	12/28/18	Concurred on 1/28/19
34	6/3/19	Concurred on 6/25/19
35	12/28/18	Concurred on 1/28/19
36	12/28/18	Concurred on 1/28/19
37	12/28/18	Concurred on 1/28/19
38	12/28/18	Concurred on 1/28/19
40	12/28/18	Concurred on 1/28/19
48	12/28/18	Did not concur on 1/28/19
49	12/28/18	Did not concur on 1/28/19
50	12/28/18	Did not concur on 1/28/19
51	12/28/18	Did not concur on 1/28/19
55	12/28/18	Concurred on 1/28/19
59	12/28/18	Concurred on 1/28/19
60	12/28/18	Concurred on 1/28/19
68	12/28/18	Concurred on 1/28/19
71	12/28/18	Concurred on 1/28/19
77	12/28/18	Concurred on 1/28/19
88	12/28/18	Concurred on 1/28/19
101	12/28/18	Concurred on 1/28/19
106	6/3/19	Concurred on 6/25/19

First Supplemental Permanent Injunction/Judgment Order

Section 3: Implementation Unit Creation and Documentation Requests

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

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

In Full and Effective Compliance

To verify Phase 2 compliance with this Paragraph, we reviewed the monthly personnel rosters for the Court Implementation Division (CID). As of this reporting period, CID has 11 personnel: one captain; one lieutenant; three sergeants; two deputies; one management analyst; one management assistant; and two administrative assistants. CID continues to be supported by MCAO attorneys, who frequently participate in our meetings and telephone calls with Division personnel.

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

The "*Melendres* Compliance Corner" page on MCSO's website provides information to the public about CID's role. The webpage contains a historical overview of the case, the Monitor's compliance reports, and additional links to both the First and Second Orders. The page also provides a link to information about the Immigration Stops and Detention Compensation Fund. The webpage can be read in both English and Spanish. The website, however, did not appear up to date as of the end of the reporting period. It did not include our most recent report; nor did it inform the public that MCSO will no longer be conducting the community meetings and that they are once again the responsibility of the Monitor.

On December 28, 2018, MCSO asserted Full and Effective Compliance with this Paragraph. After review, we concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with our determination.

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.*

In Full and Effective Compliance

CID continues to be responsive to our requests. CID also addresses with immediacy any issues we encounter in the samples we request – be they technical issues, missing documents, or other problems. MCSO's Bureau of Internal Oversight (BIO) routinely inspects the work products of the Office, particularly in the areas that directly affect compliance with the requirements of the Orders. In many instances, BIO will review the same material we request in our samples, and BIO frequently notes – and addresses – the same deficiencies we identify in our reviews.

On December 28, 2018, MCSO asserted Full and Effective Compliance with this Paragraph. After review, we concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with our determination.

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

In Full and Effective Compliance

MCSO submitted its Twenty-First Quarterly Compliance Report on September 9, 2019. The report covers the steps MCSO has taken to implement the Court's Orders during the second quarter of 2019. The report also includes any plans to correct difficulties encountered during the quarter and responses to concerns raised in our 20th quarterly status report, filed on July 29, 2019.

In its latest quarterly report, MCSO asserted Full and Effective Compliance (FAEC), as defined in the Court Order, with Paragraphs 31 and 84. Paragraph 31 requires that policies and procedures be received, read, and understood by MCSO personnel; MCSO achieves this via the HUB, a training software program. Paragraph 84 requires a supervisory ratio of no more than 12 deputies to a supervisor. We will evaluate MCSO's new assertions and report on them in our next quarterly report.

During this reporting period, MCSO asserted – and we granted – Full and Effective Compliance with Paragraphs 34 and 106. Paragraph 34 relates to annual review of policies; and Paragraph 106 relates to the maintenance of records of complaints, and making them available to the Monitor and the Plaintiffs.

On December 28, 2018, MCSO asserted Full and Effective Compliance with this Paragraph. After review, we concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with our determination.

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.*

In Full and Effective Compliance

See Paragraph 13.

On December 28, 2018, MCSO asserted Full and Effective Compliance with this Paragraph. After review, we concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with our determination.

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 Full and Effective Compliance

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

Consistent with this agreement, on September 17, 2018 (September 15 fell on a Saturday), MCSO filed with the Court its 2017 Annual Compliance Report covering the period of July 1, 2016-June 30, 2017.

On December 28, 2018, MCSO asserted Full and Effective Compliance with this Paragraph. After review, we concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with our determination.

Section 4: Policies and Procedures

COURT ORDER V. POLICIES AND PROCEDURES

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

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

Phase 1: In compliance

- GA-1 (Development of Written Orders), most recently amended on March 28, 2019.

Phase 2: In compliance

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

Fourth, in discussions during 2016, MCSO requested more specific guidance on what we considered to be Patrol-related policies and procedures. In response, we provided MCSO with a list of the Patrol-related policies for the purposes of Paragraph 19. We included on this list policies that were not recently revised or currently under review. Several policies required changes to comport with the First Order, Second Order, or both. In 2018, MCSO published the last of the outstanding policies, placing it into compliance with this Paragraph.

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

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

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

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

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

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

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

Phase 1: In compliance

- CP-2 (Code of Conduct), most recently amended on March 15, 2019.
- CP-8 (Preventing Racial and Other Bias-Based Policing), most recently amended on September 26, 2018.
- EA-11 (Arrest Procedures), most recently amended on June 18, 2019.
- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), most recently amended on January 11, 2018.
- EB-2 (Traffic Stop Data Collection), most recently amended on May 1, 2019.
- GI-1 (Radio and Enforcement Communications Procedures), most recently amended on April 3, 2019.
- GJ-33 (Significant Operations), most recently amended on May 10, 2018.

Phase 2: Not applicable

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

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

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

Phase 1: In compliance

- CP-8 (Preventing Racial and Other Bias-Based Policing), most recently amended on September 26, 2018.
- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), most recently amended on January 11, 2018.

Phase 2: Deferred

With input from the Parties, the reinforcement of CP-8 (Preventing Racial and Other Bias-Based Policing) was modified to a two-step process conducted annually. MCSO describes Part 1 of the process as the following: "On an annual basis, within the first six months, supervisors will have discussions, either individual or group, and view videos from the Training library with assigned employees, reserve deputies, and posse members. The videos will be available through the HUB and attestation of the training will be through the HUB." Part 2 of the process as described by MCSO: "On an annual basis, within the last six months, supervisors shall ensure that all employees, reserve deputies, and posse members complete their annual review and acknowledgment of office policy. In addition, employees will be required to view a video from the Sheriff or designee, which reinforces the policy. Acknowledgement is done through the HUB."

As an additional measure, supervisors will have the latitude to review and discuss the policy with their employees, and document the discussion in Blue Team. MCSO will provide proof of compliance biannually, at the end of the six-month periods, when each of the elements of the process is completed. MCSO will also provide progress reports in the interim.

For the first phase of biannual training on CP-8, MCSO submitted a PowerPoint presentation for approval. The Monitoring Team and the Parties provided comments and suggestions. However, the training materials were not completed in time for MCSO to provide the required training during the first six months of 2019. In lieu of utilizing the PowerPoint presentation, the Monitoring Team agreed to accept supervisor-deputy discussions on CP-8, with documentation of completion provided via Blue Team notes. The supervisor-deputy discussions began in the latter part of the second quarter. Due to the late start of these discussions, the first phase of training for calendar year 2019 may not have been completed during the first six months. We advised that this reinforcement must occur before the end of June in order to retain compliance

with Paragraph 22. During our July site visit, MCSO presented us with a draft inspection which purported to show compliance, but we determined that the sample size was too small and did not include representative samples from all of the employees and volunteers required. We subsequently selected the samples for the inspection, and we are awaiting the results. Until such time as the inspection results are received, Phase 2 compliance is deferred.

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.*

In Full and Effective Compliance

BIO uses a randomizing program to select samples for each inspection. BIO reviews CAD messages in an effort to identify compliance with CP-2 (Code of Conduct), CP-3 (Workplace Professionalism: Discrimination and Harassment), and GM-1 (Electronic Communications, Data and Voice Mail). In its submission, MCSO includes the specific nature of any potential concerns identified during the inspections. We observed the processes BIO uses to conduct CAD and email inspections, to ensure that we thoroughly understand the mechanics involved in conducting these inspections. For CAD and email inspections, we receive copies of the inspections completed by BIO, the details of any violations found, and copies of the memoranda of concern or BIO Action Forms that are completed.

During this reporting period, MCSO submitted two CAD and Alpha Paging inspection reports as proof of compliance, and we obtained the third inspection report from the BIO website. BIO inspected 17,431 CAD/Alpha Paging messages for the April inspection, and reported a 99.99% compliance rate (BI2019-0049). BIO found that one employee had sent a CAD message that was not in compliance with GM-1 (Electronic Communication, Data and Voicemail). One BIO Action Form was generated by the affected Division. BIO inspected 18,730 CAD/Alpha Paging messages for the May inspection, and reported a 100% compliance rate (BI2019-0070). BIO inspected 17,088 CAD/Alpha paging messages for the June inspection, and reported a 100% compliance rate (BI2019-0087).

During this reporting period, MCSO submitted two email inspection reports as proof of compliance, and we obtained the third inspection report from the BIO website. The number of emails reviewed is usually less than the total number of emails, due to the elimination of routine business-related and administrative emails such as training announcements and Administrative Broadcasts. For April, the BIO inspection report (BI2019-0053) states that there were a total of 18,655 emails, of which BIO reviewed 15,553. The inspection found that 100% of the inspected emails were in compliance. For May, there were 13,332 emails generated, of which BIO inspected 10,291 (Inspection Report BI2019-0069). The inspection found that 100% of the inspected emails were in compliance. For June, there were 18,416 emails generated, of which BIO inspected 12,801 (Inspection report BI2019-0086). The inspection found that 99.78% of inspected emails were in compliance. Three BIO Action Forms were generated by the affected Divisions: Estrella Jail; Court Operations; and Training.

During this reporting period, BIO conducted facility inspections of the Judicial Enforcement Division, the Special Response Team, and Patrol District 4. On April 23, 2019, BIO conducted an inspection of the Judicial Enforcement Division (JED), inspection report BI2019-0062. The JED consists of 47 employees and seven Reserve Deputies. The Division is responsible for serving all Superior Court civil processes, including subpoenas, writs of execution, orders of protection, injunctions, and various other legal processes. In addition, JED is responsible for pawnbroker licensing, adult entertainment licensing, and tax bill collection. The inspection found that the facility was secure, with access limited to assigned personnel. Non-employees who require access must present credentials. The facility does not normally process or store any evidentiary items; there was no property or evidence inspected. The inspection resulted in an overall compliance rating of 100%. No deficiencies were noted during this inspection.

On May 29, 2019, BIO conducted an inspection of the Special Response Team (SRT). The SRT is a specialized Division of the Custody Bureau, and operates out of the Fourth Avenue Jail. The SRT provides assistance to the jail's command staff during critical incidents, by maintaining or regaining control over all areas of MCSO jails. The unit is made up of specially trained Detention Officers, and is comprised of 10 officers, two sergeants, and one lieutenant. No violations of policy were noted during the inspection of the facility and its operations. However, the inspection revealed that there was no plan in place to periodically change the security combination to the armory/weapons locker. The inspector recommended that the combination be changed every six months, or when an employee who has the combination is transferred out of the unit. The inspection resulted in a 100% compliance rating.

On June 26, 2019, BIO conducted an inspection of Patrol District 4. District 4 consists of 40 employees and two reserve deputies, and covers an area of 1,000 square miles in the north portion of the county. District 4 serves the community of Anthem, reportedly the busiest in Maricopa County. Audits and Inspections Unit personnel found that the facilities were secure, with access limited to assigned personnel. The inspection found that the facilities were well-maintained. All required documentation was clearly identified, organized, and properly secured. The inspection resulted in a 100% compliance rating.

All monthly inspection reports noted there was no evidence indicating that any of the facilities were used in a manner that would discriminate, or denigrate anyone on the basis of race, color, national origin, age, religious beliefs, gender, culture, sexual orientation, veteran status, or disability. We reviewed the Matrix Checklist used for these inspections, and it contains a specific question regarding the use of any Office or County equipment that would violate this Paragraph. During our July visits to Districts 2 and Lake Patrol, we observed no evidence to indicate a violation of this Paragraph. In our last report, we noted a warning about the timeliness of BIO inspection reports. We again note our concerns with the timing of the submissions for each of the months of the reporting period.

On December 28, 2018, MCSO asserted Full and Effective Compliance with this Paragraph. After review, we concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with our determination.

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

Phase 1: In compliance

- GI-7 (Processing of Bias-Free Tips), published June 14, 2019.

Phase 2: In compliance

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

During this reporting period, we reviewed 288 tips submitted for April, 262 tips submitted for May, and 243 tips submitted for June. We reviewed a total of 793 tips, which were classified and recorded according to the type of alleged violation or service requested. Our reviews for this reporting period indicate that warrants, drugs, suspicious activity, and animal crimes were generally the categories with the highest number of tips. The other two categories with high numbers of tips were "information only" and "other." Our reviews have not discovered any evidence of bias in the processing of tips. During this reporting period, there was one tip closed due to bias. We reviewed the information associated with this tip and concluded that MCSO handled the disposition according to policy. We also determined that MCSO is independently corroborating information received through tips, before the information is acted upon, to ensure that there is an appropriate criminal predicate.

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

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

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

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

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

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

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

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

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

h. require the duration of each traffic stop to be recorded;

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

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

Phase 1: In compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), most recently amended on January 11, 2018.
- EB-2 (Traffic Stop Data Collection), most recently amended on May 1, 2019.

- GI-1 (Radio and Enforcement Communications Procedures), most recently amended on April 3, 2019.
- CP-8 (Preventing Racial and Other Bias-Based Policing), most recently amended on September 26, 2018.
- EA-11 (Arrest Procedures), most recently amended on June 18, 2019.

Phase 2: In compliance

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

To verify Phase 2 compliance with this Paragraph, we reviewed MCSO's Vehicle Stop Contact Form (VSCF), Vehicle Stop Contact Form Supplemental Sheet, Incidental Contact Receipt, Written Warning/Repair Form, Arizona Traffic Ticket and Complaint Form, Internet I/Viewer Event Form, Justice Web Interface Form, CAD printout, and any Incident Report generated by the traffic stop. MCSO created many of these forms to capture the requirements of Paragraphs 25 and 54.

Since our July 2015 site visit, there has been significant improvement in the TraCS system that has enhanced the reliability and validity of the data provided by MCSO. This improvement has been buttressed by the introduction of data quality control procedures now being implemented and memorialized in the EIU Operations Manual. (This is further discussed in Paragraph 56, below.) We also compared traffic stop data between Latino and non-Latino drivers in the samples provided to us.

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

Our review of a sample of 105 traffic stops that occurred during this reporting period in Districts 1, 2, 3, 4, 6, and 7, and Lake Patrol indicated that MCSO was following protocol, and that the stops did not violate the Order or internal policies. During our July 2019 site visit, we met with the commanding officer from Lake Patrol, who advised us that the District had not received any complaints during this reporting period from Latino drivers alleging racial profiling. We interviewed the District Commander and inquired if the District had received any

complaints alleging selective enforcement targeting specific communities or enforcement based on race. The District Commander was not aware of any complaints alleging racial or ethnic-based traffic enforcement. Paragraphs 66 and 67 require an annual comprehensive analysis of all traffic stop data, which will more accurately determine if MCSO is meeting the requirements of this Paragraph. MCSO remains in compliance with this Subparagraph.

Paragraph 25.b. requires MCSO to provide deputies with guidance on effective traffic enforcement, including the prioritization of traffic enforcement resources to promote public safety. EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), Sections A-E, address these concerns. The policy specifies that driving under the influence and speeding are the main causes of accidents, and should be the focus of traffic enforcement. Based on our review of the data provided for this reporting period, the most common traffic stop violations are as follows: 55 stops for speed above the posted limit (52%); 12 stops for failure to obey official traffic control devices (11%); six stops for failure to possess valid registrations or tags (6%); 10 stops for equipment violations (10%); three stops for failure to maintain a lane of traffic (3%); and 17 stops for other moving violations (16%).

As the policy specifically identifies speeding violations as one of the contributing factors of traffic accidents, MCSO deputies have targeted this violation. In our review, we break down the specific traffic violation for each stop and use each traffic stop form completed by deputies during the stop to make a determination if the stop is justified and fulfills the requirements of this Paragraph. MCSO remains in compliance with this Subparagraph.

Paragraph 25.c. requires MCSO to prohibit the selection of particular communities, locations, or geographic areas for targeted traffic enforcement based to any degree on the racial or ethnic composition of the community. During our inspection, we document the location of every stop and note the GPS coordinates if available. Our review of the sample data covering all MCSO Districts during this reporting period did not indicate that MCSO was targeting any specific area or ethnicity to conduct traffic stops. During our July 2019 visit to Lake Patrol, we inquired if the District Commander had received any complaints from the public regarding MCSO enforcement activities in their communities. No complaints were received with regard to racial or ethnic-based targeted enforcement.

MCSO is in compliance with this Subparagraph.

Paragraph 25.d. requires MCSO to prohibit the selection of which motor vehicle occupants to question or investigate based, to any degree, on race or ethnicity. We reviewed the demographic data of Maricopa County (according to 2018 U.S. Census data, 31.1% of the population is Latino), and found that the ratio of Latino drivers stopped during this reporting period was lower than in past reporting periods in comparison to the ethnicity of the population in the County. (See Paragraph 54.e.) Eleven (38%) of the 29 stops where passenger contacts occurred involved Latino drivers.

A review of citizen complaints for this reporting period did not reveal that any complaints were filed alleging that MCSO deputies selected motor vehicle occupants for questioning or investigation, based on the individual's race or ethnicity.

MCSO has fully implemented body-worn cameras, and we review a sample of the recordings each reporting period to verify if deputies are questioning occupants to determine if they are legally in the country. There were no such events identified during this reporting period.

During this reporting period, we observed that 28 of the 105 stops occurred during nighttime hours. During our visit to Lake Patrol in July 2019, we inquired if any Latino drivers or passengers made any complaints regarding deputies using particular tactics or procedures to target Latinos. None of the personnel we interviewed were aware of any complaints alleging discrimination or the targeting of Latinos in traffic enforcement. Our review of the sample data indicated that generally, traffic stops were not based on race or ethnicity and reflected the general makeup of the population of the County. MCSO is in compliance with this Subparagraph.

Paragraph 25.e. requires MCSO to prohibit the use of particular tactics or procedures on a traffic stop based on race or ethnicity. We reviewed a sample of CAD audio recordings and CAD printouts where the dispatcher entered the reason for the stop when advised by the deputy in the field. We also reviewed body-worn camera recordings of deputies making traffic stops. The methodology that we employed to select our cases is described in detail in Section 7. In the cases we reviewed, the CAD audio recordings and the body-worn camera video revealed that deputies were not making traffic stops using tactics based on race or ethnicity.

Professional Standards Bureau (PSB) publishes detailed summaries of closed cases each month. PSB's closed cases for June 2019 included one closed case in which the allegation was made that the deputy conducted a traffic stop due to the driver being a Latino. The investigation was closed with a finding of "unfounded." During the investigation, the deputy's body-worn camera recording was reviewed. The body-worn camera recording revealed that the deputy had a lawful reason for conducting the traffic stop and that the allegation that the stop was conducted based on the race or ethnicity of the driver was without merit.

MCSO remains in compliance with this Subparagraph.

Paragraph 25.f. requires deputies at the beginning of each stop, before making contact with the vehicle, to verbally contact dispatch and state the reason for the stop unless exigent circumstances make it unsafe for the deputy to contact Communications. When the deputy advises Communications of the location, tag number, and reason for the stop, this information is digitally logged on the CAD printout and it is audio recorded. (See Subparagraph 54.e.) We reviewed 30 CAD audio recordings and the CAD printouts; in each, the deputy advised dispatch of the reason for the stop. Through our reviews of BWC recordings and CAD printouts, we verified that the reason for the stop was voiced prior to making contact with the drivers in 30 of the 30 cases we reviewed. For the 75 other cases that were part of our sample, we reviewed the VSCFs and the CAD printouts to ensure that deputies properly advised dispatch of the reason for the stop prior to making contact with the violator. In all 75 stops, the deputy properly advised dispatch the reason for the stop. MCSO is in compliance with this Subparagraph.

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

apparent criminal violation for which the deputy has or acquires reasonable suspicion or probable cause to believe has been committed or is being committed. MCSO employs a series of five questions on the VSCF to document the circumstances that might require a stop to be prolonged. In our review of 105 traffic stops, we determined that MCSO documented a response to at least one of the series of five questions in 14 of the stops. Our review of those stops revealed that in five instances, the deputies indicated that they only experienced a technological difficulty. The duration of the five stops ranged from 16 minutes to 23 minutes. The particulars of the remaining nine stops are as follows:

- A White female driver was stopped for speeding. The VSCF indicated that the stop involved training. The driver was issued a warning. The duration of the stop was 18 minutes.
- A White female driver was stopped for a speeding violation. The vehicle was occupied by two White male passengers. The VSCF indicated that the stop involved a driving under the influence investigation and a technological issue with the printer. The driver produced a United States passport for identification purposes. The deputy determined, via a records check, that the driver's license was in a suspended status. The deputy discovered that there was alcohol in the vehicle, and that the driver and one of the passengers were under the age of 21. The deputy had the driver submit to a preliminary breath test, which did not reveal any alcohol in her system. The deputy then made contact with one of the passengers to determine if he had a valid driver's license and was sober so that the vehicle could be released to him. The deputy determined that the passenger was sober and in possession of a valid driver's license; and the vehicle was released to him. The driver was issued a citation for the speeding violation and for driving with a suspended driver's license. The duration of the stop was 23 minutes.
- A Latino driver was stopped for an equipment violation: no license plate light. The VSCF indicates that the stop involved training and a language barrier. In addition, the deputy indicated that he had to enter the driver's information into TraCS manually. The driver was issued a warning. The duration of the stop was 21 minutes.
- A White male driver was stopped after he was observed driving very slowly on the roadway and failing to maintain a lane of traffic. Prior to the stop, a member of the public alerted MCSO that a driver was operating a vehicle in a reckless manner. The vehicle stopped by the deputy matched the description of the alleged reckless driver. The VSCF indicates that the deputy conducted an investigation for driving under the influence and that the vehicle was towed. The driver was processed for driving under the influence and issued a citation. The duration of the stop was one hour and 49 minutes.
- A Latino driver was stopped for a stop sign violation. The vehicle was occupied by a male passenger, with the ethnicity listed as unknown vision-obstructed. The VSCF indicates that the stop involved training. During the stop, it was discovered that the license plate was fictitious and that the vehicle was not insured. The license plate was

seized and placed into evidence. The driver was issued a citation. The duration of the stop was 50 minutes.

- A Black male driver was stopped for failure to maintain a lane of traffic. The VSCF indicates that the stop involved a driving under the influence investigation. It was determined that the driver was sober. The driver was issued a warning. The duration of the stop was 26 minutes.
- A White male driver was stopped for driving with one headlight. The VSCF indicates that the stop involved training. The driver was issued a warning. The duration of the stop was 20 minutes.
- A Latino driver was stopped for a speeding violation. The vehicle was occupied by a Latina passenger. The driver produced an employee identification card. The driver was arrested and processed for driving under the influence and was issued a citation for speeding, driving under the influence, and driving without a valid driver's license. The passenger was arrested for possession of narcotics. The duration of the stop and processing for driving under the influence was two hours and five minutes.
- A Latino driver was stopped for driving with a suspended license plate. The VSCF indicates that the stop involved a language barrier. In addition, the deputy seized the vehicle's license plate and placed the item into evidence. The duration of the stop was 38 minutes.

During our review, we noted three stops that were extended for reasons other than those that were identified via the five questions and responses employed on the VSCF. The particulars of the three stops are as follows:

- A White male driver was stopped for a stop sign violation. The deputy determined that the driver's license was suspended. The deputy prepared an Incident Report. The driver was issued a citation for the stop violation and for the driving while license is suspended violation. The duration of the stop was 30 minutes.
- A White female driver was stopped for driving with a suspended license plate. The deputy seized the license plate and placed it into evidence. The driver was issued a citation. The duration of the stop was 33 minutes.

- A White male driver was stopped for driving with a suspended license plate. The deputy seized the license plate and placed it into evidence. The driver was issued a citation for driving with a suspended license plate. The driver was issued a citation. The duration of the stop was 19 minutes.

MCSO remains in compliance with this Subparagraph.

Paragraph 25.h. requires the duration of each traffic stop to be recorded. The time of the stop and its termination is now auto-populated on the VSCF by the CAD system. To ensure data entry accuracy, MCSO implemented a technical change to the TraCS system on November 29, 2016. The change automatically creates a red field in the stop contact times if the deputy manually changes these times on the VSCF. In our review, we determined that the duration was recorded accurately in 105 of the 105 traffic stops. MCSO is in compliance with this Subparagraph, with a compliance rate of 100%.

Paragraph 25.i. requires that MCSO provide deputies with a list and/or description of forms of identification deemed acceptable for drivers and passengers (in circumstances where identification is required of them) who are unable to present a driver's license or other state-issued identification. The Plaintiffs' attorneys and MCSO have agreed on acceptable forms of identification, and this information has been included in the Fourth and Fourteenth Amendment training. EA-11 (Arrest Procedures), most recently amended on June 18, 2019, provides a list of acceptable forms of identification if a valid driver's license cannot be produced. During this reporting period's review of the sample of 105 traffic stops, there were 10 drivers who did not present a valid driver's license to deputies. The cases are described in detail below:

- A Latino driver was stopped for a stop sign violation. The driver produced a driver's license; however, the deputy discovered, via a records check, that the driver's license was suspended. The driver was issued a citation for the stop sign violation and for driving with a suspended driver's license.
- A White male driver was stopped for failure to maintain a lane of traffic. The driver did not have any identification on his person. The deputy was able to verify that the driver had a valid driver's license. The vehicle's registration was also expired. During the stop, the driver was able to renew the vehicle's registration online. The driver was issued a warning for failure to maintain a lane of traffic and failure to produce the vehicle's registration.
- A White female was stopped for driving with an expired license plate registration. The driver did not have any identification on her person. The deputy was able to verify that the driver had a valid driver's license. The driver was unable to produce evidence of insurance for the vehicle. The driver was issued a citation for driving with no current vehicle registration, no driver's license in her possession, and no evidence of insurance.

- A Black male driver was stopped for a speeding violation. The driver did not have any identification on her person. The deputy was able to verify that the driver had a valid driver's license. The driver was issued a citation for speeding and driving with no driver's license in his possession.
- A White female driver was stopped for speeding. The vehicle was occupied by to White male passengers. The driver produced a United States passport for identification purposes. The deputy determined that the driver's license was suspended. The deputy conducted a driving under the influence investigation and determined that the driver was not impaired. The deputy then made contact with a White male passenger and verified that his driver's license was valid and that he was sober. After determining that the passenger was sober, the passenger was allowed to drive the vehicle from the stop location. The driver was issued a citation for speeding.
- A White male driver was stopped after he was observed driving very slowly on the roadway and failing to maintain a lane of traffic. Prior to the stop, a member of the public alerted MCSO that a driver was operating a vehicle in a reckless manner. The vehicle stopped by the deputy matched the description of the alleged reckless driver. The driver did not have any identification on his person. The driver was arrested for driving under the influence and the vehicle was towed. The driver was issued a citation.
- A Latino driver was stopped for speeding. The driver did not have any identification on his person. The deputy was able to verify that the driver had a valid driver's license. The driver was issued a citation for speeding and failure to possess a driver's license.
- A White male driver was stopped for speeding. The driver did not have any identification on his person. The deputy was able to verify that the driver had a valid driver's license. The driver was issued a warning for the speeding violation.
- A Latino driver was stopped for speeding. The vehicle was occupied by a Latina passenger. The driver produced an employee identification card. The driver was arrested and processed for driving under the influence and was issued a citation for speeding, driving under the influence, and driving without a valid driver's license. The passenger was arrested for possession of narcotics.
- A Latino driver was stopped for driving with one headlight. The vehicle was occupied by a Latina passenger. The driver did not have any identification on his person. The deputy was able to verify that the driver had a valid driver's license. The driver was issued a warning for driving with one headlight.

In our review of the sample of cases in relation to Paragraph 54.k., searches of persons, we identified 10 cases where the drivers did not present a valid driver's license to the deputies. The cases are described in detail below:

- A Latino driver was stopped for blocking a crosswalk while stopped at a red light. The deputy determined, via a records check, that the driver's license was in a revoked status. The deputy seized the driver's license and placed it into evidence. The vehicle was towed and impounded. The driver was issued a citation for knowingly driving with a revoked driver's license, possession of a revoked/canceled driver's license, and stopping on a crosswalk.
- A Black male driver was stopped for an improper passing on the right of traffic violation. The vehicle was occupied by a White female passenger. The driver produced an Arizona driver's license. The deputy subsequently discovered that the driver's license was suspended and that the driver was wanted on an outstanding warrant. The driver was arrested. The driver was issued a citation. The driver contacted a person with a valid driver's license to take possession of the vehicle.
- A Latino driver was stopped for driving with one headlight. The driver produced a United States passport for purposes of identification. The deputy subsequently discovered that the driver had a driver's license, issued from the state of Utah, which was in a suspended status. The deputy detected the odor of marijuana and investigated further; subsequently locating marijuana hidden in the gas cap area of the vehicle. The deputy also located open alcohol in the vehicle. The vehicle was towed and impounded. The driver was arrested and issued a citation.
- A Latina driver was stopped for red-light violation. The driver did not have any identification on her person. The vehicle was occupied by two White male passengers. The deputy determined, via a records inquiry, that the driver had an Arizona driver's license. The deputy seized marijuana from the passenger. The passenger was arrested and the deputy placed the narcotics into evidence. The driver was issued a citation.
- A White female driver was stopped for failure to maintain a lane of traffic. The driver did not have any identification on her person. The deputy was able to verify that the driver had a valid driver's license. During the stop, the deputy observed marijuana on the floorboard of the rear seat. The deputy seized the marijuana and narcotic paraphernalia that was subsequently located from within the vehicle and placed the items into evidence. The driver was arrested and processed for driving under the influence. The deputy prepared a report for the review of the Maricopa County Attorney's Office for potential charges in relation to the possession of marijuana, possession of narcotic paraphernalia, and driving under the influence.
- A Latino driver was stopped for a speeding violation. The vehicle was occupied by a Latina passenger. The driver provided his Arizona driver's license for identification purposes; however, the deputy determined, via a records check, that the driver's license was suspended. The driver also had an outstanding warrant for his arrest. The driver was arrested. After it was determined that the passenger was the registered owner of the vehicle, the deputy released the vehicle to her. The driver was arrested for driving with a suspended license and the outstanding warrant. The driver was issued a citation.

- A Latina driver was stopped for a stop sign violation. The vehicle was occupied by a Latino passenger. The driver produced an Arizona identification card. The deputy detected the odor of alcohol from the passenger compartment of the vehicle. The driver was subsequently arrested and processed for driving under the influence. The vehicle was towed and impounded. The driver was issued a citation.
- A White male driver was stopped for a speeding violation. The vehicle was occupied by two White female passengers. The driver did not have any identification on his person. The deputy determined, via a records check, that the driver had a suspended driver's license and that he had an outstanding warrant for his arrest. The vehicle was towed and impounded. The driver was issued a citation for the speeding violation, driving with a suspended driver's license, and failure to produce evidence of insurance. The driver was arrested for the outstanding warrant.
- A Latino driver was stopped for not having an operable license plate light on the vehicle. The vehicle was occupied by a Latino and a Latina passenger. The driver did not have any identification on his person. The deputy determined, via a records check, that the driver's license was suspended and that he had an outstanding warrant for his arrest. The driver was arrested for the outstanding warrant. The vehicle was released to the Latina passenger, who was the registered owner of the vehicle. The driver was issued a citation for driving with no license plate light and driving with a suspended driver's license.
- A Black male driver was stopped for driving with a suspended license plate. The driver produced an Arizona identification card. The driver informed the deputy that his Indiana driver's license was in a suspended status. The deputy confirmed that the Indiana driver's license was in a suspended status and that there was no record of the driver obtaining a driver's license in Arizona. Upon re-contacting the driver, the deputy detected the odor of marijuana. The driver admitted that he had previously smoked marijuana and did not possess a medical marijuana card. A police officer with a drug detection canine from a local law enforcement agency was also on the scene with the deputy. The drug detection canine was deployed, and the deputy conducted a vehicle search. No narcotics were located. The deputy seized the license plate and placed it into evidence. The driver was issued a citation for driving with a suspended driver's license, failure to provide evidence of insurance, and driving with a suspended license plate.

In our review of the sample of cases in relation to Paragraphs 25.d. and 54.g., passenger contacts, we identified four cases where the drivers did not present a valid driver's license to the deputies. The cases are described in detail below:

- A Black male driver was stopped for speeding. The vehicle was occupied by a White female passenger. The driver produced an Arizona identification card and explained that his driver' license was stolen. The deputy determined, via a records check, that the driver had a valid Arizona driver's license. The driver was arrested for a probation violation warrant. The vehicle was released to the passenger, who was the registered owner of the vehicle. The driver was issued a warning for the speeding violation.
- A White female driver was stopped for a speeding violation. The vehicle was occupied by two White male passengers. The driver produced a United States passport for identification purposes. The deputy determined, via a records check, that the driver's license was in a suspended status. The deputy discovered that there was alcohol in the vehicle and that the driver and one of the passengers were under the age of 21. The deputy had the driver submit to a preliminary breath test, which did not reveal any alcohol in her system. The deputy then made contact with one of the passengers to determine if he had a valid driver's license and was sober so that the vehicle could be released to him. The deputy determined that the passenger was sober and in possession of a valid driver's license. The driver was issued a citation for the speeding violation and for driving with a suspended driver's license.
- A Black male driver was stopped for a driving the wrong way on a one-way street violation. The vehicle was occupied by a Black male passenger. The driver did not have any identification on his person. The deputy determined that the driver had a driver's license from the state of Missouri that was in a suspended status. The driver was arrested for driving under the influence. The passenger was investigated and issued a citation for open alcohol in a motor vehicle and released. The deputy recovered suspected narcotics from the vehicle. The vehicle was towed and impounded. The driver was issued a citation for driving the wrong way on a one-way street and for failing to wear a seat belt. The deputy prepared a report for the review of the Maricopa County Attorney's Office for potential charges in relation to the possession of narcotics and driving under the influence.
- A Latino driver was stopped for failing to yield when making a right turn at a red-light violation. The vehicle was occupied by a Latina passenger and two additional passengers who were listed as "unknown-vision obscured." The driver produced an Arizona driver's license. The deputy determined, via a records check, that the driver's license was expired. The driver was issued a citation for the driving with an expired driver's license.

MCSO remains 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. During this reporting period's review of the sample of 105 traffic stops, we did not identify any cases where a deputy requested the Social Security Number or card of a driver.

During this reporting period's review of the sample of traffic stops reviewed for Paragraph 54.k. and Paragraphs 25.d. and 54.g., and of the cases where we identified that deputies requested a driver's Social Security Number, it was limited to incidents involving the arrest of the drivers. In those cases, the deputies obtained the Social Security Number information for the purpose of completing an Incident Report, which is allowable under this Subparagraph.

MCSO remains in compliance with this Subparagraph.

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).

In Full and Effective Compliance

MCSO reported no incidents or arrests that would fall under the reporting requirements of this Paragraph during this reporting period. To determine compliance with this Paragraph, we review booking lists and criminal citation lists for each month of the reporting period. From each list, we select a 10% random sample of incidents. For this reporting period, we reviewed

51 incidents resulting in arrest and 84 incidents in which criminal citations were issued. In addition, we reviewed 251 Incident Reports. All of the documentation we reviewed during this reporting period indicates that MCSO is in compliance with this Paragraph.

In addition to the above, we review field interviews and contacts with members of the community to assess compliance with Paragraph 26. These types of contacts, that do not involve traffic stops, are documented in Non-Traffic Contact Forms (NTCFs). For this reporting period, we reviewed 75 NTCFs. Our reviews for this reporting period revealed that in April, of the 26 NTCFs, 17 involved White individuals, nine involved Latino individuals, and one involved an African American. For May, we reviewed 24 NTCFs, of which 12 involved White individuals, and 12 involved Latinos. For June, we reviewed 25 NTFCs, of which 14 involved White individuals, nine involved Latino individuals, and two involved Asian or Pacific Islanders. For the quarter, Latinos were involved in 30 of the 75 contacts, or 40%. This percentage is higher than the 31% Latino population in Maricopa County. We recommend that NTCFs be analyzed for potential trends over time, to evaluate if there are any indications of bias.

On December 28, 2018, MCSO asserted Full and Effective Compliance with this Paragraph. After review, we concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with our determination.

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.*

In Full and Effective Compliance

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

On March 22, 2019, MCSO asserted Full and Effective Compliance with this Paragraph. After review, we concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with our determination.

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.

In Full and Effective Compliance

For this reporting period, there were no reported instances of deputies having contact with Immigration and Customs Enforcement (ICE) or Customs and Border Protection (CBP) for the purpose of making an immigration status inquiry, and there were no reported arrests for any immigration-related investigations, or for any immigration-related crimes. The reviews of documentation submitted for this reporting period indicate that MCSO has complied with the reporting requirements related to Paragraph 28. In our reviews of incidents involving contact with the public, including traffic stops, arrests, and investigative stops, we monitor deputies' actions to verify compliance with this Order.

In addition to documentation MCSO provided in response to this Paragraph, our reviews of documentation provided for other Paragraphs of this Order have found no evidence to indicate a violation of this Paragraph. In total, we reviewed 51 Arrest Reports, 84 criminal citations, 161 traffic stops, 75 NTCFs, and 251 Incident Reports for this reporting period. We found no issues of concern, as it relates to this Paragraph.

On December 28, 2018, MCSO asserted Full and Effective Compliance with this Paragraph. After review, we concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with our determination.

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.*

In Full and Effective Compliance

On December 28, 2018, MCSO asserted Full and Effective Compliance with this Paragraph. After review, we concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with our determination.

See Paragraph 30.

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

In Full and Effective Compliance

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

On December 28, 2018, MCSO asserted Full and Effective Compliance with this Paragraph. After review, we concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with our determination.

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

Phase 1: In compliance

- GA-1 (Development of Written Orders), most recently amended on March 28, 2019.

Phase 2: In compliance

GA-1 indicates that Office personnel shall be notified of new policies and changes to existing policies via Briefing Boards and via the HUB, Maricopa County's adaptation of the online training software program, Cornerstone, that MCSO implemented in July 2017 to replace its E-Policy system. Per GA-1, "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." 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 generally do not grant Phase 1 compliance for an Order requirement until the requirement is memorialized in a more formal policy.

During this reporting period, MCSO issued (or issued revisions of) 17 Order-related policies: CP-5 (Truthfulness); EA-3 (Non-Traffic Contact); EA-11 (Arrest Procedures); EB-2 (Traffic Stop Data Collection); ED-2 (Covert Operations); GB-2 (Command Responsibility); GC-12 (Hiring and Promotional Procedures); GC-16 (Employee Grievance Procedures); GC-17 (Employee Disciplinary Procedures); GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices); GE-4 (Use, Assignment, and Operation of Vehicles); GF-3 (Criminal History Record Information and Public Records); GH-2 (Internal Investigations); GI-1 (Radio and Enforcement Communications Procedures); GI-7 (Processing of Bias-Free Tips); GJ-26 (Sheriff's Reserve Deputy Program); and GJ-33 (Significant Operations). During this reporting period, MCSO also issued several Briefing Boards and Administrative Broadcasts that touched on Order-related topics and revised the language of General Orders. MCSO also published one Order-related operations manual, for the Administrative Services Division, during this reporting period.

MCSO continues to update us on the status of its implementation of the HUB during our site visits. As noted above, the HUB replaced E-Policy, after several delays related to licensing and other technical issues, in July 2017. Employees are required to complete personal attestations that indicate that they have read and understand policies; the HUB routinely updates recent training and policy reviews for deputies and is visible by immediate supervisors.

In its latest quarterly report, MCSO asserted Full and Effective Compliance (FAEC), as defined in the Court Order, with Paragraph 31. We will evaluate MCSO's assertion and report on it in our next quarterly report.

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

Phase 1: In compliance

- CP-2 (Code of Conduct), most recently amended on March 15, 2019.
- CP-3 (Workplace Professionalism: Discrimination and Harassment), most recently amended on January 24, 2019.
- CP-5 (Truthfulness), most recently amended on April 4, 2019.
- CP-11 (Anti-Retaliation), most recently amended on December 13, 2018.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- GC-16 (Employee Grievance Procedures), most recently amended on April 2, 2019.
- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.

- Administrative Services Division Operations Manual, published on June 17, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: Not in compliance

Since we began reviewing internal investigations conducted by MCSO, we have reviewed more than 850 administrative misconduct investigations submitted to our Team for this Paragraph. During our reviews, we have continued to note improvement in those cases investigated by PSB, but cases investigated at the District level have declined during this reporting period.

During each site visit, we meet with the Professional Standards Bureau (PSB) and District and Division Command personnel to provide them with information regarding the cases that we find to be deficient in structure, format, investigation, or reporting requirements. We also highlight those cases we find to be properly investigated and in full compliance with Order requirements. In 2016, PSB developed and implemented the use of an investigative checklist and specific format for the completion of internal investigations. MCSO trained all supervisors who conduct investigations in the use of these documents. Since June 1, 2016, the use of these investigative protocol documents has been required for all administrative investigations.

PSB personnel have remained responsive to our feedback, and the investigations they submit for compliance with this Paragraph continue to be examples of complete and thorough investigations. PSB's reviews of investigations conducted by District personnel continue to be thorough and they have identified and addressed many concerns and deficiencies that are found.

During the past several reporting periods, we had noted ongoing improvement in those investigations conducted at the District level, particularly in those completed after the 40-hour Misconduct Investigative Training that concluded in late 2017. However, during this reporting period we saw a disturbing decline in the number of compliant cases investigated by District personnel. This is especially concerning given the training sessions that MCSO has conducted regarding administrative misconduct investigations, and the fact that the compliance requirements have now been in place for several years. During this reporting period, numerous investigations were returned by PSB after review for additional follow-up or corrections. While this review continues to allow some District cases to be near full compliance when they are finalized, in most cases, these deficiencies should have been identified and addressed at the District level prior to the review by PSB. As we have noted previously, the necessity to return deficient investigations delays the timely completion of these investigations. PSB continues to dedicate its resources to serve as District liaisons while investigations are in progress and dedicates additional personnel to review these cases prior to their finalization. While we have noted the positive effects of PSB's efforts to assist investigators in the Districts, the time commitment involved results in significant personnel hours being dedicated to this effort by PSB personnel.

During our site visits, our Team makes numerous visits to MCSO Districts. During these District visits, we discuss the completion of administrative misconduct investigations by District personnel. We discuss those areas of the investigations where we continue to find deficiencies and provide input regarding the proper completion of investigations. We also seek information from District supervisors regarding their experience with the investigation process and any ongoing concerns they may have.

During our visits to Districts 2 and Lake Patrol in July, 2019, we spoke with sworn supervisors and command personnel about administrative misconduct investigations. In both Districts, the personnel we talked to believe that the quality of investigations completed by their personnel is continuing to improve. They believe the training that has been provided has been valuable, but also believe training should be ongoing. In one District, supervisory personnel noted they believe additional checklists for investigative requirements would be helpful.

Since March 2018, we have requested and reviewed a monthly report from District Command personnel that documents any actions they have taken to assist their personnel in the completion of administrative misconduct investigations and any actions they have taken to address any deficiencies they have identified. We have seen in these reports that District Command personnel have identified and addressed some concerns with the completion of these investigations. We have seen intervention strategies employed, including: additional training; mentoring; one-on-one coaching; documentation in Supervisory Notes; and in one case, the initiation of an internal misconduct investigation when other intervention strategies were unsuccessful.

During this reporting period, we found no instances where District command personnel documented any concerns or deficiencies found in investigations conducted by their personnel. We acknowledge that the investigations we reviewed for this reporting period were completed and submitted by the Districts prior to the reporting period. We are surprised, however, that none of the investigations reviewed in the District command personnel during this reporting period had any deficiencies or concerns identified, given the ongoing deficiencies we continue to find in District cases. We noted that PSB identified six deficiencies regarding District Command level review of investigations that were submitted for review during this reporting period and forwarded these concerns to the appropriate Deputy Chiefs to be addressed.

During the last reporting period, we reviewed all 75 administrative misconduct investigations submitted for compliance with this Paragraph. District supervisors completed 64, and PSB completed eight of the investigations. All the investigations completed by PSB were in compliance with investigative and administrative requirements. Of the 64 conducted by Districts, 77% were in compliance with Order requirements.

During this reporting period, we reviewed all 53 administrative misconduct investigations submitted for compliance with this Paragraph. PSB conducted 8 of these investigations, and District personnel conducted the remaining 45. Sworn supervisors with the rank of sergeant or higher completed all the investigations conducted at the District level. There were 89 potential policy violations included in the 53 cases. Forty-four of the investigations resulted from external complainants, and nine were internally generated. All of the 53 investigations were completed after July 20, 2016. Fifty-two of the 53 cases were both initiated and completed after the new investigation and discipline policies became effective in May 2017. Forty-four of the 53 were both initiated and concluded after the completion of the 40-hour Misconduct Investigative Training that was completed in late 2017.

Of the 53 administrative investigations we reviewed for this Paragraph, 17 resulted in sustained findings against one or more employees. We concur with the sustained findings in all 17 investigations. In one investigation however, we believe that though findings of sustained were made, additional potential misconduct was not investigated and could have impacted the final discipline outcome. In six of the 17 cases, the employee left MCSO employment prior to the completion of the investigation or discipline process. Discipline for the remaining 11 sustained investigations included: coachings; written reprimands; and suspensions of eight hours or more. In all of these cases, the PSB Commander properly identified the category and offense number, as well as the presumptive discipline or range of discipline for the sustained allegations.

There were two cases we reviewed for compliance with this Paragraph where the Appointing Authority aggravated the presumptive discipline. In both cases, the Appointing Authority assessed discipline that fell within the range, but was not the presumptive discipline established in the policies revised in May 2017. We believe the facts of the investigations, the employees' work histories, and the justification provided by the Appointing Authority support the decisions to aggravate the discipline; and we agree with the decision to do so.

All of the 53 cases we reviewed for this Paragraph were completed on or after July 20, 2016. Of the eight investigations conducted by PSB, none were completed within the 85-day timeframe. All eight contained a request for, and an authorization of, an extension. Twenty-two of the 45 investigations conducted at the District level were not initially completed and submitted to PSB for review within the required 60-day timeframe. Two of these investigations did not include an appropriate request for, and an authorization of, an extension.

District personnel outside of PSB conducted 45 of the investigations MCSO submitted for review for this Paragraph. All were completed after July 20, 2016. We found 26 (58%) in compliance with all investigative and documentation requirements, a decrease of 19% from the 77% compliance the last reporting period. We have concerns with 19 of the investigations. The concerns include: improper findings; investigation incomplete or lacks detail; all interviews not conducted; leading questions; failure to address training or policy issues; and ongoing administrative concerns. Twelve cases were returned to the Districts for further investigation, or corrections by PSB. In six cases, PSB changed the findings of the investigation after review; we agree with their decision to do so. We noted that in one case, the District had identified

leading questions in the investigation and addressed them with the investigating supervisor. District personnel completed six of the 45 investigations prior to the completion of the 40-hour Misconduct Investigative Training. None of the six were in compliance with all requirements for the completion of administrative misconduct investigations. Thirty-nine of the investigations were initiated and completed after the Misconduct Investigative Training. Of these, compliance was (67%), a decrease from 81% the last reporting period.

Over the past several reporting periods we have seen continuing improvement in those investigations conducted by District personnel, especially in those completed after the 40-hour Misconduct Investigative Training and we were encouraged by the improved quality. We expected to see additional ongoing improvement this reporting period. That was not the case. The decline in compliance is concerning, especially given the amount of training supervisory personnel have received, and the fact that the requirements for the proper completion of misconduct investigations have been in place for several years.

Our review of cases submitted for review this reporting period indicates continuing compliance in those investigations conducted by PSB. District investigations, however, have shown a decrease of 19% in compliance for this reporting period. As is our practice, we will discuss those cases that we have found out of compliance with MCSO personnel during our next site visit.

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

Phase 1: In compliance

- CP-8 (Preventing Racial and Other Bias-Based Policing), most recently amended on September 26, 2018.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.

Phase 2: In compliance

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

MCSO had been in compliance with this Paragraph for numerous reporting periods. During the last reporting period, we disagreed with the findings in one of the four cases we reviewed for compliance. We notified MCSO that we would withdraw compliance if the agency was not in compliance during this reporting period.

During this reporting period, we reviewed two investigations submitted in compliance with this Paragraph. One alleged bias toward a person who was disabled; and after investigation, was properly unfounded. The second involved a Posse member "liking" a racially derogatory comment on social media and was sustained. No discipline resulted due to the resignation of the involved Posse member prior to the completion of the investigation.

MCSO remains in compliance with the requirements of this Paragraph.

While biased policing allegations that involve members of the Plaintiffs' class are not reported in this Paragraph, we note here that MCSO completed five investigations for this reporting period that were determined to be Class Remedial Matters. All five were in compliance.

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.*

In Full and Effective Compliance

MCSO conducts annual reviews of all critical policies and all policies relevant to the Court Orders. The review process ensures that all policies are consistent with Constitutional policing, current law, professional standards, and any Court Order or Judgment.

During this reporting period, 20 (41%) of the 48 required policies received their annual review. These policies included: EA-3 (Non-Traffic Contact); EA-11 (Arrest Procedures); GB-2 (Command Responsibility); GC-4 (Employee Performance Appraisals); GC-12 (Hiring and Promotional Procedures); GC-17 (Employee Disciplinary Procedures); GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices); GE-4 (Use, Assignment and Operation of Vehicles); GF-5 (Incident Report Guidelines); GG-1 (Peace Officer Training Administration); GG-2 (Detention/Civilian Training Administration); GH-2 (Internal Investigations); GH-4 (Bureau of Internal Oversight); GH-5 (Early Identification System); GI-7 (Processing of Bias-Free Tips): ; GJ-2 (Critical Incident Response); GJ-3 (Search and Seizure); GJ-24 (Community Relations and Youth Programs); GJ-26 (Sheriff's Reserve Deputy Program); GJ-36 (Digital Recording Devices).

On June 3, 2019, MCSO asserted Full and Effective Compliance with this Paragraph. After review, we concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with our determination.

Section 5: Pre-Planned Operations

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

In Full and Effective Compliance

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

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

MCSO reported in April 2017 that it had disbanded the Anti-Trafficking Unit and formed a new unit, Fugitive Apprehension and Tactical Enforcement (FATE). The primary mission of FATE is to locate and apprehend violent fugitives. We reviewed FATE's mission statement and objectives, as well as the organizational chart for the Special Investigations Division. MCSO had removed the ATU from the organizational chart, and the mission of FATE did not include any reference to the enforcement of Immigration-Related Laws.

The revised organizational chart for SID and documentation provided by MCSO regarding the implementation of FATE supported that the ATU no longer existed, and that there were no specialized units in MCSO that enforced Immigration-Related Laws.

During the last reporting period, we received and reviewed the most current Special Investigations Division Operations Manual and organizational chart. Both confirmed that MCSO has no specialized units that enforce Immigration-Related Laws, that the Human Smuggling Unit (HSU) was disbanded, and the Anti-Trafficking Unit (ATU) no longer exists.

On December 28, 2018, MCSO asserted Full and Effective Compliance with this Paragraph. After review, we concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with our determination.

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.*

In Full and Effective Compliance

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

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

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

We continue to review documentation submitted for this Paragraph by all Districts, the Enforcement Support Division, and the Investigations Division on a monthly basis. During this reporting period, and since October 2014, MCSO continues to report that it has not conducted any additional Significant Operations. In addition, we have not learned of any potential Significant Operation through media releases or other sources during this reporting period. We will continue to monitor and review any operations we become aware of to ensure continued compliance with this and other Paragraphs related to Significant Operations. During this reporting period, we did not learn of any Significant Operations conducted by MCSO.

On December 28, 2018, MCSO asserted Full and Effective Compliance with this Paragraph. After review, we concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with our determination.

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.*

In Full and Effective Compliance

In late 2014, we reviewed all the documentation submitted by MCSO regarding the Significant Operation conducted from October 24-27, 2014. This operation was intended to interdict the flow of illegal narcotics into Maricopa County and fully complied with the requirements of this Paragraph.

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

On December 28, 2018, MCSO asserted Full and Effective Compliance with this Paragraph. After review, we concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with our determination.

During this reporting period, we did not become aware of any Significant Operations conducted by MCSO. MCSO remains in Full and Effective Compliance with this Paragraph.

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

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

In Full and Effective Compliance

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

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

On December 28, 2018, MCSO asserted Full and Effective Compliance with this Paragraph. After review, we concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with our determination.

During this reporting period, we did not become aware of any Significant Operations conducted by MCSO. MCSO remains in Full and Effective Compliance with this Paragraph.

Paragraph 39. *The MCSO shall hold a community outreach meeting no more than 40 days after any Significant Operations or Patrols in the affected District(s). MCSO shall work with the Community Advisory Board to ensure that the community outreach meeting adequately communicates information regarding the objectives and results of the operation or patrol. The community outreach meeting shall be advertised and conducted in English and Spanish.*

Phase 1: In compliance

- GJ-33 (Significant Operations), most recently amended on April 2, 2019.

Phase 2: In compliance

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

During this reporting period, MCSO did not report conducting any Significant Operations that would invoke the requirements of this Paragraph.

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

In Full and Effective Compliance

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

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

MCSO continues to report that it has not conducted any operations that meet the reporting requirements for this Paragraph since October 2014. During this reporting period, we did not learn of any traffic-related enforcement or Significant Operations conducted by MCSO that would invoke the requirements of this Paragraph.

On December 28, 2018, MCSO asserted Full and Effective Compliance with this Paragraph. After review, we concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with our determination.

Section 6: Training

COURT ORDER VII. TRAINING

a. General Provisions

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

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

Phase 1: In compliance

- GG-1 (Peace Officer Training Administration), most recently amended on August 14, 2019.
- GG-2 (Detention/Civilian Training Administration), most recently amended on August 14, 2019.
- Training Division Operations Manual, most recently amended on September 21, 2017.

Phase 2: In compliance

We verify compliance with this Paragraph by reviewing all individual Instructor and Field Training Officer (FTO) files. We document the inclusion of specific requirements such as General Instructor certificates and Professional Standards Bureau (PSB) reviews. Additionally, we review waiver requests submitted by personnel to the Training Division command, Training Commander justifications, and PSB determinations. A waiver is a request made by instructors or FTOs, or supervisors of these personnel, to waive disciplinary review timelines for sustained allegations of misconduct and provide justification for commanders to consider approving the request.

During this reporting period, the Training Division identified 13 new Field Training Officers. One FTO submitted two waivers of disciplinary timelines during this reporting period. We identified no issues with either submission.

The Training Division identified an additional 27 General Instructors (GIs). This raises the number of current qualified GIs to 124. The individual Training Division folders for both FTOs and Instructors we reviewed included all documentation required by GG-1.

Training Division command improved the methodology for conducting the Professional Standards Bureau (PSB) reviews for both FTOs and GIs as required by GG-1. The new PSB Check Request Form clearly identifies any open administrative cases, cases involving serious

misconduct, and cases of sustained allegations. The new form and process for obtaining these reviews has been significantly improved. The Training Division is confident that these process improvements have satisfactorily addressed their concerns regarding these reviews.

Training Division personnel did not conduct any random instructor evaluations during this reporting period.

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

Phase 1: In compliance

- GG-1 (Peace Officer Training Administration), most recently amended on August 14, 2019.
- GG-2 (Detention/Civilian Training Administration), most recently amended on August 14, 2019.
- Training Division Operations Manual, most recently amended on September 21, 2017.

Phase 2: In compliance

We verify compliance with this Paragraph by reviewing all individual test failures; individual retests; and failure remediation efforts, by training class; for both live and online Order-related training. With the recent filling of an analyst position within the Training Division, we also receive and review all testing analysis conducted on Order-related training.

During April, MCSO delivered Blue Team training to 10 individuals. We noted that the lesson plan and test for this training class has not been revised since 2015. We recommend that this training document be updated to reflect the ongoing changes to the Early Identification System (EIS). We recommend that the number of test questions and the content of the test questions be updated to reflect the current complexity of the EIS system and to further challenge the employees taking the tests.

MCSO began delivering the 2019 Body-Worn Camera (BWC) HUB course and testing in May. The test was designed to coincide with the issuance of the new Axon Body 2 camera to personnel. The 2019 BWC training is an online course. It is administered only to personnel that previously attended the classroom delivery for BWC training. The test contains a combination of best response and true/false questions.

MCSO did not deliver any 2019 BWC classroom trainings during this reporting period.

During this reporting period, the Training Division delivered the following programs: 2015 BWC; 2019 BWC Train-the-Trainer (TTT); 2019 BWC HUB Course; and the 2018 Traffic and Criminal Software (TraCS).

In April, MCSO delivered the 2015 BWC Training once to nine sworn personnel. No personnel required test remediation.

In May, MCSO delivered the 2019 BWC Train-the-Trainer once to 30 sworn personnel and one Detention Officer. No personnel required test remediation.

In May, the 2019 BWC HUB Course was taken by 501 personnel (478 sworn, nine reserve, 14 retired reserve). In June, the course was taken by 100 personnel (88 sworn, six reserve, six retired reserve). No personnel required test remediation.

In April, MCSO delivered the 2018 TraCS Training once to nine sworn personnel. No personnel required test remediation.

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

Phase 1: In compliance

- GG-1 (Peace Officer Training Administration), most recently amended on August 14, 2019.
- GG-2 (Detention/Civilian Training Administration), most recently amended on August 14, 2019.
- Training Division Operations Manual, most recently amended on September 21, 2017.

Phase 2: In compliance

MCSO continues to support a Master Training Calendar. The calendar, posted to the MCSO website, allows the public accessibility to tentative training dates, classes, and locations. The calendar displays 90-day increments. Training Division personnel update the calendar weekly to ensure accurate scheduling. We did not find any inaccuracies in the calendar during this reporting period.

The Training Division previously indicated a desire to better prepare and schedule the delivery of Order-related training. The Master Training Calendar reviewed included tentative training dates for: PSB8 Internal (PSB personnel); one day for the PSB8 External (District personnel) Train-the-Trainer and seven training dates; one day for a 2019 Supervisor Responsibilities Effective Law Enforcement (SRELE) Train-the-Trainer and six training dates; one day for a

2019 Annual Combined Training (ACT) Train-the-Trainer and 35 dates for training. The proposed training dates, if held to, would potentially address previous concerns regarding time management and accountability.

Master Personnel Rosters determine the number of personnel requiring Order-related training. At the end of this reporting period, MCSO reports that 665 sworn members, 20 reserve members, 26 retired reserve members, 279 Posse members, 1,786 Detention members, and 731 civilian employees require Order-related instruction. These categories vary by reporting period, because of the attrition in the organization.

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

Phase 1: Not applicable

Phase 2: In compliance

During the previous reporting period the Early Intervention Unit (EIU) had developed an Alert Refresher lesson plan and PowerPoint presentation for HUB delivery to further assist supervisors in more thoroughly completing EIS Attachment B alert responses as part of the Traffic Stop Monthly Review (TSMR) process. Members of our Team provided recommendations for additional specific content and reminded MCSO that the curriculum required further review before the training program could be published. During our April site visit, we discussed this lesson plan with the Training Division and discovered they the Division had not collaborated on the development of this training program. The Training Division requested an opportunity to review the proposed lesson plan and provide recommendations on formatting and other policy requirements for consistency with other training curriculums. In May, we received the Training Division's review. Training Division personnel believed that the material contained quality information that should be provided to all supervisors to assist them in resolving EIS alerts, which has been a problematic area. Since the Training Division was not involved in the development of this training material, it was not in the MCSO standard lesson plan format. They identified a need to revise the 2017 EIS 10-Hour lesson plan to include most, if not all, of the refresher training.

The Training Division also recommended that the refresher material be incorporated into the 2019 SRELE, lesson plan and a HUB lesson plan be developed for Detention and civilian supervisors. During our July site visit, we further discussed the inclusion of this material into the 2019 SRELE. The Training Division advised us that it intends to record a mock EIS Alert Investigation video to supplement the existing material. The added curriculum will utilize adult-learning methods to provide supervisors with potential tactics to correctly address EIS Alerts.

We reviewed the outline a vendor provided for the PSB8 (Internal) annual in-service training program for members of the PSB. The curriculum addressed the receipt and handling of Equal Employment Opportunity Commission (EEOC) workplace discrimination investigations. During July, MCSO delivered this class.

We began our review of the PSB8 (External) annual in-service training program for members external to PSB (District supervisors). PSB and the Training Division jointly developed this lesson plan. The curriculum incorporates a single case study and provides guidance to supervisors, beginning with the receipt of the initial allegations and culminating in a completed investigation. This lesson plan is practicum-based and consistent with adult-learning techniques.

We discussed the status of curriculum development for annual Order-required training during our July site visit.

The Training Division began development of the 2019 SRELE during this reporting period. The training is expected to include a curriculum adopted from the Arizona Department of Public Safety entitled "Followership." The Training Division is creating two supplemental videos. One will depict a traffic stop and the other a BWC recording review. Both will be part of learning activities that will require supervisor participation and include the proper review of a TraCS form. SRELE has been tentatively scheduled for delivery in September. We did not review any proposed curriculum during this reporting period.

The 2019 ACT remains in development. A vendor is anticipated to deliver the Bias-Free Policing component. Vendor attorneys, in addition to MCAO attorneys, will continue to deliver the Fourth Amendment component. During our July site visit, the Training Division reported that it was developing three videos for use in the ACT. The Division was in the process of hiring a Media Specialist to do so. Each video would contain a mock traffic stop being conducted by an FTO and his Officer in Training, and would address issues related to searches. We agree that additional training on searches should be included within the ACT. They anticipate delivery to a combination of deputies and sergeants as one group; lieutenants and command staff as a second group; and volunteer Posse as a third group. We did not review any proposed curriculum during this reporting period.

Previously, as a component to its Constitutional Policing Plan (CPP), MCSO proposed the development of a training film for inclusion in the ACT addressing the History of Bias in Maricopa County. In May, we reviewed a draft script for this film. We and the Parties were unable to provide substantive comments, based on the brevity of the document. MCSO command advised us, "This outline is purposefully general so we can get everyone's initial comments before we get too far down the road with it or ask the CAB for feedback if the Parties or Monitor thought we are headed in the wrong direction." We did not necessarily believe that the agency was headed in the wrong direction, but we were unable to comment more specifically until we know who the presenters are and have a general sense of what they will present, or what the agency would like them to cover as guest speakers. We noted that the document had only recently been sent to the Community Advisory Board (CAB) for their input,

and that they were granted an extension for their review. We believe it best for everyone to provide feedback on the next iteration, presuming it will reflect the CAB's feedback, and also contain more specificity.

During our July site visit, MCSO advised us that this project was assigned on May 30, 2019 to the MCSO Director of Public Affairs and Media Division; and that internal discussions have continued. The Training Division was unaware of any updates since receiving our review. MCSO personnel were certain, however, that the film would not be included in the 2019 ACT and discussed the possibility of a future distribution on the HUB. The Parties expressed frustration with this information, noting that this continues to be a lingering and protracted project. They recommended a project manager be assigned by MCSO to keep the project moving forward. We agree with their recommendation. In July, shortly after our site visit, the project was returned to the Training Division and assigned to a curriculum developer who has since had discussions with the Arizona State University Walter Cronkite School of Journalism, seeking the involvement of an intern for assistance.

The Training Division advised that cultural competency remains absent from the FTO training program. They do not anticipate including this topic until the next lesson plan revision in 2020.

TraCS for supervisors remains under development to specifically address the needs of supervisors. We did not review this curriculum in May as anticipated.

2019 TraCS is currently being revised. New learning activities are being incorporated, and the lesson plan will address recent case law required changes.

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

Phase 1: Not applicable

Phase 2: In compliance

Previously, in conjunction with the CPP, MCSO advised us that the Training Division would develop work plans to address Implicit Bias, Cultural Competency, Understanding Community Perspectives, and Fair and Impartial Decision Making. During our July site visit, MCAO advised us there would not be any stand-alone work plans to address these topics. This information would become components of existing Order-related training. We recommended to MCAO to continue with specific work plans to assist the Training Division with curriculum development.

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

Phase 1: In compliance

- GG-1 (Peace Officer Training Administration), most recently amended on August 14, 2019.
- GG-2 (Detention/Civilian Training Administration), most recently amended on August 14, 2019.
- Training Division Operations Manual, most recently amended on September 21, 2017.

Phase 2: In compliance

During this reporting period, we and the Parties commented on the 2019 EIS Alert Refresher lesson plan, the PSB8 (External) lesson plan, and the PSB8 (Internal) outline and supporting documentation. We approved the PSB8 (Internal) training documents for delivery.

We did not review any roll-call briefings, videos, or lesson plans in support of the ACT or SRELE that would provide enhanced training on Implicit Bias, Cultural Competency, Understanding Community Perspectives, and Fair and Impartial Decision Making. The Training Division reviewed a video produced by the Pascua-Yaqui Tribe for the Town of Guadalupe. The Training Division intends to pursue approval from the Town and Tribal leaders for use within Order-related training.

The Training Division also reviewed several BWC recordings consistent with our previous recommendations. Training Division personnel believe that two of these videos provided preliminary content for future training. One video indicated a need to provide additional training regarding inventory searches. The second video was of a chaotic domestic dispute. We continue to encourage MCSO to seek these in-house videos to support training development.

MCSO conducted two District ride-alongs, one at District 1 and one at District 6. There has been no change in the manner in which these in-field evaluations are developed and administered. As a result, the findings provide limited usefulness for curriculum development or revision.

MCSO can reasonably expect that we and the Parties will observe training sessions and provide appropriate feedback.

b. Bias-Free Policing Training

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

Phase 1: Not applicable

Phase 2: In compliance

MCSO delivers Bias-Free Policing Training to all new deputies during POST Academy training. MCSO did not deliver this class during this reporting period.

MCSO did not deliver the 2019 ACT during this reporting period.

MCSO continues to experience difficulties with vendors retained to deliver Bias-Free Training. The Order provides clear direction that we, the Plaintiffs, and Plaintiff-Intervenors shall be permitted to observe all live trainings and all online training. During our July site visit, the Training Division and MCAO informed us that the proposed vendor would not allow observers into the training environment. We advised MCSO that this position was unacceptable, and that MCSO should work with the vendor to address the situation. The situation was ultimately resolved, but MCSO should consider these issues when negotiating contracts with training vendors in the future.

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

a. definitions of racial profiling and Discriminatory Policing;

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

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

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

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

f. MCSO policies related to Discriminatory Policing, the enforcement of Immigration-Related Laws and traffic enforcement, and to the extent past instructions to personnel on these topics were incorrect, a correction of any misconceptions about the law or MCSO policies;

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

h. police and community perspectives related to Discriminatory Policing;

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

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

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

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

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

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

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

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

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

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

Phase 1: Not applicable

Phase 2: In compliance

The Bias-Free Policing Training curriculum was under Training Division review during this reporting period. The Training Division review ensures lesson plan compliance with developments in the law, regulations, and policy changes as required by the Order and MCSO policy. We did not review any proposed curriculum changes.

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

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

Phase 1: Not applicable

Phase 2: In compliance

MCSO delivers Detentions, Arrests, and the Enforcement of Immigration-Related Laws Training to all new deputies during POST Academy training. MCSO did not deliver this class during this reporting period.

MCSO did not deliver the 2019 ACT during this reporting period.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Phase 1: Not applicable

Phase 2: In compliance

The lesson plan for Detentions, Arrests, and the Enforcement of Immigration-Related Laws was under Training Division review during this reporting period. The Training Division review ensures lesson plan compliance with developments in the law, regulations, and policy changes as required by the Order and MCSO policy.

The 2019 ACT was under development during this reporting period.

d. Supervisor and Command Level Training

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

Phase 1: Not applicable

Phase 2: In compliance

The Training Division began development of the 2019 SRELE during this reporting period. We did not review any proposed curriculum.

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

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

b. how to conduct regular reviews of subordinates;

c. operation of Supervisory tools such as EIS;

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

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

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

g. incorporating integrity-related data into COMSTAT reporting;

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

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

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

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

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

Phase 1: Not applicable

Phase 2: In compliance

The Training Division began development of the 2019 SRELE during this reporting period. We did not review any proposed curriculum during this reporting period.

Section 7: Traffic Stop Documentation and Data Collection

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

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

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

We continue to pull our monthly sample of traffic stop cases from the six Districts (Districts 1, 2, 3, 4, 6, and 7) and Lake Patrol. Once we received files each month containing traffic stop case numbers from MCSO, denoting from which area they came, we selected a sample of up to 35 cases representing the areas and then selected a subsample averaging 10 cases, from the 35 selected cases, to obtain CAD audiotapes and body-worn camera recordings. Our sampling process involved selecting a sample of cases stratified by the areas according to the proportion of specific area cases relative to the total area cases. Stratification of the data was necessary to ensure that each area was represented proportionally in our review. Randomization of the cases and the selection of the final cases for CAD review were achieved using a statistical software package (IBM SPSS Version 22), which contains a specific function that randomly selects cases and that also allows cases to be weighted by the areas. Our use of SPSS required that we first convert the MCSO Excel spreadsheet into a format that would be readable in SPSS. We next pulled the stratified sample each month for the areas and then randomly selected a CAD audio subsample from the selected cases.

In February 2016, we began pulling cases for our body-worn camera review from the audio subsample. Since that time, we began pulling additional samples for passenger contacts and persons' searches (10 each per month). The unique identifiers for these two samples were relayed back to MCSO personnel, who produced documentation for the selected sample (including the CAD documentation for the subsample).

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

a. Collection of Traffic Stop Data

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

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

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

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

d. the total number of occupants in the vehicle;

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

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

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

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

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

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

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

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

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

Phase 1: In compliance

- CP-8 (Preventing Racial and Other Bias-Based Policing), most recently amended on September 26, 2018.
- EA-11 (Arrest Procedures), most recently amended on June 18, 2019.
- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), most recently amended on January 11, 2018.
- EB-2 (Traffic Stop Data Collection), most recently amended on May 1, 2019.
- GI-1 (Radio and Enforcement Communications Procedures), most recently amended on April 3, 2019.
- GJ-3 (Search and Seizure), most recently amended on July 25, 2019.

Phase 2: Deferred

To verify the information required for this Paragraph, MCSO created, and we reviewed, the Vehicle Stop Contact Form (VSCF), the Vehicle Stop Contact Form Supplemental Sheet, the Incidental Contact Receipt, and the Written Warning/Repair Order, all in electronic form, for those motorists who, during this reporting period, committed a traffic violation or operated a vehicle with defective equipment and received a warning. We also reviewed the Arizona Traffic Ticket and Complaint Forms issued for violations of Arizona Statutes, Internet I/Viewer Event Unit printout, Justice Web Interface printout, and any Incident Report associated with the event. We selected a sample of 105 traffic stops conducted by deputies from April 1-June 30, 2019, for the purposes of this review; and assessed the collected data from the above-listed documents for compliance with Subparagraphs 54.a.-54.m. All of the listed documentation was used for our review of the following subsections of this Paragraph.

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

Paragraph 54.a. requires MCSO to document the name, badge/serial number, and unit of each deputy and Posse member involved.

For this reporting period, all of the primary deputies indicated their own serial numbers for every stop they initiated. We review the VSCF, I/Viewer Event document, the Justice Web Interface, and the CAD printout to determine which units were on the scene. If back-up units arrive on a scene and do not announce their presence to dispatch, CAD does not capture this information. A TraCS change was made to the VSCF during 2016 to secure this information. MCSO added a drop-down box so the deputy could enter the number of units on the scene and the appropriate fields would be added for the additional deputies. While this addition is an improvement, if the deputy fails to enter the number of additional units on the form, the drop-down boxes do not appear. In addition, MCSO policy requires deputies to prepare the Assisting Deputy and Body-Worn Camera Log in instances where deputies respond and assist at a traffic stop. The log contains the relevant information required by this Subparagraph for any

additional deputies involved in a traffic stop other than the primary deputy. During our April 2019 site visit, we discussed with MCSO, the Plaintiffs, and the Plaintiff-Intervenors the method of evaluating this requirement. It was determined that in instances where a deputy's name, serial number and unit number may have been omitted on the VSCF, yet the deputy prepared the Assisting Deputy and Body-Worn Camera Log, the requirements of this Subparagraph will have been met.

During our review of the sample of 105 vehicle traffic stops, we identified 18 cases where the deputy's unit had another deputy assigned to the vehicle or one or more other deputy units or Posse members were on the scene. In each of the 18 cases where there were multiple units or deputies on a stop, the deputy properly documented the name, badge, and serial number of the deputies and Posse members on the VSCF. In the 26 cases we reviewed for passenger contacts under Subparagraph 54.g., there were 22 cases where there were multiple units or deputies on a stop. In each of the 22 cases, the deputy properly documented the required information on the VSCF or the information was captured on the Assisting Deputy and Body-Worn Camera Log. In the 28 cases we reviewed for searches of persons under Subparagraph 54.k., there were 10 cases where the deputy's unit had another deputy assigned to the vehicle, or one or more other deputies or Posse members were on the scene. In nine of the cases, the deputy properly documented the required information on the VSCF or the information was captured on the Assisting Deputy and Body-Worn Camera Log. In one case, the field on the VSCF for the unit number for one of the assisting deputies was left blank; and the assisting deputy did not prepare the Assisting Deputy and Body-Worn Camera Log.

We are still identifying cases where the assisting deputies did not prepare the Assisting Deputy and Body-Worn Camera Log when required by MCSO policy. We encourage MCSO to provide guidance to supervisors to be attentive to this issue during their reviews of traffic stop documentation.

In the last reporting period of 2018, MCSO attained a compliance rating of 97%. During the first reporting period of 2019, MCSO attained a compliance rating of 92%. MCSO remained in compliance with this requirement during the last reporting period; however, MCSO was required to attain a compliance rating of greater than 94% in this reporting period to remain in compliance with this requirement. During this reporting period, MCSO attained a compliance rating of 99%. MCSO remains in compliance with this requirement.

Paragraph 54.b. requires MCSO to document the date, time, and location of the stop, recorded in a format that can be subject to geocoding. Our reviews of the CAD printout for all 105 traffic stops in our sample indicated that the date, time, and location is captured with the time the stop is initiated and the time the stop is cleared. In previous reporting periods, we noted instances where the GPS coordinates could not be located on the documentation received (CAD printout/I/Viewer). We contacted MCSO about this issue, and MCSO now provides us with the GPS coordinates via a separate document that lists the coordinates for the traffic stop sample we provide. MCSO uses GPS to determine location for the CAD system. GPS collects coordinates from three or more satellites to enhance the accuracy of location approximation. The data from

the satellites can be decoded to determine the longitude and latitude of traffic stop locations should that be necessary. The CAD system was upgraded in 2014 to include geocoding of traffic stops. CID continues to provide us with a printout of all case numbers in the sample containing the associated coordinates. For this reporting period, the CAD or I/Viewer system contained the coordinates in 49% of the cases. In a separate spreadsheet, MCSO provided GPS coordinates for all 105 cases we reviewed, for 100% compliance with this portion of the Subparagraph.

When we review the sample traffic stops from across all Districts, we note the locations of the stops contained on the VSCF, the CAD printout, and the I/Viewer system to ensure that they are accurate. We continue to identify instances where the location of the stop contained on the VSCF and the location of the stop contained on the CAD printout are inconsistent. Reviewing supervisors are not identifying and addressing this issue. We recommend that reviewing supervisors closely review the VSCFs and CAD printouts and address such deficiencies. The number of instances identified did not impact MCSO's rate of compliance with this requirement.

During our April 2016 site visit, we discussed with MCSO the possibility of using the CAD printout instead of the TraCS data to determine stop times. We determined that using the CAD system to determine stop end times created additional challenges. However, a decision was made to use the CAD printout to determine traffic stop beginning and ending times for data analysis. MCSO issued Administrative Broadcast 16-62 on June 29, 2016, which indicated that, beginning with the July 2016 traffic stop data collection, the stop times captured on the CAD system would be used for reporting and analytical purposes.

Occasionally, the CAD time of stop and end of stop time do not exactly match those listed on the Vehicle Stop Contact Form, due to extenuating circumstances the deputy may encounter. During this reporting period, we did not find any instances where the end time on the VSCF Contact differed significantly from the CAD printout. In its monthly inspections of traffic stop data, the Audits and Inspections Unit (AIU) reviews the beginning/ending times of the stops and requires that BIO Action Forms are generated by the Districts when there are discrepancies. The CAD system is more reliable than the VSCF in determining stop times, as it is less prone to human error. When the deputy verbally advises dispatch that s/he is conducting a traffic stop, the information is digitally time-stamped into the CAD system without human input; and when the deputy clears the stop, s/he again verbally advises dispatch.

MCSO remains in compliance with this Subparagraph.

Paragraph 54.c. requires MCSO to document the license plate and state of the subject vehicle. During this reporting period, we found that deputies properly recorded the vehicle tag number and state of issuance in each of 105 cases reviewed.

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

Paragraph 54.d. requires MCSO to document the total number of occupants in the vehicle when a stop is conducted. The VSCF, completed by the deputy on every traffic stop, is used to

capture the total number of occupants and contains a separate box on the form for that purpose. EB-2 (Traffic Stop Data Collection) requires deputies to collect data on all traffic stops using the VSCF; this includes incidental contacts with motorists.

In 39 of the 105 traffic stops we reviewed, the driver had one or more passengers in the vehicle (58 total passengers). In all 39 of the cases, the deputies properly documented the total number of occupants in the vehicles.

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

Paragraph 54.e. requires MCSO to document the perceived race, ethnicity, and gender of the driver and any passengers, based on the deputy's subjective impression. (No inquiry into the occupant's ethnicity or gender is required or permitted.) In 39 of the 105 stops from the traffic stop data sample, there was more than one occupant in the vehicle (58 total passengers).

Seventy-one, or 67%, of the 105 traffic stops involved White drivers. Twenty-seven, or 26%, of the 105 stops involved Latino drivers. Four, or 4%, of the 105 traffic stops involved Black drivers. Four, or 4%, of the 105 traffic stops involved Asian or Pacific Islander drivers. Forty-five traffic stops, or 43%, resulted in citations. The breakdown of those motorists issued citations is as follows: 34 White drivers (76% of drivers who were issued citations); 10 Latino drivers (22% of drivers who were issued citations); one Asian or Pacific Islander driver (2% of drivers who were issued citations); and one Black driver (2% of drivers who were issued citations. Sixty, or 57%, of the 105 traffic stops we reviewed resulted in a written warning. The breakdown of those motorists issued warnings is as follows: 37 White drivers (62% of the total who were issued warnings); six Latino drivers (10% of the drivers who were issued warnings); two Asian or Pacific Islander drivers (3% of the total who were issued warnings); and two Black drivers (3% of the total who were issued warnings).

In our sample of 30 traffic stops that contained body-worn camera recordings, we identified one stop in which the deputy did not accurately document the race/ethnicity of the driver.

- A Latino driver was stopped for a stop sign violation. The driver's race/ethnicity and gender was listed as a White male on the VSCF. The driver had a Latino surname. Based on a review of the body-worn camera recording of the stop, we determined that the driver should have been listed as a Latino. We discussed this case with MCSO during our July 2019 site visit.

In our review of cases in relation to Paragraphs 25.d. and 54.g., in relation to passenger contacts, we identified one case relevant to this requirement.

- A deputy stopped to render assistance with a motorist that was pulled over on the side of the roadway. The driver, an American Indian/Native American female, explained that the vehicle was in need of repair. The deputy listed the passengers of the vehicle as an American Indian/Native American male; an additional two males with "unknown" listed in relation to the ethnicity of these two passengers; and one female with "unknown" listed in relation to the ethnicity of this passenger. The deputy ran the driver's name for wants/warrants, and it revealed that the driver had outstanding warrants for her arrest.

> As the deputy approached the driver and the American Indian/Native American adult male passenger, there was an American Indian/Native American male child outside of the vehicle with them, which we observed via a review of the body-worn camera recording of the event. Based on this observation, we determined that the deputy incorrectly listed the one passenger as a male with "unknown" listed as the ethnicity. We were unable to obtain a clear view of the other two occupants of the vehicle to determine the race and/or ethnicity of those occupants. The driver was arrested. We discussed this case and reviewed the video recording with MCSO during our July 2019 site visit.

This Paragraph requires deputies to document the perceived race, ethnicity, and gender of any passengers whether contact is made with them or not. There were some instances where deputies indicated that they were unable to determine the gender and ethnicity of a passenger and listed the passenger as "unknown-vision obscured." During our review of the body-worn camera recordings, we were also unable to get a clear view of the some of the passengers, often due to vehicle being equipped with dark tinted windows combined with the stop occurring during night time hours; or due to vehicle being equipped with dark tinted windows combined to the glare of the sun during daytime hours. In addition, we noted that AIU has commenced conducting the Post-Stop Perceived Ethnicity Inspection by reviewing stops conducted during May 2019. The inspection includes: 1) a review of traffic stops where the deputy documented the driver as being White and the driver's surname is Latino; 2) a review of traffic stops where the deputy documented that the driver has a Latino surname with a passenger listed as "unknown-vision obscured;" and 3) a review of traffic stops where the deputy documented that the driver was Latino and the passengers were listed with a designated ethnicity on the VSCF. This inspection reviewed 10 stops for each of three aforementioned categories and determined that the deputies' perception of the ethnicity of the vehicle occupants was proper in each instance. This inspection was initiated by AIU in response to previous issues identified where deputies failed to properly document the ethnicity of the vehicle occupants.

MCSO remains in compliance with this requirement.

Paragraph 54.f. requires that MCSO record the name of any individual upon whom the deputy runs a license or warrant check (including the subject's surname). In addition, MCSO's policy requires that deputies perform a license plate check on each vehicle stopped by its deputies, as well as warrant checks on every driver stopped by its deputies. During the last several quarters, our reviews found that deputies recorded the name of each driver and passenger on the VSCF in each instance that a driver's license or warrant check was run.

For this reporting period, we found that of the 105 traffic stops we reviewed, 105 included a check on the license plate. There were 101 stops where the deputies ran warrant checks on the drivers. During its monthly inspections of the traffic stop data, BIO also identifies stops in which a warrant check was not run on the drivers. AIU requests that the Districts prepare BIO Action Forms in such cases.

MCSO's compliance rate with this requirement is 100%. MCSO remains in compliance with this Subparagraph.

Paragraph 54.g. requires the deputy to document whether contact was made with any passengers, the nature of the contact, and the reasons for the contact. Due to the low number of cases where contact is made with passengers in our sample of 105 traffic stop cases per quarter, we pulled an additional sample of 10 cases each month for those cases involving passenger contacts. For this reporting period, we reviewed 30 traffic stops where the deputy had interaction with one or more passengers. Each passenger contact is described in detail below. All passenger contacts in the traffic stops we reviewed for Paragraph 25.d. were noted in the VSCFs.

To ensure that deputies are accurately capturing passenger information and to verify if passengers are contacted, we compare the number of passengers listed by the deputy with the number of passengers entered in the passenger drop-down box on the Vehicle Stop Contact Form. We also review any Incidental Contact Receipts, citations, or warnings, issued to passengers by deputies. MCSO policy requires that in any instance where the deputy asks any questions of a passenger beyond a greeting, including asking passengers to identify themselves for any reason, the passenger is to be provided with an Incidental Contact Receipt, absent the passenger being issued a citation or warning. We also review the deputies' notes on the VSCF, the Arizona Citation, and the CAD printout for any information involving the passengers. We reviewed MCSO's I/Viewer System and the Justice Web Interface (JWI) to verify if a record check was requested for the driver or any passengers.

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

Of the 27 cases identified for this Paragraph, there were 12 cases in which the passengers and the deputies either engaged in general conversation, or the passengers assisted by providing vehicle paperwork to the deputies; the deputies interacted with children; or the deputy inquired whether the passenger had a valid driver's license and the response was yes; however, the deputy did not obtain the passenger's name or driver's license. In the remaining instances where MCSO made contact with passengers, the following occurred:

- A deputy stopped to render assistance with a motorist that was pulled over on the side of the roadway. The driver, an American Indian/Native American female, explained that the vehicle was in need of repair. The deputy listed the passengers of the vehicle as an American Indian/Native American male; an additional two males with "unknown" listed in relation to the ethnicity of these two passengers; and one female with "unknown"

listed in relation to the ethnicity of this passenger. The deputy ran the driver's name for wants/warrants and it was revealed that the driver had outstanding warrants for her arrest. The driver was arrested. The deputy made contact with an American Indian/Native American male passenger and requested and obtained his identification. The deputy ran a want/warrant check on the passenger. The deputy did not provide the passenger with an Incidental Contact Receipt.

- A White male driver was stopped for speeding. The vehicle was occupied by four White male passengers, all of whom were under the age of 21. The deputy observed a large quantity of beer in the vehicle and asked all of the vehicle occupants their ages. The deputy identified all of the vehicle occupants and had all of them submit to a preliminary breath test. For three of the passengers, the preliminary breath test indicated that they had alcohol in their systems. The deputy issued a citation for underage consumption of alcohol to the three passengers. Another passenger was issued a citation for minor in possession of alcohol. The driver was issued a citation for the speeding violation and for minor in possession of alcohol.
- A Black male driver was stopped for a speeding violation. The vehicle was occupied by a Black female passenger. The driver was arrested for a probation violation warrant. The deputy obtained the passenger's name and ran her name for wants/warrants. The deputy released the vehicle to the passenger. The passenger was not provided with an Incidental Contact Receipt.
- A Latina driver was stopped after the deputy observed a passenger toss litter onto the roadway. The vehicle was occupied by five Latinos. One of the passengers admitted that he had tossed an apple out of the window. The deputy issued a warning to the passenger for the littering violation. The driver was provided with an Incidental Contact Receipt.
- A White male was stopped for driving with one headlight and driving with an expired license plate. The vehicle was occupied by a White female passenger. The driver was in possession of a learner's driving permit, which granted him the right to drive with a licensed driver. The deputy obtained the name of the passenger and verified, via a records check, that she had a valid driver's license. The deputy issued the driver a warning for the headlight violation and for the expired license plate. The passenger was provided with an Incidental Contact Receipt.
- A White female driver was stopped for a speeding violation. The vehicle was occupied by two White male passengers. The driver produced a United States passport for identification purposes. The deputy determined, via a records check, that the driver's license was in a suspended status. The deputy discovered that there was alcohol in the vehicle and that the driver and one of the passengers were under the age of 21. The deputy had the driver submit to a preliminary breath test, which did not reveal any alcohol in her system. The deputy then made contact with one of the passengers to determine if he had a valid driver's license and was sober so that the vehicle could be

released to him. The deputy determined that the passenger was sober and in possession of a valid driver's license. The driver was issued a citation for the speeding violation and for driving with a suspended driver's license. The deputy prepared an Incidental Contact Receipt to provide the passenger; however, the deputy's printer ran out of paper. The deputy advised the passenger of the issue and advised that him that he was free to leave; however, he could wait for the deputy to load paper in the printer so that he could be provided with the Incidental Contact Receipt. The passenger declined to wait and left the stop location.

- A Black male driver was stopped for a driving the wrong way on a one-way street violation. The vehicle was occupied by a Black male passenger. The driver did not have any identification on his person. The deputy determined that the driver had a driver's license from the state of Missouri that was in a suspended status. The driver was arrested for driving under the influence. The deputy recovered suspected narcotics from the vehicle. The vehicle was towed and impounded. The driver was issued a citation for driving the wrong way on a one-way street and for failing to wear a seat belt. The deputy prepared a report for the review of the Maricopa County Attorney's Office for potential charges in relation to the possession of narcotics and driving under the influence. The passenger was investigated and issued a citation for open alcohol in a motor vehicle and released.
- A White male driver was stopped for failure to maintain a lane of traffic. The vehicle was occupied by a White male passenger. The driver was arrested and processed for driving under the influence. The deputy contacted the passenger to determine if he had a valid driver's license and to determine if the passenger was sober. After the deputy obtained the passenger's driver's license and determined that he was sober, the vehicle was released to him. The passenger was not provided with an Incidental Contact Receipt.
- A Latina driver was stopped for reckless driving as she was observed driving with two Latina passengers hanging out of the sunroof. The vehicle was occupied by one Latino passenger and two Latina passengers. The deputy detected the odor of alcohol emanating from the passenger compartment of the vehicle. The deputy determined that the driver was sober. The deputy then investigated the Latino passenger and the two Latina passengers to determine if they were sober, since they were determined to be under the age of 21. One of the Latina passengers was determined to have consumed alcohol; she was issued a citation for alcohol consumption while under the age of 21. The other two passengers were provided with Incidental Contact Receipts.
- A White female driver was stopped for a speeding violation. The vehicle was occupied by a White female passenger. The deputy detected the odor of alcohol emanating from the passenger compartment of the vehicle. Both of the occupants were under the age of 21. The deputy determined that the driver and passenger had consumed alcohol. The driver was issued a citation for the speeding violation and minor for driving after the

consumption of alcohol. The passenger was issued a citation for minor in possession/consumption of alcohol.

- A White female driver was stopped for speeding. The vehicle was occupied by a White female passenger, who was a juvenile. The deputy detected the odor of marijuana during the stop. The driver and passenger were asked if they had a medical marijuana card; both stated that they did not have a medical marijuana card. The deputy conducted a search of the vehicle and located narcotic paraphernalia. The driver was arrested. The juvenile passenger would not provide a statement without a parent or guardian present. The driver was issued a citation for the speeding violation and possession of narcotic paraphernalia. The passenger was not provided with an Incidental Contact Receipt.
- A Latino driver was stopped for driving with a suspended license plate violation. The vehicle was occupied by a Latino passenger. The deputy asked the vehicle occupants if there were any narcotics in the vehicle. The passenger stated that he was in possession of a vape pen that contained a marijuana extract. The passenger also informed the deputy that he was in possession of a medical marijuana card and provided the card to the deputy. The deputy obtained the passenger's name and ran his name for a wants/warrant check. The driver was issued a citation for license plate violation. The passenger was not provided with an Incidental Contact Receipt.

There were nine cases identified in the stops that we reviewed for Paragraph 54.k. in which the passengers were contacted. In one case, the deputy contacted the passenger to inquire as to whether she had a valid driver's license, and she replied no. In the remaining instances where MCSO made contact with passengers, the following occurred:

- A White male driver was stopped for failure to maintain a lane of traffic. The vehicle was occupied by a White male passenger and a White female passenger. The deputy approached on the passenger side of the vehicle and observed an open can of beer in the vehicle. The passenger handed the alcoholic beverage to the deputy. The deputy investigated and subsequently arrested the driver for the driving under the influence. The deputies did not obtain the names of the two passengers. The passengers were provided a courtesy ride from the stop location.
- A Latino driver was stopped for a speeding violation. The vehicle was occupied by a Latina passenger. The driver's license was in a suspended status and he was wanted for an outstanding warrant. The deputy arrested the driver. The deputy obtained the passenger's name and ran her name for wants/warrants. The vehicle was released to the passenger after the deputy determined that she was the registered owner of the vehicle. The driver was issued a citation for the speeding violation. The passenger was not provided with an Incidental Contact Receipt.
- A Latino driver was stopped for a speeding violation. The vehicle was occupied by an adult Latino passenger and three minor children (one Latino passenger and two Latina passengers). The driver was arrested and processed for driving under the influence.

While at the stop location, the adult Latino passenger's name was obtained and was run for wants/warrants. In addition, the adult Latino passenger was evaluated to determine whether he was sober in order for him to be able to drive from the stop location. The deputy prepared a report for the review of the Maricopa County Attorney's Office for potential charges in relation to driving under the influence with minor children in the vehicle. The adult Latino passenger was not provided with an Incidental Contact Receipt.

- A Latino driver was stopped for not having an operable license plate light on the vehicle. The vehicle was occupied by a Latino and a Latina passenger. The driver did not have any identification on his person. The deputy determined, via a records check, that the driver's license was suspended and that he had an outstanding warrant for his arrest. The driver was arrested for the outstanding warrant. The Latina passenger's name was obtained and was run for wants/warrants. The vehicle was released to the Latina passenger, who was the registered owner of the vehicle. The driver was issued a citation for driving with no license plate light and driving with a suspended driver's license. The Latina passenger was provided with an Incidental Contact Receipt.
- An American Indian/Alaskan Native male driver was stopped for failure to maintain a lane of traffic. The vehicle was occupied by an American Indian/Alaskan Native female passenger. The deputy investigated and subsequently arrested the driver for driving under the influence. The driver was issued a citation for the failure to maintain a lane of traffic violation and for driving under the influence. The passenger was investigated and issued a citation for consumption of alcohol by a minor.
- A Latino driver was stopped for a stop sign violation. The vehicle was occupied by an adult Latina passenger and a minor Latina passenger. The deputy detected the odor of burnt marijuana. After further investigation, the driver was arrested for driving under the influence and possession of narcotics. The passenger was also arrested for possession of narcotics. The minor child was released to a relative. The deputy prepared a report for the review of the Maricopa County Attorney's Office for potential charges in relation driving under the influence and possession of narcotics.
- An American Indian/Alaskan Native male driver was stopped for failing to signal while making a turn. The vehicle was occupied by a Latino passenger. The reason for the stop was pretextual as the vehicle had just left the location where narcotics were known to be sold and stored. During the stop, the passenger began to point at his chest and appeared to indicate that he was in distress. After a period of time the deputies discovered that the passenger had ingested a large quantity of narcotics, likely trying to conceal evidence from the deputies during the stop. Deputies requested that the fire department respond to render medical aid. Eventually the passenger coughed up the plastic bag containing the narcotics. The narcotic evidence was seized and the driver and passenger were arrested.

- A Latino driver was stopped after a deputy identified that the vehicle being driven was reported stolen. The vehicle was occupied by a Latino passenger. The driver was arrested for possession of the stolen vehicle. The driver was issued a citation for driving with a suspended driver's license. The passenger was investigated and released. The passenger was provided with an Incidental Contact Receipt.

There was one case identified in the stops that we reviewed for Paragraphs 25 and 54 in which the passenger was contacted:

- A Latino driver was stopped for a speeding violation. The vehicle was occupied by a Latina passenger. The driver produced an employee identification card. The driver was arrested and processed for driving under the influence and was issued a citation for speeding, driving under the influence, and driving without a valid driver's license. The passenger was arrested for possession of narcotics.

As noted in some of the cases above, deputies have not been consistent in preparing and providing passengers with Incidental Contact Receipts during traffic stops in which the passenger is contacted and asked by the deputy to provide identification. Supervisors should identify such omissions during their reviews of the VSCFs and take corrective action. During previous site visits, we discussed with MCSO that we have noted an increase in the number of passengers being contacted and not being provided with an Incidental Contact Receipt. MCSO has informed us that the TraCS system has been modified so that when a deputy prepares the Vehicle Stop Contact Form and utilizes the passenger contact field, a prompt will appear to instruct the deputy to prepare the Incidental Contact Receipt. The addition of this prompt will hopefully resolve this issue and reinforce MCSO's policy requirement as it relates to the form. During the third reporting period of 2018, MCSO provided the Incidental Contact Receipt when required in 36% of the cases. During the last reporting period of 2018, MCSO provided the Incidental Contact Receipt when required in 13% of the cases. During the last reporting period, MCSO provided the Incidental Contact Receipt when required in 40% of the cases. During this reporting period, MCSO provided the Incidental Contact Receipt when required in 45% of the cases. MCSO is not in compliance with this Subparagraph.

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

For the remaining 75 traffic stops where body-worn camera recordings and CAD audiotapes were not requested, we review the CAD printout and the VSCF to ensure that the reason for the stop has been captured. These forms are included in our monthly sample requests. The

dispatcher enters the reason for the stop in the system as soon as the deputy verbally advises Communications of the stop, location, and tag number. The VSCF and the CAD printout documents the time the stop begins and when it is concluded – either by arrest, citation, or warning. Deputies need to be precise when advising dispatch of the reason for the traffic stop, and likewise entering that information on the appropriate forms.

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

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

We review the circumstances of each stop and the activities of the deputies during each stop to assess whether the length of the stop was justified. During this reporting period, we did not identify any stops that were extended for an unreasonable amount of time.

Supervisors conducted timely reviews and discussions of 105 of the 105 VSCFs reviewed. Deputies accurately entered beginning and ending times of traffic stops in 105 of the 105 cases that we reviewed. MCSO accurately entered the time citations and warnings were issued in all 105 cases.

MCSO remains in compliance with this Subparagraph.

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

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

We reviewed 105 traffic stops submitted for this Paragraph, and found that none of the stops involved any contacts with ICE/CBP. None of the stops we reviewed involved any inquires as to immigration status. In addition, our reviews of Incident Reports and Arrest Reports

conducted as part of the audits for Paragraphs 89 and 101 revealed no immigration status investigations. MCSO remains in compliance with this Subparagraph.

Paragraph 54.k. requires MCSO to document whether any individual was asked to consent to a search (and the response), whether a probable-cause search was performed on any individual, or whether a pat-and-frisk search was performed on any individual. During our January 2018 site visit, we discussed with MCSO whether any other method may be feasible to identify a larger population of searches of individuals specific to the requirements of this Paragraph. MCSO's response was that the current method is appropriate, and that there may be more cases identified once deputies properly document the searches of persons consistent with this Paragraph. We encourage MCSO to continue to explore methods to identify the overall population of cases that fit the criteria of this Paragraph. Due to the limited number of cases being identified that fit the criteria of this Paragraph, MCSO's rate of compliance continues to stagnate.

MCSO's Compliance Report for the 20th Quarter reporting period indicates that MCSO is considering a policy revision and training opportunities for deputies to assist them to better identify and document searches of persons. We continue to recommend that MCSO implement training to ensure that deputies properly document consent searches of persons, probable-cause searches of persons, and pat-and-frisk searches of persons.

The method MCSO currently employs to identify our sample of cases to review is to identify the population of all traffic stops in which searches of individuals were documented on the VSCF. Once that population is identified, a random sample of 10 traffic stops from each month (30 total for the reporting period) is identified and reviewed. In addition, we also review any cases in which the deputies performed searches of individuals in the sample of 105 traffic stops reviewed in relation to Paragraphs 25 and 54 and the sample of 30 traffic stops reviewed in relation to Subparagraphs 25.d. and 54.g. Generally, we review 165 traffic stops each reporting period to identify stops where a deputy may have performed a search of an individual specific to the requirements of this Subparagraph. However, in some instances, there are some stops that are reviewed for compliance in relation to both Paragraph 54.k and Subparagraphs 25.d. and 54.g., which means that total number of traffic stops reviewed would be less than 165. When we identify issues that impact compliance or where MCSO policy was not followed, we discuss those cases with MCSO during our site visits. There were not any cases that met these criteria in our sample of 105 traffic stops reviewed in relation to Paragraphs 25 and 54. In relation to the sample of 29 traffic stops reviewed in relation to Subparagraph 54.k, there were two stops identified that met the criteria of this Subparagraph:

- An American Indian/Alaskan Native male driver was stopped for failing to signal while making a turn. The vehicle was occupied by a Latino passenger. The reason for the stop was pretextual, as the vehicle had just left the location where narcotics were known to be sold and stored. During the stop, the passenger began to point at his chest and appeared to indicate that he was in distress. The deputies stepped near the passenger and observed what appeared to be a handgun under the passenger's buttocks on the seat. The deputies seized the weapon, which was later discovered to be an air pistol, and conducted a pat-

and-frisk search of the passenger. The deputies also conducted a pat-and-frisk search of the driver at the same time that the passenger was being searched. After a period of time the deputies discovered that the passenger had ingested a large quantity of narcotics, likely trying to conceal evidence from the deputies during the stop. Deputies requested that the fire department respond to render medical aid. Eventually the passenger coughed up the plastic bag containing the narcotics. The narcotic evidence was seized, and the driver and passenger were arrested.

- A White male driver was stopped for speeding. The vehicle, a motorcycle, was not properly registered and insured. The deputy issued the driver a citation for speeding, failure to provide evidence of insurance, and failure to produce a valid registration. The deputy then advised the driver that the motorcycle could not be driven from the location since it was not properly registered and insured. The deputy then offered to provide a courtesy ride to the driver. Prior to providing the courtesy ride, the deputy informed the driver that a pat-and-frisk search would need to be conducted before he was transported. The driver agreed with the search being conducted.

In the sample of traffic stops identified in relation to Subparagraphs 25.d. and 54.g., there were two stops that met the criteria specific to searches of individuals:

- A Black male driver was stopped for speeding. The vehicle was occupied by a White female passenger. The driver was arrested for a probation violation warrant. The VSCF indicates that the driver was not searched; however, the Incident Report indicates that a consent search was conducted. A review of the body-worn camera recording revealed that the driver was searched incident to arrest. We discussed this case with MCSO during our July 2019 site visit.
- A White male driver was stopped for speeding. The vehicle was occupied by a White male passenger. The deputy requested consent to search the driver and the driver agreed to the consent search; however, the deputy did not conduct a search of the driver. In addition, the deputy requested and obtained consent to search the vehicle; however, the deputy did not inform the driver of the right to refuse or revoke consent to the search. The deputy located narcotic paraphernalia in the vehicle. The driver was issued a citation for speeding and possession of narcotic paraphernalia.

MCSO has indicated that it does not require its deputies to use Consent to Search Forms as the primary means for documenting consent searches. MCSO requires that deputies document requests to conduct consent searches by way of video-recording the event via the BWCs. In the event the BWC is not operational, MCSO policy requires deputies to document requests to conduct consent searches on the Consent to Search Form. MCSO reports that deputies have electronic access to the Consent to Search Forms. We continue to recommend that MCSO revisit the requirements of this section of the policy and require deputies to read the Consent to Search Form to the subject and require a signature from the individual for every request for consent to search unless the search is an actual search incident to arrest. Due to the small population of cases that we and MCSO identified, it is important that deputies accurately

document each search and/or request to a consent search, as required by this Subparagraph, to attain and maintain compliance with the requirement. As we have noted in previous reporting periods, it appears that some deputies are not aware of the policy requirements as it relates to informing individuals that a consent search may be refused; or, if granted, that the consent search may be revoked by the individual at any time. We consider this to be a core issue and one that can be remediated easily by the Office. We continue to recommend that MCSO implement training on the specific policy requirements regarding consent searches.

In the last reporting period of 2017, MCSO's compliance rate with this Subparagraph was 67%, with only three cases identified. During the first reporting period of 2018, we identified only one case that was applicable to this requirement and determined that the compliance status would be deferred. Due to the low number of cases identified in the second reporting period of 2018, coupled with the inaccuracies in the some of the cases that were reviewed, we again determined that the compliance status would be deferred. During the third reporting period of 2018, MCSO's compliance rate was 71%. Due to the low number of cases identified during the fourth reporting period of 2018 and the first reporting period of 2019, we deferred our compliance assessment with this Subparagraph during those reporting periods. Due to the low number of cases and the issues identified in the stops reviewed during this reporting period, we are again deferring our compliance assessment.

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. Of a total sample of 161 stops reviewed for this reporting period, which includes 105 stops for Paragraph 25; 29 stops for Subparagraph 54.k.; and 27 stops for Subparagraphs 25.d and 54.g., there were 27 cases identified in which MCSO deputies documented the seizure of contraband or evidence on the VSCFs. There were four cases where the deputies did not properly document the seizure of contraband or evidence on the VSCF. A summary of the cases is listed below.

During our review of the collected traffic stop data (our sample of 105) during this reporting period, we identified one case in which license plates were seized by deputies and placed into evidence; however, the deputy did not list the seizure of the license plate on the VSCF. In one case, a deputy seized narcotics and narcotic paraphernalia and placed the items into evidence.

In the 29 cases we reviewed for searches of individuals under Subparagraph 54.k., several items were seized by deputies and placed into evidence or safekeeping. In six cases, deputies seized driver's licenses and placed the items into evidence; however, in one of those cases, the deputy did not document the seizure of the driver's license on the VSCF. In four cases, the deputies seized narcotics and placed the items into evidence; however, in one case, the deputy did not document the seizure of the narcotics on the VSCF. In one case, the deputy seized narcotics and narcotics paraphernalia and placed the items into evidence. In one case, the deputy seized a beer bottle and placed the item into evidence. In one case, the deputy seized narcotics, a handgun, and two cellular phones; and placed the items into evidence. In one case, the deputy seized a license plate, narcotics, and narcotic paraphernalia, and placed the items into evidence.

In the 27 cases we reviewed for passenger contacts under Subparagraph 54.g., we identified three cases in which the license plates were seized by deputies and placed into evidence. In two cases, the deputies seized narcotic paraphernalia and placed the items into evidence. In one case, a deputy seized suspected narcotics (marijuana and a white powdery substance) and placed the items into evidence. In one case, a deputy seized alcohol from a vehicle in which all of the occupants were under the age of 21, and placed the alcohol into evidence.

We noted in the previous reporting periods an increase in the number of errors and omissions in relation to deputies documenting the seizure of contraband or evidence on the VSCF. MCSO's compliance rate in the second reporting period of 2018 was 85%, and we reported that MCSO would remain in compliance with this Subparagraph for that reporting period. We also reported that MCSO would be required to attain a rate of compliance of greater than 94% to maintain compliance for the third reporting period of 2018; however, MCSO attained a compliance rate of 70% for that reporting period and MCSO was determined to not be in compliance with this Subparagraph. During the last reporting period of 2018, MCSO attained a compliance rate of 96%. During the first reporting period of 2019, MCSO attained a compliance rate of 87%; and we reported that MCSO would remain in compliance with this Subparagraph for that reporting period. We also reported that MCSO would be required to attain a rate of compliance of greater than 94% to maintain compliance with this requirement. During this reporting period, MCSO attained a compliance rate of 86%. We continue to encourage MCSO to ensure supervisors are cognizant of the omissions and errors being identified in this area. MCSO is no longer in compliance with this requirement.

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

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

In Full and Effective Compliance

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

The unique identifier "went live" in September 2013 when the CAD system was implemented. This number provides the mechanism to link all data related to a specific traffic stop. The number is automatically generated by the CAD software and is sent to the deputy's MDT at the time the deputy advises Communications of the traffic stop. The unique identifier is visible and displayed at the top of the CAD printout and also visible on the Vehicle Stop Contact Form, the Arizona Traffic Citation, and the Warning/Repair Form.

We visited Lake Patrol during our July 2019 site visit; and found no indications from any personnel that there were recurring issues with the unique identifier, including duplicates. Once the deputy scans the motorist's driver's license, the system automatically populates most of the information into one or more forms required by the Order. If the data cannot be entered into TraCS from the vehicle (due to malfunctioning equipment), policy requires the deputy to enter the written traffic stop data electronically prior to the end of the shift. The start and end times of the traffic stop are now auto-populated into the Vehicle Stop Contact Form from the CAD system.

Since our first visit for monitoring purposes in June 2014, TraCS has been implemented in all Districts; and the unique identifier (CFS number) is automatically entered from the deputy's MDT. No user intervention is required.

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

On December 28, 2018, MCSO asserted Full and Effective Compliance with this Paragraph. After review, we concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with our determination.

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

Phase 1: Not in compliance

- EB-2 (Traffic Stop Data Collection), most recently amended on May 1, 2019.
- EIU Operations Manual, currently under revision.

Phase 2: Not in compliance

To verify compliance for this Paragraph, we reviewed the monthly inspections of the traffic stop data conducted by BIO on the monthly samples we select. While inspections require in-depth analysis, our quality control checks serve as more of an inspection or spot-check of traffic stop data. We reviewed the BIO traffic stop inspections for the April 1-June 30, 2019 time period and found that the audits were thorough and captured most deficiencies. During our review of the sample dataset, we identified additional deficiencies, and brought them to the attention of CID while onsite during our July 2019 site visit; we identify them in other areas of this report.

We reviewed the draft EIU Operations Manual, which includes procedures for traffic stop data quality assurance. During our July 2019 site visit, EIU provided an update on the status of its effort to complete the EIU Operations Manual. It reported that, of the total 30 sections in the EIU Operations Manual, 24 sections have been approved, four were reviewed by the Monitor and are being revised, and two are under development. The sections under development cannot be finalized until the TSAR and TSMR methodologies related to annual and monthly analyses of traffic stop data (TSAR and TSMR, respectively) are determined to be reliable and valid in accordance with the requirements of Paragraphs 66 and 67. (See below.) Phase 1 compliance will be realized when all sections have been reviewed and approved.

On September 8, 2015, MCSO issued Administrative Broadcast 15-96, which addressed the security of paper traffic stop forms. The procedure requires that paper forms (prior to April 1, 2014) be stored in a locked cabinet box at the District. The protocol also includes traffic stop data that may be handwritten by deputies in the field if the TraCS system is nonoperational due to maintenance or lack of connectivity. Any personnel who require access to those files must contact the Division Commander or his/her designee who will unlock the cabinet. Once the deputy accesses his file, a TraCS file log must be completed and signed by the deputy. During our July 2019 visits to the Districts, we inspected the written (hardcopy) files and verified that all records were locked and secure, that logs were properly maintained, and that only authorized personnel had access to these files.

MCSO began inspecting traffic stop data in January 2014; and since April 2014, MCSO has conducted inspections of the data monthly and provided those results to us. We reviewed BIO's monthly inspections of the traffic samples from April 1-June 30, 2018, and found them to be satisfactory. MCSO conducts inspections of the 105 traffic stop sample that we request each reporting period. It also conducts a more expansive review of 30 of the 105 sample pulls we request each reporting period to include passenger contacts and persons' searches. EB-2 also requires regularly scheduled inspections of traffic stop data on a monthly basis.

To achieve Phase 1 compliance with this Paragraph, MCSO must finalize the EIU Operations Manual to cover all matters applicable to this Paragraph. To achieve Phase 2 compliance with this Paragraph, MCSO must demonstrate ongoing use of the procedures to ensure traffic stop data quality assurance.

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

Phase 1: In compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), most recently amended on January 11, 2018.
- EB-2 (Traffic Stop Data Collection), most recently amended on May 1, 2019.
- GJ-35 (Body-Worn Cameras), most recently amended on January 7, 2017.

Phase 2: In compliance

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

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

The deputy should provide every person contacted on a traffic stop with an Arizona Traffic Ticket or Complaint (Citation), a Written Warning/Repair Order (Warning), or an MCSO Incidental Contact Receipt. To verify compliance that the violator received the required "receipt" from the deputy, a signature is required, or, if the violator refuses to sign, the deputy may note the refusal on the form. We are unable to verify that motorists have been issued a receipt without a signature on the form, or the deputy advising of the refusal of the receipt from the driver. Placing "SERVED" in the signature box without any explanation does not comply with the requirement. There have been instances where MCSO has provided copies of the Arizona Traffic Ticket or Complaint and a signature from the driver was absent; however, based on our review of the body-worn camera recording we observed the signature being obtained from the driver. For this reporting period, deputies issued citations or written warnings in all of the 105 cases we reviewed.

We did not identify any issues with the citations, warning and Incidental Contact Receipts issued to drivers for the cases reviewed under Subparagraphs 25.d. and 54.g., in relation to contact with passengers and Subparagraph 54.k., in relation to searches of persons.

MCSO's compliance rate with this requirement is 100%. MCSO remains in compliance with this portion of the Subparagraph.

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

accurate. MCSO's Audit and Inspections Unit (AIU) conducts monthly inspections of traffic stop data, which includes an assessment as to whether the BWC video captured the traffic stop in its entirety; to verify the time the stop began; and to verify if all information on forms prepared for each traffic stop match the BWC video. AIU conducts reviews of 30 body-worn camera recordings each reporting period.

During this reporting period, we requested from MCSO 30 body-worn camera recordings for our review. We are able to use the BWC recordings that were provided for each stop to assess whether deputies are accurately reporting the stop length. The compliance rate for the sample of 30 cases selected from the 105 for using the BWC to determine if deputies are accurately reporting stop length is 100%. MCSO remains in compliance with this requirement.

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

Phase 1: In compliance

- GF-1 (Criminal Justice Data Systems), most recently amended on February 20, 2019.
- GF-3 (Criminal History Record Information and Public Records), most recently amended on April 3, 2019.

Phase 2: In compliance

To verify compliance for this Paragraph, we reviewed the applicable policies and met with Technology Management Bureau personnel to determine if any unauthorized access and/or illegitimate access to any of MCSO's database systems had occurred during this reporting period. The policies state that the dissemination of Criminal History Record Information (CHRI) is based on federal guidelines, Arizona statutes, the Department of Public Safety (ASDPS), and the Arizona Criminal Justice Information System (ACJIS); and that any violation is subject to fine. No secondary dissemination is allowed. The policies require that the Professional Standards Bureau (PSB) provide written notification to the System Security Officer whenever it has been determined that an employee has violated the policy by improperly accessing any Office computer database system. Every new recruit class receives three hours of training on this topic during initial Academy training.

During our July 2019 site visit, we inquired whether there had been any instances of unauthorized access to and/or any improper uses of the database systems. MCSO informed us that there had been no reports of any unauthorized access to and/or improper uses of MCSO's database systems during this reporting period. MCSO remains in compliance with this requirement

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.*

In Full and Effective Compliance

Electronic traffic stop data capture began on April 1, 2014. The forms created by MCSO capture the traffic stop details required by MCSO policy and Paragraphs 25 and 54. BIO provides the traffic stop data on a monthly basis, which includes a spreadsheet of all traffic stops for the reporting period, listing Event Numbers as described at the beginning of Section 7. All marked patrol vehicles used for traffic stops are now equipped with the automated TraCS system, and all Patrol deputies have been trained in TraCS data entry. MCSO has provided full access to all available electronic and written collected data since April 1, 2014. MCSO did not collect electronic data before this time. During this reporting period, MCSO has continued to provide full access to the traffic stop data.

On December 28, 2018, MCSO asserted Full and Effective Compliance with this Paragraph. After review, we concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with our determination.

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.*

In Full and Effective Compliance

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

MCSO continues to conduct monthly traffic stop inspections and forwards them for our review. Initially, the traffic stop data was captured on handwritten forms created by MCSO, completed by the deputy in the field, and manually entered in the database by administrative personnel located at each District. Now all traffic stop data is entered electronically, whether in the field or at MCSO District offices. Occasionally, connectivity is lost in the field due to poor signal quality, and citations are handwritten. Per policy, deputies must enter electronically any written traffic stop data they have created by the end of the shift in which the event occurred. As noted in our Paragraph 90 review, VSCFs are routinely entered into the system by the end of the shift. During our July 2019 site visit, we met with MCSO and the Parties; and reviewed the deficiencies BIO and our reviews discovered for this reporting period, along with the results of the Action Forms generated by BIO.

Deputies have demonstrated their ability to access and use TraCS, as evidenced by the fact that their total time on a traffic stop averages 16 minutes or less.

On December 28, 2018, MCSO asserted Full and Effective Compliance with this Paragraph. After review, we concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with our determination.

c. Audio-Video Recording of Traffic Stops

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

Phase 1: In compliance

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

Phase 2: In compliance

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

Records indicate that MCSO began distribution of body-worn cameras on September 14, 2015, and full implementation occurred on May 16, 2016. The BWC recordings are stored in a cloud-based system (on evidence.com) that can be easily accessed by supervisors and command personnel. The retention requirement for the recordings is three years. In July 2019, MCSO began distribution of the newer version of body-worn cameras to deputies. The new version of body-worn cameras purchased by MCSO is mounted on the chest area via a magnetic mount. In addition, the devices are self-contained, meaning that the device does not have any cords or wires that may become disconnected, which has been a recurring problem with the current devices. During our review of body-worn camera recordings during this reporting period, we identified two traffic stops in which deputies used the newer version of the devices. There was a noted improvement in the sound quality – that is, it was easier to hear the conversation between the deputies and the drivers and passengers; and the video quality was clearer and provided a wider view of the event.

To verify that all Patrol deputies have been issued body-worn cameras, and properly utilize the devices, we review random samples of the traffic stops as described in Paragraphs 25 and 54. In addition, during our District visits we observe that deputies are equipped with body-worn cameras.

During our July 2019 site visit, a Monitoring Team member visited District 6 and participated in meetings and a ride-along with two patrol supervisors at two different time periods. The deputies in District 6 had been issued the newer body-worn cameras during the week of our July 2019 site visit. We observed the deputies with the new devices, which were affixed to the chest area by way of a magnetic mount. The supervisors were optimistic that the issues with body-worn camera malfunctions would no longer be a problem since the devices do not have cords that can break or disconnect and the newer devices should have a longer battery life.

In addition, the supervisors provided an overview of their duties supervising deputies deployed to the field. During our visit, one of the supervisors was contacted numerous times by deputies either by telephone, radio communications, or in person, to provide guidance and answer questions. During this time, the supervisor was conducting supervisory reviews of documents prepared by deputies. It was noted that the contacts by the deputies, although necessary, often interrupted the supervisor as he attended to the supervisory review of various documents.

During our July 2019 site visit, we met with personnel from Lake Patrol and inquired if supervisors had experienced any difficulty with the BWC equipment and system. As reported in previous reporting periods, MCSO informed us that it continues to experience minor issues with cords breaking and batteries not lasting for deputies' entire shifts. There were also reports of BWC recordings not properly uploading. In some instances, BWC recordings had to be manually uploaded into the system.

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

Phase 1: In compliance

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

Phase 2: In compliance

MCSO evaluated on-person body cameras from other jurisdictions and selected a vendor (TASER International, now known as Axon). Body-worn cameras have been implemented in all Districts since May 2016 and are fully operational. As mentioned under Paragraph 61, MCSO has obtained, and is equipping deputies with a newer body-worn camera, also provided by Axon, which will replace the current body-worn camera devices. It is anticipated that the newer devices will not have as many malfunctions as the current devices that have been in use by MCSO.

To verify compliance for this Paragraph, we reviewed the body-worn camera recordings included in our monthly samples, which is generally 90 traffic stops. This includes the 10 stops reviewed each month for Paragraphs 25 and 54; 10 stops reviewed each month for Subparagraph 54.k.; and 10 stops reviewed each month for Subparagraph 54.g. For purposes of calculating compliance, we exclude any stops where the deputies documented on the VSCF that the BWC devices malfunctioned during the stop.

For our selection of a sample to review BWC recordings, we used the same sample of 30 cases we selected for the CAD audio request. Of the 30 cases in which we requested BWC recordings, there were not any cases where the deputies documented that the devices malfunctioned. In such instances where the deputy documents a technical issue with the BWC device, it will not adversely impact MCSO's rate of compliance with this requirement. All 30 cases were in compliance with the deputy activating the video- and audio-recording equipment as soon as the deputy decided to initiate the stop, and continuing to record through the end of the stop. In relation to the sample of 75 cases in which BWC recordings were not provided,

there was one case in which the deputy noted that the battery was not operating. In one case, the deputy noted that the BWC device activated late and that he discovered that a wire became disconnected; yet he was able to activate the device prior to making contact with the driver. In another case, the deputy noted that the BWC device randomly turned off upon initial contact with the driver; however, upon installation of a different battery, the device worked properly. In five of the cases, there were deputies who responded to assist on the traffic stops and failed to prepare the Assisting Deputy and Body-Worn Camera Log, as required by MCSO policy.

In our sample of 29 body-worn camera recordings reviewed for Subparagraph 54.k., all of the cases were in compliance with the deputy activating the video- and audio-recording equipment as soon as the deputy decided to initiate the stop, and continuing to record through the end of the stop. There were instances where deputies documented malfunctioning BWC devices. In one case, an assisting deputy noted on the Assisting Deputy and Body-Worn Camera Log that the battery was malfunctioning. In one case, the deputy documented that the battery failed part way through the stop. In one case, the deputy documented that the BWC device failed to activate initially; however, he was able to activate the device to record most of the traffic stop. In one case the deputy noted on the VSCF that the BWC device malfunctioned, which caused the conclusion of the traffic stop to not be recorded. In one case, the deputy noted that during the traffic stop he noticed that the BWC device was not activated and that a wire had become disconnected. The deputy reconnected the wire and the device then worked properly. In one case, the deputy noted that he discovered that the BWC device did not capture the entire traffic stop due to a malfunction. As mentioned previously, in such instances where the deputy documents a technical issue with the BWC device, it will not adversely impact MCSO's compliance with this requirement. In seven of the cases, there were deputies who responded to assist on the traffic stops and failed to prepare the Assisting Deputy and Body-Worn Camera Log, as required by MCSO policy. In our review of the sample of 27 body-worn camera recordings for Subparagraph 54.g., 26 cases were in compliance with the deputy activating the video- and audio-recording equipment as soon as the deputy decided to initiate the stop, and continuing to record through the end of the stop. In one case, the BWC did not activate until the deputy was already on contact with the driver, next to the driver's vehicle. There was no documentation that the BWC device malfunctioned in this case. In another case, the deputy documented that the BWC did not activate prior to the traffic stop. In four of the cases, there were deputies who responded to assist on a traffic stop, who failed to prepare the Assisting Deputy and Body-Worn Camera Log, as required by MCSO policy.

MCSO's compliance rate for this requirement is 99%.

We also identified cases in which the deputies did not use the BWC according to policy. Although it is less frequent, we still have identified some instances in which the deputies have failed to ensure that the BWC is positioned properly during contact with the driver and/or passenger(s).

We continue to identify instances in which deputies that respond to assist at traffic stops do not complete the Assisting Deputy and Body-Worn Camera Log. AIU also continues to identify this issue during its monthly inspections of traffic stops. During our April 2019 site visit, we discussed with MCSO the utility of the Assisting Deputy and Body-Worn Camera Log as well as a conflict in policy in regards to when the log is required to be prepared, which may be a reason why the log is not prepared in each instance. EB-2 (Traffic Stop Data Collection) requires that each deputy assisting on a traffic stop to prepare the Assisting Deputy and Body-Worn Camera Log; however, GJ-35 (Body-Worn Cameras) requires that deputies prepare the log when assisting on a traffic stop unless an Incident Report is prepared. We recommend that MCSO clarify the policy in regards to when the Assisting Deputy and Body-Worn Camera Log is required to be prepared. We recommend that supervisors enhance their reviews of traffic stops to ensure that the log is completed when required.

Our reviews of the body-worn camera recordings often reveal instances of deputies exhibiting positive, model behavior; and, at times, instances of deputies making errors, or exhibiting less than model behavior – all of which would be useful for training purposes. During our July 2019 visits to Lake Patrol, personnel informed us that in some instances, allegations against deputies have been disproven after reviews of the body-worn camera recordings were conducted. We also noted that the Professional Standards Bureau's monthly summary of closed cases for the months of April, May, and June 2019 contain the following cases in which the review of body-worn camera recordings assisted in the determination of whether the allegations were valid or not:

- In one case, it was alleged that a deputy responded to a call for service and was antagonistic, argumentative and hostile toward the complainant. A review of the body-worn camera recording revealed that the deputy acted in a professional manner to all of the parties involved and that the deputy's actions were proper and in accordance with MCSO policy.
- In one case, it was alleged that a deputy failed to take a harassment complaint and failed to interview any potential witnesses. The complainant also alleged that the deputy was unprofessional by laughing in her face. A review of the body-worn camera recording revealed that the deputy acted in a professional manner as he interviewed the complainant about the harassment complaint. The deputy was found to have conducted follow-up actions regarding the complaint by contacting the individual who was alleged to have been harassing the complainant in an effort to prevent any further issues. The deputy's actions were determined to be proper and in accordance with MCSO policy.
- In one case, it was alleged that a deputy was partial to one person involved in the call and that the deputy was rude during a call for service. A review of the body-worn camera recording revealed that the deputy did not show any favoritism; nor did he say anything rude or disrespectful during the call for service.
- In one case, it was alleged that during a call for service that the deputies that responded failed to conduct a thorough investigation, assaulted the complainant, did not inform the

complainant of why he was being arrested and that he was not provided with his *Miranda* warnings upon being arrested. A review of the body-worn camera recordings revealed that the deputies used the proper amount of force due to the complainant's efforts to resist arrest. In addition, it was determined that the deputies had probable cause to effect the arrest of the complainant due to the assault of his neighbor and that the deputies were not required to provide *Miranda* warnings at the time of the arrest since the complainant was not being interviewed or interrogated at that time. The actions of the deputies were determined to be proper and in accordance with MCSO policy.

- In one case, it was alleged that a deputy conducted a traffic stop involving a complainant because the complainant is a Latino. The investigation of the traffic stop by PSB determined that the allegation was unfounded. A review of the body-worn camera recording revealed that the deputy observed that the complainant committed a traffic violation and that the deputy's actions were proper and in accordance with MCSO policy.
- In one case, it was alleged by a complainant that a deputy threatened and intimidated a complainant during a traffic stop. The complainant did not provide specific actions that the deputy engaged in that caused the complainant to feel threatened and intimidated. Based on a review of the body-worn camera recording, it was determined that the deputy acted in a professional manner during the traffic stop.
- In one case, it was alleged that a deputy failed to advise her why she was stopped until the conclusion of the stop and that the deputy was rude to the complainant during a traffic stop. Based on a review of the body-worn camera recording, it was determined that the deputy acted in a professional manner and that he did inform the complainant of the reason for the stop in accordance with MCSO policy.
- In one case, it was alleged that a deputy failed to report multiple on-duty traffic collisions during the same shift and that the deputy failed to be truthful regarding the traffic crashes. The PSB investigation found that the deputy was untruthful regarding the damage to his assigned patrol vehicle and failed to notify his supervisor of the traffic crash and remain on the scene. In addition, it was found that the deputy failed to activate the body-worn camera prior to contacting a member of the public. The involved deputy has resigned from MCSO.
- In another case, it was alleged that two MCSO vehicles were crossing the double yellow lines on the roadway and passing other vehicles without activating the emergency lights. The PSB investigation was unable to prove or disprove whether a deputy and a Posse member were driving in an unsafe manner, as was alleged. The investigation involved a review of body-worn camera recordings, which did not provide a clear view of the event.

As demonstrated with the aforementioned examples, body-worn cameras recordings have proven to be invaluable in resolving complaints; and, when recordings are not available, the complaints are more challenging to resolve.

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

Phase 1: In compliance

- EB-2 (Traffic Stop Data Collection), most recently amended on May 1, 2019.
- GJ-35 (Body-Worn Cameras), most recently amended on January 7, 2017.
- Body-Worn Camera Operations Manual, published on December 22, 2016.

Phase 2: In compliance

MCSO developed and issued a protocol and policy that requires the original hardcopy form of any handwritten documentation of data collected during a traffic stop to be stored at the District level and filed separately for each deputy. When a deputy is transferred, his/her written traffic stop information follows the deputy to his/her new assignment. During our July 2019 site visit, we inspected the traffic stop written data file at Lake Patrol to ensure that hardcopies of traffic stop cases are stored for a minimum of five years. We found that the records were in order and properly secured.

d. Review of Traffic Stop Data

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

Phase 1: Not in compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), most recently amended on January 11, 2018.
- EB-2 (Traffic Stop Data Collection), most recently amended on May 1, 2019.

  GJ-33 (Significant Operations), most recently amended on May 10, 2018.
- GH-4 (Bureau of Internal Oversight Audits and Inspections), most recently amended on October 30, 2018.
- GH-5 (Early Identification System), most recently amended on January 4, 2019.
- EIU Operations Manual, currently under revision.

Phase 2: Not in compliance

MCSO will achieve Phase 1 compliance with this Paragraph when it incorporates its protocols for periodic analyses of the traffic stop data into the EIU Operations Manual. To achieve Phase 2 compliance with this Paragraph, MCSO must demonstrate ongoing use of the methodologies delineated in the protocol established for Phase 1 compliance in the monthly, quarterly, and annual analyses used to identify racial profiling or other bias-based problems.

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

Phase 1: In compliance

- GH-4 (Bureau of Internal Oversight Audits and Inspections), most recently amended on October 30, 2018.
- GH-5 (Early Identification System), most recently amended on January 4, 2019.

Phase 2: Not in compliance

MCSO designated the Early Intervention Unit (EIU) as the organizational component responsible for this Paragraph. EIU's Traffic Stop Analysis Unit (TSAU) is the unit within EIU that is now directly responsible for analyses of traffic stop data on a monthly, quarterly, and annual basis to identify warning signs or indicia or possible racial profiling or other improper conduct as prescribed by Paragraph 64. EIU must report the findings of its analyses to the Monitor and the Parties.

We note that Paragraph 65 contemplates quarterly analyses of traffic stop data, but it does not specify exactly what such analyses might entail. We have discussed during our prior site visits potential topics that might be studied by MCSO under the quarterly traffic stop analysis requirement. While many potential topics have been identified, EIU requested permission in April 2018 to place the effort to develop the topic list on hold due to competing workload demands. During our July 2019 site visit, MCSO requested that we make the identification of potential quarterly analyses a topic for our October 2019 site visit. We agreed to this request.

MCSO's original monthly process to analyze traffic stop data began in 2015 and was suspended in May 2016 because of our determination that the original process lacked statistical validity and required significant refinement to improve the identification of potential alerts in EIS. The problems with this original process are well documented in our quarterly status reports from that period. MCSO resumed monthly analyses of traffic stop data in May 2017 using a new methodology that was statistically based and not subject to the arbitrary, unscientific method originally employed by MCSO. While improved, the new methodology generated a substantial number of alerts, many of which did not demonstrate a pattern of potential bias sufficient to warrant the setting of an alert in EIS. Because of our concern about the number of potential alerts the monthly analysis generated – a concern that MCSO also shared – we suspended the process during our July 2017 site visit to allow us and EIU time to consider possible refinements to the existing methodology. MCSO's vendor, CNA, has developed a significant refinement to the monthly analysis of traffic stop data. We noted that we had reviewed the latest documentation on that methodology (the TSMR) and found the changes satisfactory. We asked the Parties to provide their final comments so CNA/EIU could begin testing the methodology with traffic stops data for a period of up to five months.

MCSO will achieve Phase 2 compliance with this Paragraph when its periodic analyses involve the consistent use of a statistical methodology designed to identify patterns of deputy behavior at odds with their peers.

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

Phase 1: In compliance

- EB-2 (Traffic Stop Data Collection), most recently amended on May 1, 2019.
- GH-4 (Bureau of Internal Oversight Audits and Inspections), most recently amended on October 30, 2018.
- GH-5 (Early Identification System), most recently amended on January 4, 2019.

Phase 2: Not in compliance

MCSO has completed three comprehensive annual evaluations of traffic stop data to look for evidence of racial profiling or other bias-based policing. MCSO released the first annual comprehensive evaluation on May 24, 2016 titled, "Preliminary Yearly Report for the Maricopa County's Sheriff's Office, Years 2014-2015." It found that there are deputies engaged in racially biased policing when compared to the average behavior of their peers. MCSO released the second annual evaluation on March 1, 2017. However, this evaluation had to be withdrawn due to data problems; it was subsequently re-released on July 28, 2017 and posted on MCSO's website in October 2017. There were no significant differences in findings from those of the first annual evaluation.

The revised second annual evaluation confirmed the earlier report's main finding that racially biased policing within MCSO appears to be both a deputy and organizational level problem. The third annual comprehensive evaluation was released on May 17, 2018, employing methodologies similar to those in the first two comprehensive evaluations and finding the same results of its two predecessor reports: racially-biased policing persists within MCSO at the organizational level.

The three comprehensive evaluations employed methodologies that were supported by the peer-review literature and were approved by us for purposes of satisfying the requirements of this Paragraph. While the scientific basis of the methodology is valid, we note that its implementation was problematic. As previously stated, the second evaluation had to be completely redone due to data problems. Likewise, the third evaluation had to be redone due to serious miscoding of the underlying data. In fact, this report is now public even though it contains a flawed analysis pertaining to length of traffic stops that misidentified deputies potentially engaging in biased-based policing. During our July site visit, MCAO stated that the prior contractor's TSAR analysis was seriously flawed, thereby casting more doubt on the validity of the third comprehensive evaluation. The failure to successfully implement the approved methodologies is well-documented in our previous reports and is the main reason why MCSO has yet to achieve Phase 2 compliance with this Paragraph.

The contract with the vendor responsible for supporting MCSO's first three comprehensive annual evaluations of traffic stop data ended on June 30, 2018. A contract was awarded to the new vendor, CNA, on August 29, 2018.

During our July 2019 site visit, we discussed the methodology proposed by CNA for the TSAR. (We note for purposes of providing background that much of the proposed TSAR methodology would also be applied to the TSMR.) In simple terms, the new methodology takes a different approach to defining the concept of peers, which the first Order requires as the basis of analysis to look for biased-based policing. We have discussed the changes to the TSAR methodology in our previous quarterly status reports. We approved the TSAR methodology on April 30, 2019.

MCSO will achieve Phase 2 compliance with this Paragraph when it demonstrates an ability to conduct the annual TSAR using the newly approved methodology in a consistent fashion each year. Achieving Phase 2 compliance with this Paragraph will also enhance the Office's credibility with a large segment of the community.

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

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

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

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

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

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

Phase 1: In compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), most recently amended on January 11, 2018.
- EB-2 (Traffic Stop Data Collection), most recently amended on May 1, 2019.
- GH-5 (Early Identification System), most recently amended on January 4, 2019.

Phase 2: Deferred

The EIU provides monthly analyses and documents describing the benchmarks used to set alerts for possible cases of racial profiling or other deputy misconduct involving traffic stops. As reported in Paragraph 65, this process was suspended in July 2017. During our July 2019 site visit, we noted that we had sent MCSO our final comments; and we also stated that our remaining concerns were satisfactorily addressed. Our previous concerns about the TSMR methodology are well-documented in previous reports. The remaining hurdle remaining for testing of the TSMR methodology was the receipt by MCSO of the final comments from the Parties. We requested that the Parties provide their final comments to allow MCSO to begin testing the methodology.

We have discussed in our previous quarterly status reports that MCSO has achieved Phase 1 compliance with this Paragraph as a result of its intent to implement the individual benchmarks required by this Paragraph. These benchmarks are highlighted below. The proposed TSMR methodology for the analysis of traffic stop data will incorporate these benchmarks in the proposed methodology to test for biased-based policing.

Paragraph 67.a. identifies three benchmarks pertaining to racial and ethnic disparities. The first benchmark references disparities or increases in stops for minor traffic violations (Benchmark 1). The second benchmark addresses disparities or increases in arrests following traffic stops (Benchmark 2). The third benchmark addresses disparities or increases in immigration status inquiries (Benchmark 3). Since these three benchmarks are incorporated into the EIU Operations Manual, MCSO is in compliance with Paragraph 67.a.

Paragraph 67.b. identifies a benchmark pertaining to evidence of an extended traffic stop involving Latino drivers or passengers (Benchmark 4). Since this benchmark is now incorporated into the EIU Operations Manual, MCSO is in compliance with Paragraph 67.b.

Paragraph 67.c. identifies three benchmarks. The first benchmark pertains to the rate of citations (Benchmark 5): MCSO is required to identify citation rates for traffic stops that are outliers when compared to a deputy's peers. The second benchmark (Benchmark 6) pertains to seizures of contraband: MCSO is required to identify low rates of seizures of contraband following a search or investigation. The third benchmark in Paragraph 67.c. (Benchmark 7) is

similar to Benchmark 6, but it pertains to arrests following a search or investigation. This is also the case for Benchmark 7. Since the three benchmarks are now incorporated into the EIU Operations Manual, MCSO is in compliance with Paragraph 67.c.

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

Paragraph 67.e. allows for other benchmarks to be used beyond those prescribed by Paragraph 67.a.-d. MCSO has three benchmarks under Paragraph 67.e. Benchmark 9 is defined as racial or ethnic disparities in search rates. Benchmark 10 is defined as a racial or ethnic disparity in passenger contact rates. Benchmark 11 is defined for non-minor traffic stops. MCSO reports that Benchmarks 9-11 are incorporated into the EIU Operations Manual. Therefore, MCSO is in compliance with Paragraph 67.e.

While MCSO has completed operationalizing the benchmarks required by this Paragraph, we have discussed the problems with MCSO's previous methodologies. Simply put, these earlier methodologies produced too many alerts that MCSO could reasonably manage on an ongoing basis. As note earlier, CNA has developed an alternative methodology for the TSMR that we believe is ready to be tested over a five-month period.

Until the TSMR methodology is tested and found to be reliable and valid, we are deferring our Phase 2 compliance assessment of Paragraph 67.

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

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

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

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

d. the number and rate of stops, Investigatory Detentions and arrests, and the documented reasons supporting those stops, detentions and arrests, overall and broken down by

Deputy, geographic area, and the actual or perceived race and/or ethnicity and the surname information captured or provided by the persons stopped, detained or arrested;

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

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

In Full and Effective Compliance

MCSO has not conducted a Significant Operation that met the requirements of the Order since Operation Borderline in December 2014. Subsequent activities (i.e., Operation Gila Monster in October 2016) have not met the criteria for review under this or other Paragraphs.

On December 28, 2018, MCSO asserted Full and Effective Compliance with this Paragraph. After review, we concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with our determination. As a result, MCSO District command staff – as well as Investigations and Enforcement Support – will no longer be required to submit monthly statements that they have not participated in Significant Operations as defined by this and other Paragraphs; however, they will be required to notify us should staff become involved in a Significant Operation. We will continue to assess Phase 2 compliance through interviews with command and District staff during our regular site visits. During our April and July visits to the Districts, District personnel advised us that no Significant Operations had occurred within their jurisdictional boundaries, nor had any of their staff participated in such operations with other departments.

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

Phase 1: In compliance

- EA-3 (Non-Traffic Contact), most recently amended on June 28, 2019.
- GH-5 (Early Identification System), most recently amended on January 4, 2019.

Phase 2: Not in compliance

MCSO has placed into production database interfaces with EIS, inclusive of Incident Reports (IRs), Non-Traffic Contact Forms (NTCFs), Arizona Office of Courts (AOC) records, and the Cornerstone software program (referred to as "the HUB"), that includes training and policy records for MCSO. Supervisors have demonstrated the ability to access these during our site visits, but the audits and inspections of supervisory oversight activities often indicate fluctuating trends of compliance across the organization.

As an example, MCSO has automated the dissemination and responses to alert investigations initiated for repetitive deficiencies discovered during audit and inspection processes. AIU has developed and launched an inspection that tracks EIS alert investigations from the time that they are assigned from EIU to District personnel and make their way back through the chain of command for final approval of a disposition. The protocol for this inspection has been included in the EIU Operations Manual, Section 302 (EIS Alert Processes), and was approved on March 27, 2019. The first of these inspections was published in April 2019 for alert investigations closed in February 2019. In this initial inspection, AIU reported that 67% of the investigations had been completed within policy guidelines and five investigations exceeded the 30-day timeframe. BIO Action Forms were sent to the appropriate Districts that did not meet this compliance standard.

In the subsequent inspections through May 2019, the compliance rate has varied from a high of 80% for March data, to a low of 60% for May data evaluated for the June monthly reporting period. In each reporting period, AIU notes the Districts where investigations were not completed in a timely fashion and no extensions had been granted. Up to this point, no one District appears to be repeatedly deficient, but the rate of compliance each month varies dramatically.

One of the deficiencies that could lead to an alert investigation is a supervisor being flagged for receiving multiple BIO Action Forms for the same issues arising from audits and inspections carried out by AIU. While the alert inspection is useful in terms of showing the timely, and appropriate, response of supervisors to the issues causing the investigation, it does not allow for a more thorough examination of the processing of all BIO Action Forms. Since the supervisory processes are an integral component to a well-functioning organization, we have asked BIO to develop an inspection similar to the quarterly inspection of Incident Reports to track all BIO Action Forms sent to the Districts. In this way, BIO will be able to discover if Districts, or individual supervisors, are experiencing repetitive problems that need to be addressed to ensure compliance with this Paragraph, as well as those covered in Paragraphs 81, 94, and 95.

During our July site visit, MCSO presented a tracking analysis of BIO Action Forms sent out between January and May 2019. One of the more important findings of this initial investigation was that the majority of supervisors (78%) receiving a BIO Action Form had only one deficiency during this time period, while 18% had two deficiencies, and 7% had received three or more BIO Action Forms. Of the latter group, very few were for the same supervisory deficiency; and therefore, may not trigger an alert investigation. More importantly, this initial analysis shows that the supervisors receiving more than three BIO Action Forms are concentrated in Districts 1 and 7. For all supervisors receiving BIO Action Forms for their subordinates, the predominant response has been to hold a meeting with a supervisor (50%). Once this analysis is refined, MCSO should explore how to use analyses like this to respond promptly to supervisors who may be overwhelmed by the responsibilities required of them before alerts are triggered for multiple issues involving the same supervisory task. We will work with MCSO as it continues to refine this inspection.

We continue to work with MCSO on the development and production of both the Traffic Stop Annual and Monthly reports. Following a request for preliminary statistical results from the Fourth TSAR during the July 2019 site visit, we learned that MCSO and its contractor were still compiling data for the final production of the report. MCSO noted that it was analyzing and refining data for the monthly reports, and that it would share those results with us and the Parties as they are being evaluated. MCSO also noted that before any monthly results were used to trigger an alert investigation, MCSO would seek the collective approval of us and the Parties, as well as to ensure that supervisors are adequately trained to use the analyses in the appropriate manner.

Due to the priority of the Traffic Stop Annual and Monthly Reports, MCSO has not yet proposed the initiation of a quarterly traffic stop report as required by the Order. Moreover, MCSO continues to provide us access each month to all Non-Traffic Contact Forms involving an investigative stop; but has only begun planning to conduct more thorough analyses of these for this and other Paragraphs. We are concerned that approximately 40% of the persons identified on the NTCFs during this reporting period are Latino, which is slightly above the population estimate of 31% for Maricopa County. We have recommended during our last three site visits that MCSO create an inspection to ensure that supervisors are routinely reviewing the activity noted in NTCFs and are looking for potential bias. The latter will require additional training to show supervisors how to examine a small number of Forms for any potentially troubling patterns that may arise. The publication of each of these reports (TSAR, TSMR, TSQR, and NTCF) is necessary for the evaluation of Phase 2 compliance for this and other Paragraphs.

Each month, MCSO provides a list of completed alert investigations. From this list, we randomly select 15 cases, to review the investigations conducted by supervisors and evaluate the effectiveness of supervisory oversight. In several cases, there are ongoing PSB investigations that limit the ability of supervisors to review materials beyond the brief descriptions provided to supervisors, as outlined in Paragraph 75.a. and 75.b. below. In these instances, the supervisor closes the alert investigation to maintain the integrity of the ongoing PSB inquiry.

MCSO has created an EIS Alert Review Group (ARG) that evaluates the investigations of supervisors prior to closing an alert. The ARG ensures that the reports of the supervisors address all aspects of the assigned investigation, and returns those that are deficient to the District for continued revision. It has not been uncommon for nearly half of all closed investigations to be returned to the District for corrections; however, these often have to do with the adequate completion of investigative forms (Attachment B) rather than inadequate investigations. EIU has developed an online supervisory refresher course for alert investigations that the Training Division is currently reviewing before releasing it onto the HUB. During our July site visit, we reviewed two alert investigations from the May sample. One pertained to a sergeant whose deputies had amassed a number of external complaints. The lieutenant conducting the investigation noted that the sergeant complained that he has difficulty supervising his deputies due to the paperwork demands of the organization. The lieutenant

offered advice and time management training that is available on the HUB. In the second, a sergeant is overseeing, and coordinating with EIU, an Action Plan for a deputy who has accrued 10 varied alerts over the past year. The Action Plan was extended beyond the original date to ensure that both the deputy and sergeant were satisfied with the training and progress made. These examples show the progress in the development and use of supervisory tools within one area of oversight in MCSO. In the June sample of alert investigations, we found one investigation involving a sergeant who had received several BIO Action Forms for timeliness and accuracy of supervisory reports. The lieutenant noted the lengths he went to provide assistance to the sergeant from recommending HUB training to ride-alongs with him or another supervisor. The lieutenant also noted the refusal to accept any suggestions on the part of the sergeant. Finally, the lieutenant noted that subsequently he found several additional issues of timeliness or accuracy problems involving the sergeant. We will follow up on this case during our next site visit; however, notations such as these also indicate that the tracking of BIO Action Forms by MCSO is an important component of supervisory oversight.

The Audit and Inspections Unit (AIU) conducts monthly inspetions of supervisory oversight via the Supervisory Notes made for each deputy. Minimally, each month supervisors should be making a performance appraisal note, reviewing two body-worn camera recordings and reviewing the EIS profile of their subordinate. As has been the case since the beginning of 2019, AIU has found that the overall rate of compliance for the second quarter remains above 97%. In those few instances where supervisors failed to make the appropriate notations, AIU has sent out BIO Action Forms to the respective Districts. We will continue to evaluate the processing of these as MCSO refines the tracking of BIO Action Forms (BAFs).

AIU also conducts three inspections of traffic stop information: two of these pertain to the timely review and discussion of traffic stops by supervisors for each subordinate; and the third is an inspection regarding the correct completion of traffic forms and the coordination of these forms with databases like CAD. For the review and discussion inspections, MCSO reports a compliance rate above 95% during the months involved in the second quarter. AIU also sent out two BIO Action Forms during this reporting period due to the deficiencies. The compliance rate for the traffic stop data inspection ranged from a low of 89% in May, and 94% in April and June. The deficiencies reported pertain to issues related to the improper documentation of license plate numbers to the incomplete body-worn camera recording of a traffic stop. AIU sent out six BIO Action Forms to the respective Districts. There is no indication from the reports for this reporting period that any one District has experienced more deficiencies indicating a problem with a particular supervisor or practice. Finally, with regard to traffic stop inspections, AIU conducts a Post-Stop Ethnicity Inspection for those stops where drivers with Latino surnames were marked as White or those stops involving Latino drivers where the deputy notes the view of the passenger was obstructed. In this inspection, BIO reviews the BWC footage to ensure compliance. The May inspection reported a 100% compliance rate, while in June one instance of an obstructed passenger notation by a deputy was found to be inconsistent with the BWC review. The compliance rate for June was 95%, and AIU sent a BIO Action form to the appropriate supervisor in District 2.

AIU also conducts an inspection of County and Justice Court cases that are turned down for prosecution. While the major issue being inspected centers on whether probable cause existed to support the actions of the deputy during the original activity, AIU also identifies other issues that can result in memoranda to Districts that suggest additional training of deputies might be in order. As we have noted previously, we have been concerned about definitional issues relating to the designation of "furthers" by MCSO. This term was not clearly defined in methodological protocols in place, but MCSO advised us that it was meant to show that prosecution was initially turned down because a deputy had not sufficiently included all necessary evidence or description of the event in question; however, the prosecutor noted that if this material were to be gathered, the case could be resubmitted for prosecution. We and the Parties asked MCSO for clarification of these processes and terms. Over the past several months MCSO has drafted a reformed methodology. As a result, the April and June inspections were conducted using the prior method; and beginning in August, for the July inspection, MCSO will be using the new methodology. The new reporting process will be lagged to ensure that MCSO has the opportunity to thoroughly investigate the reasons for the initial denial of prosecution. For the inspections from April through June, the compliance rates reported were 100%, 97%, and 100% respectively. In the April report, which indicated 100% compliance, there was one non-compliance deficiency due to an incomplete probable cause statement and a second turned down because the deputy did not include an interview of the suspect. BIO Action Forms were sent to the respective Districts for these issues. It is important to note that this inspection only counts instances of irreversible error in the computation of compliance rates. Yet while MCSO does not count instances of non-compliance issues in these rates, MCSO does send BIO Action Forms to Districts for all deficiencies found. In the May inspection, MCSO found two cases in which probable cause was not articulated properly and several non-compliance issues. In addition to sending out BIO Action Forms to the respective Districts, AIU included a statement in the inspection about the need for a thorough review of case files by supervisors before they are submitted for prosecution. The June inspection listed only non-compliance issues that did not rise to the level of irreversible errors. We concurred with the latter findings. We will follow up on these cases to evaluate what actions followed the completion of the BIO Action Form process. In our next report, we will expand upon the new protocols that MCSO initiated for the July turndown cases. We anticipate that there will be less ambiguity in categorizing turndowns once the new process is fully refined.

The inspections of supervisory oversight conducted by MCSO indicate stable compliance trends in most areas reviewed. We have also found that several command level supervisors are intervening with patrol sergeants to ensure that they are providing deputies with feedback and correction when called for. The initiation of a new methodology for Incident Report inspection of County Attorney turndowns shows a positive response to an issue that we and the Parties have commented on during past reports and site visits. We will continue to evaluate each of these issues in our future quarterly status reports.

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

Phase 1: In compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), most recently amended on January 11, 2018.
- EB-2 (Traffic Stop Data Collection), most recently amended on May 1, 2019.
- GH-5 (Early Identification System), most recently amended on January 4, 2019.

Phase 2: Not in compliance

EIU personnel are continuing to develop the next draft of the EIU Operations Manual. MCSO continues to evaluate and develop the methods and plans for the Traffic Stop Monthly Reports (TSMR) and Traffic Stop Quarterly Reports (TSQR). The manual will provide a basis for the transparency of roles and duties of EIS personnel. It is imperative that MCSO complete the manual to ease the process for personnel to understand their responsibilities. In addition, the manual will provide the organization as a whole with an explanation of the goals to be achieved by a fully functioning early intervention process. MCSO has made steady progress toward the completion of the manual. The remaining sections under review, and in development, pertain to data analytic strategies that have been a main topic of discussion during and between site visits since MCSO identified the new data vendor.

The new Traffic Stop Annual Report (TSAR) methodology has been approved, and we are awaiting the production of the fourth report. We discussed several issues during our July site visit, and MCSO noted that the final data set had been recently compiled and analyses were being finalized. We will review this material as it is produced. During this reporting period, we reviewed and approved Section 200, Duties and Responsibilities of EIU Personnel; Section 306, Traffic Stop Data Verification Process; Section 309, Traffic Stop Quarterly Analysis; and Section 600, Training.

A portion of the monthly alert report produced by EIU depends upon the TSMR required in Paragraph 67. The EIS also produces alerts for numerous activities, ranging from use of force to County Attorney Turndowns lacking probable cause. BIO personnel continue to evaluate and

update the thresholds used to trigger these alerts to ensure that they are sufficient to detect behaviors that might indicate bias on the part of deputies, taking into consideration the current assignment of the deputies as noted in Paragraph 81.f. The alerts triggered are first evaluated by EIS personnel and then transmitted, via Blue Team, to the appropriate supervisor and District command. The supervisors conduct an investigation, including a potential discussion with the designated deputy, and memorialize their actions in Blue Team. District command staff and a newly formed Alert Review Group (ARG) review these investigations to ensure that proper investigation and possible interventions are clearly outlined. AIU began producing an inspection of EIS Alert Processes in April 2019 that evaluates the timeliness of alert investigation completion and the effect of discussions, trainings or Action Plans that might result from the supervisory investigation. The initial compliance rates for these monthly inspections ranged from 60% in May to 80% in March. We anticipate this level of fluctuation will decrease as District personnel are apprised of these trends, and the supervisors take advantage of the resources available to complete alert investigations in a timely fashion from EIU personnel. As noted in Paragraph 69, we discussed several past alert investigations with MCSO during our July site visit and were satisfied with the progress being made in each instance.

During our July site visit, we engaged MCSO and the Parties in a useful discussion of all of the intervention processes emanating from the Third TSAR. The most positive outcomes of the Third TSAR were that MCSO did a better job of coordinating the processes related to supervisory discussions with deputies, as well as the follow-through on Action Plans that were put into place. Line supervisors made significant comments on the progress of deputies they were overseeing and agreed to the extension of action plans when it was clear it would benefit the deputy and the organization. The improved success of the Third TSAR process was largely due to the hands-on engagement of the BIO Captain. There were several deficiencies noted during the overall discussion that MCSO has committed to addressing in the methodology for the Traffic Stop Monthly Reports (TSMR) which will be used to identify individual deputy outliers in the future. These include more training for direct supervisors who will be leading the discussions with subordinates, an investigation of better materials and training regarding the recognition and discussion of implicit bias and the de-stigmatization of the supervisory discussion process while maintaining the importance of such oversight and intervention. MCSO has committed permanent resources to create a Traffic Stop Analysis Unit (TSAU), housed within BIO, to coordinate traffic stop data and develop protocols to respond to future analytic reports. This should alleviate the need to borrow organizational resources to fulfill the requirements of annual analyses conducted in the past. We will work with MCSO and the Parties in the development of TSMR, and continue to evaluate the materials provided by MCSO.

MCSO is not in Phase 2 compliance with this Paragraph; as the TSAR, TSMR, and TSQR are undergoing revision and have not yet been produced. In addition, there is much work to be done to finalize and implement the Constitutional Policing Plan. This is a matter that continues to fester, and we urge the agency to aggressively pursue a path that will culminate in the production of a meaningful plan that benefits the Office and the community. We will continue to evaluate and provide feedback to MCSO as these materials are produced.

We continue to report on MCSO's Plan to Promote Constitutional Policing, which was drafted to address systemic issues identified in the Traffic Stop Annual Reports (TSARs). The Plan to Promote Constitutional Policing included nine goals and a timeline for the completion of the goals. On February 14, 2019, MCSO filed a motion with the Court to modify the Plan to Promote Constitutional Policing. The Court did not approve the revisions; we therefore consider the Plan to Promote Constitutional Policing the governing document during this reporting period. Our comments in this report pertain to compliance with the Plan during the second quarter.

During our July site visit, we inquired with MCSO about the progress of the Plan. Based on the information provided, the following is our assessment of the progress of each of the goals:

Goal 1: Implementing an effective Early Intervention System (EIS) with supervisor discussions. MCSO is not in compliance with some Paragraphs related to EIS. Many of the supervisor discussions and evaluations we review regarding traffic stops and patrol interactions (NTCFs) with civilians appear perfunctory and are of questionable value. The supervisor discussions specifically associated with the Third Traffic Stop Annual Report (TSAR) have been completed. We noted improvement in these discussions when compared to those associated with the Second TSAR, in large part due to work that the Traffic Stop Analysis Unit (TSAU) did to mitigate concerns with the affected deputies before the discussions. We are optimistic that many of the remaining issues will be addressed in the development of a supervisory discussion process emanating from the proposals for Traffic Stop Monthly methodology that is currently being investigated and refined.

Goal 2: Evaluating supervisors' performances through an effective Employee Performance Appraisal process. During this reporting period, MCSO was in compliance with two of the seven Paragraphs related to the evaluation of employee performance: Paragraphs 99 and 100. All of the EPAs found out of compliance were supervisors' EPAs. During this reporting period, MCSO was not incompliance with Paragraphs 87, 92, 95, 98, and 176, which relate to Employee Performance Appraisals.

Goal 3: Delivering enhanced implicit bias training. MCSO has not completed the training on the History of Discrimination in Maricopa County. During our July site visit, MCSO advised us that it is working on a video on this topic. MCSO stated that this project was 50% completed. We inquired, but at the time of our July site visit, MCSO did not have a timeline for completion of this project.

Goal 4: Enhanced fair and impartial decision-making training. The 2018 ACT contained only references to fair and impartial decision-making. MCSO will complete this goal when enhanced fair and impartial decision-making is provided in the Annual Combined Training, or when it provides additional enhanced training on this topic.

Goal 5: Delivering enhanced training on cultural competency and community perspectives on policing. There was no "enhanced" component in the cultural competency training in the 2018 ACT. MCSO will complete this goal when enhanced cultural competency and community perspectives on policing is included in the Annual Combined Training, or when MCSO provides additional enhanced training on these topics.

Goal 6: Improving traffic stop data collection and analysis. MCSO did not have a Traffic Stop Monthly Report methodology in place during this reporting period. MCSO, working with its contract vendor, the Parties, and our Team, will be testing these methodologies over the next several months. Additionally, MCSO has not yet completed a quarterly traffic stop analysis, as required by the First Order. Finally, during and after our July site visit, we were informed that MCSO's outside data vendor is still conducting analyses for the fourth TSAR.

Goal 7: Encouraging and commending employees' performance and service to the community. This goal has been completed. This goal was not part of the requirements set by the First Order.

Goal 8: Studying the Peer Intervention Program. This goal has been completed. This goal was not part of the requirements set by the First Order.

Goal 9: Building a workforce that provides constitutional and community-oriented policing and reflects the community we serve. During our July site visit, we inquired as to the progress of this goal. At the time, MCSO personnel advised us that the organization had 45 sworn vacancies and 237 Detention vacancies. Civilian vacancies were estimated between 100-150. MCSO advised that the agency hired 280 employees during calendar year 2019. MCSO created 12 Deputy Service Aide positions; and, at the time of our visit, MCSO had hired nine. We believe that this is a positive step, as these are non-sworn employees who assist Patrol deputies with report calls and other non-emergency services. MCSO advised that the current attrition rate is 7%-8% for sworn, and 13%-14% for Detention. With regard to hiring, MCSO advised that in 2017, 17% of deputies hired were Latino, and all employees were male. In 2018, 16% of deputies hired were Latino, and all were male. In 2019, 32% of deputies hired were Latino, and 96% were male. For Detention, 76% of officers hired in 2017 were male, 48% of officers hired in 2018 were male, and 76% of officers hired in 2019 were male. MCSO's hiring goals for calendar year 2019 are 75 deputies, 300 Detention Officers, and 300 civilians. This goal was not part of the requirements set by the First Order.

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.*

In Full and Effective Compliance

MCSO has provided us with access to existing data from monthly and annual reports.

On December 28, 2018, MCSO asserted Full and Effective Compliance with this Paragraph. After review, we concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with our determination.

While we continue to work with both MCSO and the Parties on specific issues of methodology for the Annual, Monthly, and Quarterly Reports, we have nonetheless been afforded complete access to all data requests.

Section 8: Early Identification System (EIS)

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

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

Phase 1: In compliance

- EA-3 (Non-Traffic Contact), most recently amended on June 28, 2019.
- GH-5 (Early Identification System), most recently amended on January 4, 2019.

Phase 2: Not in compliance

During 2017 and early 2018, MCSO introduced interfaces between EIS and several remote databases of importance. EIS now includes Incident Reports (IRs), Non-Traffic Contact Forms (NTCFs), records from the Administrative Office of the Courts (AOC), and training completion and policy acknowledgement records from the Cornerstone software (the HUB). MCSO continues to work on the EIU Operations Manual to memorialize the collection, analysis, and dissemination of relevant data; as well as the responsibilities and roles of departmental and EIU personnel. During our July site visit, MCSO provided a table indicating the current status of the EIU Operations Manual. The table indicated that 80% of the manual has been completed and approved by us and the Parties. MCSO has made steady progress in the completion of the manual and has only been limited due to the complexities involved in changing statistical contractors and data-handling methodologies.

The new TSAR methodology has been finalized, and MCSO has provided the final data set to their statistical contractor for analyses and report compilation. The new methodology for the annual report is intended to better approximate several requirements of the Order – specifically, comparing deputies to colleagues that perform similar functions and share other organizational characteristics. The TSQR is one of the sections of the manual that has been reviewed and should be approaching finalization. The TSQR will be used to investigate special topics agreed to by all Parties to further the goals of either the TSMR or TSAR. The TSMR remains under development but has been the topic of multiple conversations during and between site visits. MCSO has prioritized the completion of the data reports. MCSO has been transparent in the methods proposed and has evaluated and incorporated critiques by us and the Parties. Our central concern remains the ability to employ the proposed methodology to track trends in traffic stop activity and levels of potential bias over time. MCSO has committed to exploring

the development of such options following the publication of its first report using the new methods. We will evaluate the results of the new TSAR methodology when they are published.

MCSO has not produced a consistent TSMR in nearly three years; however, MCSO continues to produce a monthly report of alerts triggered within the EIS that are not related to the TSMR. MCSO has made several proposals for the TSMR, and we and the Parties continue to comment on them as they are developed and modified.

During our four site visits from October 2018 through July 2019, we suggested that MCSO begin developing a methodology to analyze the Non-Traffic Contact Forms (NTCFs) that have been accumulating since the interface was placed into production in mid-2017. MCSO has been providing access to investigative stop NTCFs (approximately 25 per month) that are produced, but the agency currently has no means of analyzing these to evaluate potential trends over time or look for indications of bias. MCSO has committed to producing an NTCF methodology, which we will review when it becomes available. MCSO continues to regularly publish a number of reports on deputy activity and supervisory oversight that are not tied to the methodologies of the TSMR, TSQR, or TSAR.

The Audits and Inspections Unit (AIU) produces a monthly report evaluating Supervisory Notes that indicate whether supervisors are reviewing the EIS data of deputies under their command. The inspection looks for indications that supervisors made entries for each person they supervise with regard to two randomly selected BWC videos, provide one EPA note, make two supervisor entries, and indicate that the supervisor has reviewed their deputies' EIS statuses. Over the past six months of this inspection there has been remarkably high compliance rates – 97% or higher. Each month, there have been one or two BIO Action Forms sent to Districts – but there does not appear to be any consistent patterns of concern.

In the Traffic Stop Review and Discussion Inspections for April through June, we see moderate fluctuations in compliance between the mid-90th percentile to 100%. The deficiencies often stem from particular Districts and individual supervisors, but there does not appear to be a repetitive pattern; nor do the deficiencies appear to cluster around any particular issue. AIU continues to send out BIO Action Forms to the Districts experiencing the deficiencies.

A third traffic-related inspection is the Traffic Stop Data Inspection in which AIU uses a matrix comparing traffic stop information found on Vehicle Stop Contact Forms (VSCFs) with Computer Aided Dispatch (CAD) and Body-Worn Camera (BWC) footage. In April through June, the compliance rate for this inspection ranged from 89% in May, to 94% for the other two months. The deficiencies revolve around comparisons of CAD and VSCF incongruities and one instance of a deputy failing to completely record a traffic stop with their BWC. The latter turned out to be a malfunction of equipment that was not adequately noted in the stop summary. There does not appear to be any consistent pattern of deficiency or a particular District that appears to be problematic. AIU sent out several BIO Action Forms each month and we will review them as they are made available. While we can look for trends over each quarter, we have suggested to MCSO that AIU conduct an evaluation of all BIO Action Forms sent to Districts to ensure that there are not long term trends by District or supervisor that cannot be

distinguished in looking at shorter timeframes. During our July site visit, MCSO presented a preliminary analysis of BIO Action Forms from January to May 2019, including a PowerPoint presentation containing trend analyses. Of particular import was the finding that 78% of all employees (90 employees) receiving a BAF only had one deficiency during the time period; another 16% (19 employees) had two deficiencies; and 7% (seven employees) had three or more deficiencies. None of the seven employees in the latter category received a BAF each month; however, several received multiple BAFs in a few months. The deficiencies were for: review or discussion of traffic stops; review of IRs in a timely fashion; turning in Patrol Activity Logs; making Supervisory Notes for the employees within their unit. There was a concentration of deficiencies in Districts 1 and 7. The response to repetitive BAFs by command staff at the Districts included meeting with a supervisor, coaching, and additional squad briefings. MCSO intends to refine this initial analysis in accordance with policy guidelines, Order requirements, and threshold levels to formalize this type of analyses in the future. MCSO's ultimate goal is to use this information to target resources to supervisors and Districts that appear to have the most problems as well as modify supervisory training in the future. We will continue to work with MCSO on these processes.

EIU also produces a monthly report on alerts triggered within EIS. EIU personnel review the alerts and disseminate them to supervisors and District command if alerts indicate the potential for biased activity or thresholds are exceeded for particular actions like external complaints, unexcused absences, etc. Once the supervisors receive the alert investigation, they employ a template (Attachment B of GH-5, Early Identification System) to conduct the investigation and report their findings and results to the chain of command through Blue Team. MCSO has also created an EIS Alert Review Group (ARG) to evaluate the closure of alert investigations. During January-February, our review of the alert closures revealed no problematic findings. Following our previous suggestion, AIU has now produced four alert inspections that show a compliance rate between 60% and 80%. These reports are provided to Districts along with BIO Action Forms for particular deficiencies discovered. We anticipate that as this information is disseminated and resources to assist supervisors are made available, the compliance trend will improve. We will continue to evaluate these reports as they are produced.

As noted in Paragraph 70, MCSO has also completed all Action Plans emanating from the Third Traffic Stop Annual Report (TSAR). During our July site visit, we engaged MCSO and the Parties in a discussion about the positive and negative aspects of this process. Clearly, command personnel in BIO created a more streamlined process that appeared to be well-received by employees who were identified as falling outside the norm when compared to their peers. We also discussed the need for more training for supervisory staff who will be responsible for supervisory discussion processes in the future as well as improved training and discussion of implicit bias. Overall, the Third TSAR was a noted improvement over prior TSAR processes; and MCSO appears committed to improving the process further as the analysis looking for instances of potential individual bias moves from the annual report to a more timely monthly traffic stop analysis.

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

Phase 1: In compliance

- GH-5 (Early Identification System), most recently amended on January 4, 2019.

Phase 2: In compliance

The EIU is a fully functioning unit. A lieutenant commands the Unit, with three sergeants conducting investigations, and three office assistants to coordinate processes and paperwork. In addition, MCSO has created a Traffic Stop Analysis Unit (TSAU) to compile data and prepare cases emanating from the traffic stop analyses conducted. This Unit is led by a lieutenant with five sergeants and three data or management analysts. Both Units are housed within the Bureau of Internal Oversight. MCSO created the TSAU after it became clear during the Second TSAR process that the EIU could not effectively produce the myriad reports necessary without continual transfers and temporary assistance from across the organization. We noted that MCSO responded to the inefficiencies observed during the Second TSAR and has worked to eliminate the redundancies during the Third TSAR process. We have already noted the numerous improvements that occurred during the Third TSAR. MCSO has provided us with documents and videos related to the Supervisor Discussions from the Third TSAR. The video and supervisor discussions from the Third TSAR were discussed at length during our July site visit. MCSO has noted that the TSAU unit, and EIU in general, will develop specific supervisory training to respond to the requirements of both the TSAR and TSMR methodologies once they are finalized.

EIU has also overseen the expansion of the EIS database over the last 18 months to include Incident Reports (IRs), Non-Traffic Contact Forms (NTCFs), records from the Arizona Office of Courts (AOC), and training and policy receipt records from the Cornerstone software program (the HUB). Supervisors now have much more information available to them about the deputies under their command than they ever had in the past.

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

Phase 1: In compliance

- GH-5 (Early Identification System), most recently amended on January 4, 2019.
- EIU Operations Manual, currently under revision.

Phase 2: In compliance

MCSO has met the requirements of this Paragraph by elaborating the data to be collected and the responsibility of persons across the organization to review, verify, and inspect the data making up the early intervention system (EIU Operations Manual, Section 200).

MCSO has not yet completed the revision of the EIU Operations Manual. During our July site visit, MCSO noted that 80% of the manual had been finalized. MCSO continues to work on the portions of the manual related to analytic methods for traffic stop data.

MCSO has shown progress in the development of a data-handling protocol. These processes have been memorialized in the EIU Operations Manual (Section 306), which was approved in July. Additionally, Section 305 (Software Change Control Processes), approved in October 2018, is meant to ensure that all modifications to software or data collection are coordinated in a prospective fashion before any implementation occurs. These changes are provided to us on a monthly basis through regular document requests and are discussed during our quarterly site visit meetings.

MCSO has also created a committee of personnel from each unit that handles, or adds to, traffic data before it is analyzed. The reports from the regular monthly meetings of this group are made available to us and show the attention to detail and memorialization of changes put in place to improve data processes.

Finally, EIU produces a monthly report for benchmarks not related to the traffic stop methodologies. Benchmarks 3 and 8 (Paragraph 67) involve incidents of immigration inquiries and data validation errors committed by deputies. During this reporting period, there were no immigration inquiries and five data validation alerts noted in the April, May, and June reports. As noted in the AIU Traffic Data Inspection reports from this time period, these occur when vehicle information is incomplete/incorrect or where information on the VSCF is not consistent with what is found in Computer Aided Dispatch (CAD). Each data validation alert resulted in an alert investigation that will appear in our closed alert cases for review. We believe MCSO's oversight of the benchmarks has been transparent and effective to this date.

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

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

b. all internal investigations of alleged or suspected misconduct;

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

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

e. all arrests;

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

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

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

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

j. all disciplinary action taken against employees;

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

l. all awards and commendations received by employees;

m. Training history for each employee; and

n. bi-monthly Supervisory observations of each employee.

Phase 1: In compliance

- EA-3 (Non-Traffic Contact), most recently amended on June 28, 2019.
- GC-13 (Awards), most recently amended on January 24, 2019.
- GH-5 (Early Identification System), most recently amended on January 4, 2019.
- EIU Operations Manual, currently under revision.
- Professional Services Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

Since 2017, MCSO has placed into production data interfaces for Incident Reports (IRs), Non-Traffic Contact Forms (NTCFs), Justice Court turndowns (AOC) and the Cornerstone software program (the HUB) that provides reports for training and policy acknowledgment. MCSO continues to develop some inspections or analytic reports that ensure that personnel are accurately using the EIS data available; however, the data do exist in the EIS and are accessible

by personnel we have interviewed during each site visit. We will evaluate and monitor the use of EIS in furtherance of the Orders.

Paragraph 75.a. requires that the database include "all misconduct Complaints or allegations (and their dispositions)," with some exclusions.

EIPro, a web-based software application that allows employees and supervisors to view information in the IAPro case management system, includes the number of misconduct complaints and allegations against deputies.

Since February 2017, both open and closed cases have been viewable by supervisors. PSB controls the ability to view open cases based upon the parties who may be involved. PSB personnel developed a protocol to write the summaries for both open and closed cases. This protocol has been approved, and was incorporated into the PSB Operations Manual that was published on December 13, 2018. Following consultation with Court Implementation Division (CID) personnel, we modified our quarterly request for the external investigation synopses to a monthly request. Each month we receive synopses of how open and closed external complaints appear in EI Pro for supervisors to review. Our examination of these descriptions for April through June confirms that the summaries meet our expectations. Additionally, during our April and July site visits, we observed that field supervisors could easily access these summaries and understand the types of issues involved in the complaints. Supervisors conducting alert investigations have also routinely referred to a review of complaint summaries as a portion of their investigative process. Supervisors are also advised that they can always contact EIU and PSB for clarification if it is necessary.

MCSO is in compliance with this Subparagraph.

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

Corresponding to the discussion above involving external complaints, internal investigation summaries also appear in the IAPro system. All complaint summaries, open and closed, have been viewable since February 2017. PSB uses a standard protocol to develop the case summaries and access limits. This protocol has been approved by us and has been included in the PSB Operations Manual published in December 2018. CID personnel provide us with summaries of all open and closed internal investigations each month as they would appear to supervisors using EI Pro. Our review of the summaries for April through June finds that these summaries are transparent and easily understood. During our site visits, we have found that line supervisors are also able to easily access the summaries of open and closed internal investigations pertaining to their subordinates. Supervisors also have referred to these summary fields while conducting alert investigations. Field supervisors always have the option of requesting additional information from EIU and PSB should they deem the summaries insufficient.

MCSO is in compliance with this Subparagraph.

Paragraph 75.c. requires that the database include "data compiled under the traffic stop data collection and the patrol data collection mechanisms."

MCSO has created electronic forms to collect data from traffic stops, incidental contacts and warnings.

MCSO has also created interfaces with EIS for remote databases including Incident Reports (IRs) and Non-Traffic Contact Forms (NTCFs). These reports are readily available to supervisors to review within EIS. Field supervisors have shown that they have the ability to view IRs and NTCFs during our April and July site visits. AIU already conducts an inspection of IRs and is in the process of revising the methodology. We have suggested during our last three site visits that MCSO create a similar inspection for NTCFs, as well as propose an analytical strategy to examine whether any racial or ethnic inconsistencies may exist in the incidents documented on the NTCF. During our July site visit, MCSO prepared a detailed discussion of the issues arising from an examination of past NTCFs. Subsequently, MCSO produced a brief proposal of the methods they propose to analyze NTCFs. We have made preliminary comments on these early proposals and will fully evaluate the sufficiency of this new inspection methodology when it is produced. Up to this point, MCSO has made available all investigative stop NTCFs each month. In prior reporting periods, we have seen indications of trends for stops in particular geographic areas and for specific types of citizen interactions. From April through June we have observed a concentration of investigative stops near waterways for wake zone violations or bike violations near Guadalupe and Mesa. Our cursory review also suggests that Latinos may receive a higher proportion of NTCFs when compared to the make-up of the County's population. As we have noted, a statistical methodology would allow a more comprehensive examination. This Paragraph requires that the data for such activities exists within EIS; however, Paragraphs 72, 81a., and 81b.vi. require an analysis of these stops. Therefore, while MCSO is in compliance for this Subparagraph, the agency will not attain compliance for the other Paragraphs until a method of analysis is approved.

MCSO is in compliance with this Subparagraph.

Paragraph 75.d. requires that the database include "all criminal proceedings initiated, as well as all civil or administrative claims filed with, and all civil lawsuits served upon, the County and/or its Deputies or agents, resulting from MCSO Patrol Operations or the actions of MCSO Patrol Operation Personnel."

MCSO's Legal Liaison Section receives and forwards this information to EIU for entry into the EIS database. Deputies self-report contacts they have with other agencies, and any two contacts within a rolling six-month period results in an alert requiring a supervisor to investigate. Supervisors have demonstrated the ability to access this information during our January through July site visits. In addition, there were no "notice of claim" alerts in the monthly alert allegations report from April through June provided by EIU.

MCSO is in compliance with this Subparagraph.

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

Arrests may not always occur as a result of a traffic stop. MCSO, therefore, has placed into production an interface between EIS and the Jail Management System (JMS). This interface allows supervisors to easily access information regarding arrest that cannot be viewed through traffic data. During our site visits, supervisors have demonstrated the ability to access the IRs and related arrest information. The timeliness and sufficiency of that review is evaluated under Paragraph 93.

MCSO is in compliance with this Subparagraph.

Paragraph 75.f. requires that the database include "all arrests in which the arresting Deputy fails to articulate probable cause in the arrest report, or where an MCSO Supervisor, court or prosecutor later determines the arrest was not supported by probable cause to believe a crime had been committed, as required by law."

Incident Reports (IRs) are housed in the Filebound software system. MCSO has created an interface between Filebound and EIS to provide a summary of information to facilitate supervisory oversight. Supervisors must review and sign off on IRs for each deputy involving an arrest or detention of a suspect within 72 hours of the incident. Supervisors are also required to ensure that probable cause exists for each charge or arrest outlined within an IR. AIU additionally conducts a quarterly inspection of IRs to ensure that all policy requirements are met. In April, the first quarter inspection of 2019 for 104 cases showed that 103 (99%) had the necessary probable cause statements required by law and policy. A BIO Action Form was sent to the District for the single case noted as a deficiency.

If a court or prosecutor decides not to prosecute a case, both the deputy and their immediate supervisor are notified. AIU conducts an inspection of all cases turned down for prosecution. In April, AIU noted that one non-compliance issue found was deemed a "further" since the prosecutor suggested that the case could be resubmitted for evaluation since the original submission did not adequately articulate probable cause. In May, AIU found two instances where there was no articulation of probable cause, which AIU designated as irreversible errors on the part of the deputy. There were no issues found in the June inspection. AIU is currently revising the protocol for these inspections to address the definitional issues we have raised in the past. Even so, the instances noted above represent a compliance rate of approximately 98% given the volume that are reviewed. As MCSO revises the inspections of these forms, we have taken the position that the Order requires all instances where a deputy's reports involve a lack of probable cause must be captured in the data system, regardless of actions taken afterward. BIO Action Forms were sent to the respective Districts for the deficiencies noted above.

MCSO remains in compliance with this Subparagraph, and is making an effort to resolve the definitions described previously.

Paragraph 75.g. requires that the database include "all arrests in which the individual was released from custody without formal charges being sought."

The ability to capture this information depends upon what actually occurred within the context of the interaction. If the suspect was taken into physical custody but released prior to booking,

there would be a JMS record, as indicated in Subparagraph 75.e. above. Therefore, MCSO could use the interface described above to pull the relevant data elements into EIS. However, if the incident does not rise to the point of physical custody and detention, then it would likely yield an Incident Report, covered under Subparagraph 75.f. above or an Investigatory Stop under Subparagraph 75.h. to follow. The interfaces for IR and NTCF data became operational prior to July 1, 2017. The new inspection process referred to above will also capture elements useful for the evaluation of this Subparagraph.

MCSO is in compliance with this Subparagraph.

Paragraph 75.h. requires that the database include "all Investigatory Stops, detentions, and/or searches, including those found by the Monitor, an MCSO supervisor, court or prosecutor to be unsupported by reasonable suspicion of/or probable cause to believe a crime had been committed, as required by law."

MCSO has created interfaces for both IRs and NTCFs. As noted in 75.f., the first quarter inspection of IRs for 2019 found that 99% had the necessary probable cause or reasonable suspicion statements necessary. The monthly report of County Attorney turndowns for April through June, however, indicate two instances where prosecution was turned down due to the insufficient articulation of probable cause, and another three cases where the reviewer notes that they could not find the proper articulation of the incident to support the charges being pursued (designated as non-compliance "furthers") by MCSO. These cases were sent to District personnel for review using a BIO Action Form. We have already noted our concerns about the County/Justice Court Turndown Methodology in Paragraphs 69 and 75f.

In July 2017, the interface between EIS and the database for NTCFs was placed into production. MCSO also reissued EA-3 (Non-Traffic Contact) and amended the policy on June 14, 2018 (and further amended it on June 28, 2019). This policy specifies the responsibility of MCSO personnel regarding different types of search occurrences. If the search is related to a traffic stop, it should be captured on the VSCF. Searches occurring within activities resulting in an Incident Report will be captured under Subparagraph 75.e., and NTCF searches fall under this Subparagraph.

Initially, the number of NTCF reports was insignificant; however, since May 2018, we generally receive between 15-25 NTCFs for investigative stops each month. These are all captured within EIS as required by this Subparagraph (as well as 75.c.). Our review of these cases for April through June note that the activity documented is predominantly wake violations for waterways patrolled by MCSO, or bike light violations. The former are confined to recreational areas while the latter appear concentrated in Guadalupe and Mesa. We have brought the accumulated numbers of NTCFs to the attention of MCSO and requested that they develop an inspection of NTCFs similar to what is currently done for IRs. We have also suggested that MCSO develop a methodology to statistically analyze the collection of NTCFs to look for possible issues of racial or ethnic bias in the way these interactions are conducted. Our cursory review of this quarter's NTCFs shows that Latinos are involved in approximately 10% more of these incidents than one might expect given the demographics of Maricopa County.

The development of a statistical examination of NTCF stops should be a priority for MCSO once the Traffic Stop Methodologies for the Annual and Monthly Analyses are complete. Such an examination is required by Paragraphs 72 and 81.b.vi. MCSO has begun the process of creating a proposal for the evaluation of NTCFs, and will remain out of compliance for Paragraphs 72 and 81 until such time as the method is approved. We will evaluate these processes as they are proposed.

Since NTCFs and IRs are included in EIS, MCSO is in compliance with this Subparagraph.

Paragraph 75.i. requires that the database include "all instances in which MCSO is informed by a prosecuting authority or a court that a decision to decline prosecution or to dismiss charges, and if available, the reason for such decision."

The EIS database has included both County Attorney Actions and an interface with the Justice Courts (AOC) since July 2017. AIU produces a monthly inspection of these cases, looking for the lack of probable cause as well as a host of other issues. The majority of deficiencies found result in an Action Form being sent to the relevant District command. In the April through June monthly reports, we noted two instances where the prosecuting attorney identified that the deputies had not sufficiently articulated probable cause; and another three instances where AIU indicated that the deputy had inarticulately described the circumstances of the incident, which impeded the ability to charge the suspects. The latter are indicated as a "furthers" by MCSO since these cases could be resubmitted with additional documentation noted by the prosecuting attorney. These cases were also referred to District personnel for review and action. We believe that MCSO must ensure that its methodologies comport with Order requirements, which do not make these types of distinctions. MCSO is currently revisiting its methodologies. We will continue to evaluate this in future quarterly status reports.

MCSO is in compliance with this Subparagraph.

Paragraph 75.j. requires that the database include "all disciplinary action taken against employees."

MCSO currently tracks disciplinary actions in the IAPro system, which allows supervisors to search the history of their employees in EIS.

AIU produces a monthly alert inspection report relevant to Paragraphs 70, 71, 75, and 81. The possible outcomes from these alert investigations range from no further action to referral to PSB. For the inspections from April through June, about half resulted in no further action while the remainder were handled through a meeting with a supervisor or commander. Additionally, the Administrative Services Division replies to a monthly request that incorporates this Subparagraph and their report indicates no discipline was imposed during the months of April through June.

MCSO is in compliance with this Subparagraph.

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

MCSO uses a combination of Supervisory Note inspections (in particular, bimonthly reviews of a deputy's performance) and the monthly alert report described in the previous Subparagraph to fulfill the requirements for this Subparagraph. As noted previously, the majority of cases are closed through no further action or meeting with a supervisor. We also conduct evaluations of a randomly selected group of closed alert investigations each month. Those closed with the notation of meeting with a supervisor have generally been found to be supported by the documents connected to the investigation. In these reports, supervisors provide a synopsis of the instances leading up to the alert being triggered and provide a substantive description of the discussion they have had with the respective deputy. From the sample we review, it is clear that most deputies take these meetings seriously and work to conform to the suggestions of their supervisors. Supervisors also are required to make two comments regarding their subordinates each month in their Blue Team Notes. During our July site visit, we also inquired about several of the randomly chosen closed alert investigations we receive each month. For four cases from April and May, MCSO advised us that in addition to meeting with a supervisor, deputies received additional training in time-management, defensive driving and communications skills. The June report indicated an overall compliance rate of 99.5% requiring only one BIO Action Form to be sent to the District.

Supervisors can also search the Supervisory Note field for each deputy using key words and phrases to determine if prior supervisors of a particular subordinate had employed briefings, trainings, or supervisory discussions to address similar issues.

MCSO is in compliance with this Subparagraph.

Paragraph 75.l. requires that the database include "all awards and commendations received by employees."

MCSO published GC-13 (Awards) on November 30, 2017 and updated this policy in January 2019. With this publication, MCSO created categories for awards or commendations that could be tracked within the EIS database. With the introduction of the newest version of EIPro, these fields are also searchable by supervisors. During our April and July site visits, supervisors demonstrated how they could search these fields and locate awards of their subordinates' in the EIS data. According to the monthly alert inspection reports for April through June there were no commendations recommended by supervisors.

MCSO is in compliance with this Subparagraph.

Paragraph 75.m. requires that the database include the "[t]raining history for each employee."

MCSO has transitioned from the Skills Manager System to the Cornerstone (the HUB) software program. The HUB has replaced the E-Policy and E-Learning programs. The HUB routinely updates recent training and policy reviews for deputies and is visible by immediate supervisors. MCSO also created an interface between the HUB and EIS.

During our April and July site visits, all field supervisors that we contacted stated they were familiar with the HUB and were able to access the information contained therein. Several supervisors noted how they assigned training to particular deputies following alert

investigations they completed. Supervisors have not recently noted any difficulties working with the HUB; and when they have they found problems, they note that they can easily contact the Training Division or Technology Management Bureau staff to assist them. EIU personnel have also created an EIS refresher training for supervisors who have to conduct alert investigations. We have approved this training, but during our April site visit, we requested that the Training Division evaluate the lesson plan to ensure that it comports with all other supervisory training before it is placed on the HUB. We will continue to evaluate the ability of supervisors to easily search and utilize EIS during our next site visit.

MCSO is in compliance with this Subparagraph.

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

The Audits and Inspections Unit (AIU) conducts a monthly inspection of Supervisory Notes. One of the indicators AIU evaluates is whether supervisors are making two notes per deputy each month. From April through June respectively, AIU reported a compliance rate of 96%, 98% and 99.5% for the supervisors evaluated. For those with deficiencies a BIO Action Form was sent to the respective Districts.

MCSO is in compliance with this Subparagraph.

With the operationalization of interfaces for Incident Reports, Non-Traffic Contact Forms, the Arizona Office of the Courts, and the HUB, EIS now contains the information required by the Order. MCSO has worked diligently to use some of the data above to investigate compliance rates with the Orders. MCSO continues to develop other inspections or data analytic methods in response to our suggestions.

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

Phase 1: In compliance

- EB-2 (Traffic Stop Data Collection), most recently amended on May 1, 2019.
- GH-5 (Early Identification System), most recently amended on January 4, 2019.

Phase 2: In compliance

MCSO has instituted a quality check process for VSCFs that requires supervisors to review all traffic stop documents within three days of the stop. AIU conducts an inspection of the timeliness of these reviews. For April, the compliance rate for supervisor review was 99%, which was due to a single supervisor in District 1. A subsequent inspection by AIU of Traffic Stop Data is designed to ensure that all necessary information is included on traffic forms, and these forms coincide with CAD and BWC images. The compliance rate for the data inspection

ranges from 89% in May to 94% in April and June; however, none of the deficiencies during this reporting period were related to the identification of the deputy or drivers stopped.

MCSO has incorporated patrol data into the EIS through the creation of interfaces for Incident Report (IR) and Non-Traffic Contact Form (NTCF) documents. Each of these documents lists the required name of the deputy and civilian, as well as the ethnicity of the civilian, in accordance with this Paragraph. AIU conducts a quarterly inspection of IRs, including a check for racial/ethnic bias in the reporting documents and the identification of all parties contacted as a result of the incident. The compliance rate for the IR inspection during the first quarter of 2019 was 99.5%. None of the six deficiencies found by AIU were related to the identification of persons contacted or deputies involved. Most deficiencies resulted from the failure to file/sign documents within policy timeframes or the use of conclusory language or failure to adequately articulate probable cause. Non-Traffic Contact Forms contain the same basic information about the identity of the deputy making the contact and the persons being contacted. MCSO does not yet have an inspection of NTCFs, but they do provide us with copies of all the documents for investigative stops. Up to this point, we have not found an NTCF document that does not include the criteria required by this Paragraph.

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

In Full and Effective Compliance

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

Since the end of 2015, we have found that all marked patrol vehicles were properly equipped with TraCS equipment. MCSO developed EB-2 (Traffic Stop Data Collection), which states that in the event that a TraCS vehicle is not operational, or available, each District possesses the necessary equipment at the substation for deputies to input his/her traffic stop information before the end of the shift. Due to the mountainous regions throughout Maricopa County, there have always been connectivity issues. However, these areas are well-known to Patrol deputies; and they have demonstrated how they adapt to connectivity problems. The VSCF also allows deputies to note issues with technology on a traffic stop.

During our April and July visits to the Districts, we spot-checked the facilities and patrol cars, and found that they had functioning TraCS equipment, and each District office had available computers for any occurrence of system failures with vehicle equipment. In addition, each District had spare parts, wires, and batteries, in the event that body-worn camera issues arose. Even so, command staff in the Districts have repeatedly noted that the old body-worn camera systems are experiencing battery and cable issues on a regular basis.

At present, the technology and equipment available at MCSO meet the requirements of the Order.

On December 28, 2018, MCSO asserted Full and Effective Compliance with this Paragraph. After review, we concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with our determination. We will continue to conduct our spot inspections at the Districts, and MCSO will apprise us of any event that falls within the scope of this Paragraph.

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

Phase 1: In compliance

- GH-5 (Early Identification System), most recently amended on January 4, 2019.

Phase 2: In compliance

GH-5 (Early Identification System) clearly states that employees only have access to EIS in furtherance of the performance of their duties, and that any other unauthorized access will be addressed under MCSO's discipline policy. The policy also notes that access to individual deputy information will be limited to appropriate supervisory/administrative personnel of that deputy. In addition, the policy states that personal information will be maintained in the database for at least five years following an employee's separation from the agency; however, all other information will be retained in EIS indefinitely

The most recent occurrences of a misuse of MCSO's computer system occurred in 2011 and 2015. As a result, MCSO published a System Log audit operating procedure in November 2017 that required PSB to notify the Technology Management Bureau of any investigations involving a system breach. This operating procedure (BAS SOP 17-4) was fully vetted during our January 2018 site visit. MCSO reported no system breaches occurring between our January and April site visits. In addition, we receive summaries of all internal investigations each month. In

March, one case indicated that a deputy was under investigation for potentially misusing the Arizona Criminal Justice Information System (ACJIS). This case did not trigger the operating procedure noted above because PSB has not yet completed its investigation. The PSB investigation was closed in June as unfounded. There have been no new potential cases appearing in the monthly internal investigation report.

MCSO's concern for the integrity of information in EIS is further exemplified by the protocols that PSB has created to meet the requirements of Subparagraphs 75.a. and 75.b. regarding purview of open complaints and internal investigations. PSB not only controls who can view summaries of open investigations, but has created a protocol for creating the summary of open investigations to protect the integrity of the case while it is being processed.

MCSO has also created a work group to ensure the integrity of traffic stop data used for analysis. The protocols used by this work group are incorporated into Section 306 of the EIU Operations Manual. This section has been approved by us and returned to MCSO for finalization. Moreover, although the annual report includes analyses that identifies deputies who are outliers compared to their peers with regard to traffic stops, citations, warnings and arrests that may indicate racial/ethnic bias, the identities of these deputies are removed from documents prior to being made public.

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

Phase 1: In compliance

- GH-5 (Early Identification System), most recently amended on January 4, 2019.

Phase 2: Not in compliance

During 2017 and early 2018, MCSO added four interfaces between remote databases and EIS. The EIS now includes Incident Reports (IRs), Non-Traffic Contact Forms (NTCFs), Justice Court turndowns (AOC) and the Cornerstone software program (the HUB) that replaced the Skills Management System (SMS). Supervisors now have the ability to search this additional information for their subordinates without having to access multiple systems. While a significant improvement, the employment of the EIS database remains limited as MCSO has not yet completed and published the results of new methodologies for the Traffic Stop Monthly, Quarterly, and Annual Reports (TSMR, TSQR, and TSAR) as the result of hiring a new statistical contractor in late 2018. During our last several site visits, we have also suggested to MCSO that the agency needs to create an analytical plan for the Non-Traffic Contact Forms that have accumulated over the past year. Until these are complete and operational, MCSO will not achieve Phase 2 compliance with this Paragraph. MCSO has provided the statistical contractor the final data set for the annual report, and analyses are underway. In addition, MCSO has

developed a plan for the analysis of monthly traffic data, but plans to test the procedures over the next several months before final operationalization. MCSO has also proposed an initial method to analyze NTCFs but these plans remain in a preliminary stage. We and the Parties have had the opportunity to make comments on each of these proposals.

In the meantime, EIU and AIU pull together data to produce reports and inspections of both deputy and supervisor activity. The EIS automatically triggers alerts for behaviors ranging from unscheduled absences to external complaints. The EIU uses this information to create monthly reports and to determine whether an investigation by a supervisor is required. AIU has most recently published a new inspection on EIS Alert Processes to ensure that alert investigations are conducted within policy timeframes and to summarize the manner in which investigations were closed. The four inspections that have been published show that over one fifth of completed alert investigations exceeded policy timeframes and resulted in a BIO Action Form being sent to respective Districts. We anticipate that as this inspection becomes more widely known throughout the organization, District personnel will adjust accordingly and submit their investigations in a more timely fashion.

AIU also uses the EIS database to generate numerous inspections of traffic stop data, Supervisory Notes, and County Attorney turndowns – among many others. When deficiencies are found, AIU sends out BIO Action Forms to the District command to rectify the situation and memorialize what was done. AIU has already automated an alert threshold for repeated Action Forms for the same events. During our July site visit, AIU personnel presented the inaugural inspection of BIO Action Form tracking processes. The main findings of this report indicate that the vast majority of persons receiving BIO Action Forms receive only one form; however, AIU also found that 7% of those who receive multiple forms received three or more during the five-month reporting period. These forms most often involved a variety of deficiencies that did not indicate any major trends. Supervisors for those individuals receiving multiple forms have conducted meetings with them, and several deputies have gone through additional training recommended by their supervisors. MCSO plans to use the findings from this initial inspection to develop and propose a regular methodology. The goal of this inspection is to track deficiencies by Districts, shifts, and squads to focus corrective measures in the most beneficial way.

We will review the proposal as it is made available.

b. Training on the EIS

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

Phase 1: In compliance

- GH-5 (Early Identification System), most recently amended on January 4, 2019.

Phase 2: In compliance

MCSO completed the EIS and SRELE Training for all supervisory personnel overseeing patrol or traffic operations in November 2017. Nearly all supervisors remarked that they believe that future training should include more hands-on activities that they encounter on a regular basis. We recommended that the supervisors contact EIU and the Training Division to develop these ideas.

We will continue to evaluate how the delivery of this training impacts the use of EIS tools by supervisors. We have noted in previous Paragraphs that the Supervisory Note inspections produced on a monthly basis show compliance rates in excess of 97% for the period of April to June. During our January site visit, the EIU lieutenant informed us that he had created a refresher course for supervisors on EIS tools that would eventually be accessible through the HUB. We reviewed these materials and made several suggestions. During our April site visit, we asked the Training Division to review the material to ensure that it coincides with other supervisory training before it is placed on the HUB. This process is ongoing and will be used to update SRELE training later this year. Following that training, the refresher course will be placed on the HUB. We will report on the outcome of this evaluation when it is made available.

c. Protocol for Agency and Supervisory Use of the EIS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Phase 1: In compliance

- GH-5 (Early Identification System), most recently amended on January 4, 2019.

Phase 2: Not in compliance

MCSO produces a number of reports and inspections that are relevant for this Paragraph. However, due to issues with EIS data and methods of analysis, MCSO has not been able to reliably produce the Traffic Stop Monthly Report (TSMR) based upon the criteria outlined in Paragraph 67; nor has MCSO ever produced a Traffic Stop Quarterly Report (TSQR). Additionally, each of the Annual Reports (TSAR) has been delayed, or had to be rewritten, because of anomalies that arose in the data or the manner in which it was analyzed. MCSO has contracted with a new outside vendor to conduct analyses of traffic stop data that has been integral in the development of new methodologies that are not only efficient, but meet the requirements of the Order. We and the Parties have commented on earlier drafts of the methodologies for TSMR and TSAR and will continue to work in concert with MCSO to find solutions for the issues that currently limit the full use of the EIS database.

Paragraph 81.a. requires that MCSO's EIS protocols include "comparative data analysis, including peer group analysis, to identify patterns of activity by individual Deputies and groups of Deputies."

The EIU has conducted monthly and annual analyses looking for outliers that may indicate that an individual is behaving in a biased or unprofessional manner, in accordance with Paragraphs 65, 66, and 67. The TSMR has been suspended and under revision since April 2016. MCSO has proposed new methodologies in consultation with its new vendor. We and the Parties have had the opportunity during and between site visits to ask questions and receive additional information. Once proposals are finalized, we will work with them to test and implement these processes as soon as possible. Most importantly, MCSO is proposing a new method of matching deputies using personal and professional characteristics to go beyond previous methods that were based upon geographic location of traffic stops. These proposals have been met with support from deputies across the organization during meetings between MCSO personnel and the data analyst vendor (CNA).

MCSO has never produced a TSQR. There have been several proposals regarding the substance and form these reports may take, but no data has been used to produce an analysis to date. During our discussions with MCSO over the past several months regarding the TSAR and TSMR, we have broached several possible topics for special studies that would fulfill the requirements of the TSQR. These special studies may include, but are not limited to: possible refinements to the proposed TSAR and TSMR methods once they are implemented; a review of deputies who have gone through previous iterations of the supervisory discussion process; the impact of special assignments on the traffic stop data; and the impact of the backfill program which requires deputies not assigned to Patrol to work in a District on an occasional basis. We will evaluate these as they are proposed.

MCSO has completed the supervisory discussions emanating from the Third TSAR. During our July site visit, we discussed the entirety of the process to prepare for the transition to the point where the monthly traffic stop analyses will lead to the identification of potential bias by individual deputies. The Third TSAR represented a noted improvement over prior years; redundancy was eliminated, command staff from BIO directed the entire process, and supervisors made copious notes during the Action Plan phase that often lead to added training when necessary. The overall length of the process was still months long, which has led MCSO to move toward developing a monthly traffic stop analysis that examines the potential bias of individual deputies in comparison to their peers. In addition, the discussion of implicit bias during the Third TSAR was hindered by inadequate training and support materials. MCSO is seeking to address this issue by hiring an outside expert to train supervisory staff. Finally, during the supervisory discussions, supervisors often seemed overwhelmed by the process and deferred to command staff. MCSO is planning to implement additional training for supervisory staff regarding implicit bias discussions, statistical methodologies and intervention strategies before publishing the first TSMR that will lead to supervisory discussions

MCSO has also created an interface for Non-Traffic Contact Forms (NTCFs) to be available in the EIS database; however, MCSO has only begun to develop a methodology to investigate whether patterns of problematic behavior/action might be occurring in the stops these forms document. We have discussed these issues with MCSO during our site visit meetings since October 2018. We will continue to work with MCSO to utilize these civilian contacts to their fullest potential.

MCSO is not in compliance with this Subparagraph.

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

GH-5 (Early Identification System) provides significant direction for employees and supervisors alike to understand what type of behaviors will be viewed as problematic. As noted above, the intent of the TSAR and TSMR is to identify deputies who might be engaged in biased activity regarding who they stop, cite, warn, or search. MCSO has been developing new methods for the TSMR, and we have collectively engaged in numerous discussions about the TSAR. We are

confident that the benchmarks from Paragraph 67 will be operational in future monthly analyses, given the progress that MCSO has made to date.

MCSO is also revising the EIU Operations Manual, which will include sections on data protocols and the several analyses based upon the traffic stop and patrol data. The manual also includes thresholds for behavior ranging from failure to arrive on time for work to external complaints. BIO is examining these thresholds to determine why they were set at the present levels. This investigation may result in the modification of thresholds that have proven unproductive over the last several years.

Finally, as noted in Subparagraph 81.a. and 81.b.vi, MCSO should utilize all patrol data to evaluate the behavior of deputies in comparison to their peers. While the volume of NTCFs pales in comparison to traffic stops, there are enough accumulated forms for analysis to commence. As we noted in Paragraph 75, we receive all NTCFs for investigative stops each month. The volume ranges from 15-25 per month. In our review of these interactions, we have noted that they typically involve suspicious behavior, and violations of traffic laws while on bicycles or waterways. These violations are often concentrated in particular locations throughout the County that may make it more likely that minority members are contacted. We have suggested to MCSO that the agency create an analytic method to determine whether there may be trends in activity over time that may require closer examination to eliminate any possibility of bias. MCSO is in the early stages of proposing this methodology. We will await MCSO's proposal and provide assistance and comments where possible.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.c. requires that MCSO's EIS protocols include "MCSO Commander and Supervisor review, on a regular basis, but not less than bimonthly, of EIS reports regarding each officer under the Commander or Supervisor's direct command and, at least quarterly, broader, pattern-based reports."

Supervisory Note inspections include four measures to assess how well supervisors are using EIS information to oversee the activity and behavior of their subordinates. These actions range from making supervisory comments on deputies, reviewing their body-worn camera footage, making Employee Performance Appraisal (EPA) notations, and reviewing subordinates' EIS profiles. The overall compliance average across these criteria has remained steady in the upper 90th percentile for the past several months; including October 2018-May 2019. When deficiencies are discovered in this inspection, AIU sends out a BIO Action Form to the immediate supervisor for response and remedy. Given the high level of compliance, these deficiencies usually involve individual supervisors across the organization. Rarely have we seen deficiencies involving the same supervisors in consecutive months; however, identifying such trends from static data is difficult. MCSO has already included repetitive Action Form deficiencies as an alert allegation. AIU has developed and presented a proposal to better track Action Forms by type, individual, and District to ensure that any corrective actions are targeted at the most appropriate level and to be able to determine if there are particular supervisors that appear repeatedly within specified timeframes. MCSO presented the first inspection, for

January to May 2019, during our July site visit. MCSO found that of those supervisors who receive a BIO Action Form for a deficiency, they receive only one form; however, they also found seven supervisors who received more than three BIO Action Forms during this reporting period. These supervisors met with their respective command staff to discuss the deficiencies and recommendations were made for time management and related supervisory skills training. MCSO will use the results from this first inspection to propose a regular inspection tracking BIO Action Forms. We will evaluate this proposal as it is made available.

MCSO is in compliance with this Subparagraph.

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

The EIS database generates alerts for issues ranging from use of force to unexplained absences. From these alerts, EIU personnel send out for investigation those alerts that are not redundant or mischaracterized in some fashion. Supervisors have a set amount of time to return these investigations with a description of their investigation and the outcome. MCSO has created an EIS Alert Review Group (ARG) that reviews the investigations of supervisors prior to closing an alert. The group ensures that the reports of the supervisors address all aspects of the assigned investigation, and returns those that are deficient to the District for continued revision. Following the creation of the ARG, we have found the supervisors' investigations and actions to be well-founded. The review group typically has requested additional information in two-thirds of the investigations evaluated by them. We have been provided the original alert investigation documents (Attachment B of GH-5, Early Identification System) as well as modified ones arising from the review group's requests. AIU has also created a new inspection for EIS Alert Review Processes. This inspection initially determines whether the investigation was completed within policy timeframes. The first four monthly inspections, published since April 2019 for the closed alerts from February through May 2019, showed that one-fifth to one-third of the inspections were not completed within 30 days. Action Forms were sent to the affected Districts. In these first inspections, AIU found that the investigations were closed with either no action, meeting with a supervisor, or additional training suggestions. We believe that as the agency's experience with this inspection evolves, MCSO will also be able to address whether the interventions undertaken are successful based upon whether new investigations are triggered for the same deputies or supervisors. We will continue to engage MCSO in this evaluation process in accordance with this Paragraph.

MCSO is in compliance with the Subparagraph.

Paragraph 81.e. requires MCSO's EIS protocols to include "identification of a range of intervention options to facilitate an effective response to suspected or identified problems. In any case where a Supervisor believes a Deputy may be engaging in racial profiling, unlawful detentions or arrests, or improper enforcement of Immigration-Related Laws or the early warning protocol is triggered, MCSO shall notify the Monitor and Plaintiffs and take reasonable

steps to investigate and closely monitor the situation, and take corrective action to remedy the issue. Interventions may include but are not limited to counseling, Training, Supervisor ride-alongs, ordering changes in practice or procedure, changing duty assignments, Discipline, or other supervised, monitored, and documented action plans and strategies designed to modify activity. All interventions will be documented in writing and entered into the automated system."

GC-17 (Employee Disciplinary Procedures) and GH-5 (Early Identification System) provide a wide range of options for supervisor interventions, as well as practical guidelines about how to employ those options. As noted above, GH-5 includes Attachment B, "Early Identification Alert Response Form." This form specifies the responsibility of supervisors and serves as a checklist of processes the supervisor should use. EIU also attaches any documents, citations, or BWC recordings the supervisor might need to conduct an inquiry. We began seeing the use of these forms in April 2017. By September 2017, we found that the closure of alert investigations by supervisors had improved. Most recently, we have only inquired about the ongoing status of PSB inquiries that took priority over alert investigations or updates on Action Plans that have been enacted following discussions between District and EIU personnel. MCSO has also created an EIS Alert Review Group (ARG) to ensure that the closure of alerts is supported by documentation from supervisors and responsive to the needs of the organization. The number of completed investigations has dropped over the past several months as the ARG has taken a proactive role to communicate with the Districts and individual supervisors how to effectively complete these investigations. This has meant that when the ARG intervenes, the total time to complete an investigation has increased; however, once complete, these investigations contain sufficient information to support the actions taken by District personnel.

As described in previous Paragraphs, AIU has also published an EIS Alert Review Process inspection. This inspection ensures that supervisors are held to policy timeframes and that the interventions recommended comport with the context surrounding the initial allegation. We believe that this inspection will promote more consistency – in the tracking of alert investigations and the resultant outcomes – than has been available in the past.

MCSO is in compliance with this Subparagraph.

Paragraph 81.f. requires that MCSO's EIS protocols include "a statement that the decision to order an intervention for an employee or group using EIS data shall include peer group analysis, including consideration of the nature of the employee's assignment, and not solely on the number or percentages of incidents in any category of information recorded in the EIS."

In the development of GH-5 (Early Identification System), MCSO has taken into consideration the nature of the employee's assignment. In prior versions of GH-5, MCSO created an appendix for thresholds that indicated, for example, that the "use of force" threshold was different for Detention and Patrol personnel. Detention personnel are much more likely to need to employ force than their Patrol counterparts. In the current version of GH-5, MCSO makes reference to thresholds that will be included in the EIU Operations Manual. MCSO is evaluating the threshold limits to ensure that they are achieving the goals for which they were

originally set. In addition, MCSO is communicating with other local law enforcement agencies to collect information about current best practices regarding thresholds they employ.

MCSO has also engaged a new outside contractor for analysis of traffic stop data. Up to this point, MCSO is proposing an expansion of "peer" comparisons beyond just the location of the traffic stop. MCSO is proposing to match deputies based upon personal and professional characteristics. This proposal has been vetted by us and the Parties. We will evaluate the sufficiency of these methods as the process evolves. At present, we believe the proposed methodology is well-founded. MCSO remains out of compliance for this Subparagraph until such time as the TSAR and TSMR are published.

Paragraph 81.g. requires that MCSO's EIS protocols include "a process for prompt review by MCSO Commanders and Supervisors of the EIS records of all Deputies upon transfer to their supervision or command."

MCSO has noted the need for a prompt review in both the "Supervisor Responsibilities" and "Command Staff Responsibilities" sections of GH-5 (Early Identification System). EIU specifically addressed this issue during the EIS and SRELE training completed in November 2017. EIU advised supervisors to document when they conducted their review in Supervisory Notes, as well as how long the deputy had been working in their chain of command when the review was conducted. During our January, April, and July visits to several Districts, we were informed that most command staff attempt to review these materials within the first few days that a deputy, or supervisor, moves to their District. In no cases have we found information where the 14-day limit outlined in policy has been problematic.

MCSO is in compliance with this Subparagraph.

Paragraph 81.h. requires that MCSO's EIS protocols include "an evaluation of whether MCSO Commanders and Supervisors are appropriately using the EIS to enhance effective and ethical policing and reduce risk."

EIU has improved the processing and tracking of alert investigations. The development of Attachment B to GH-5 (Early Identification System) and training completed in EIS and SRELE in November 2017 has dramatically improved the information provided by supervisors when closing alerts. AIU has also created a new EIS Alert Review Process inspection that specifically looks for indications that supervisors have conducted a thorough examination within appropriate policy timeframes and selected effective responses to the allegations included in the alert investigation. The first four inspections completed from April to June 2019, using data from February to May 2019, have shown that between one-fifth and one-third of supervisors do not complete these investigations within policy timeframes. MCSO has been working on this inspection process for several months. We believe that, over time, MCSO will be able to judge the effectiveness of interventions with this tracking inspection by identifying deputies and supervisors who trigger additional alerts. This inspection will become a valuable component to ensure that supervisors and command staff are utilizing EIS to promote efficiency and ethical policing during the alert investigation process. We found no issues with the conclusions used for closing these investigations. For the cases that were not closed within

policy guidelines, BIO sent out Action Forms to the Districts. As this process becomes more routine, we expect that District personnel will adjust to the policy requirements.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.i. requires that MCSO's EIS protocols include "mechanisms to ensure monitored and secure access to the EIS to ensure the integrity, proper use, and appropriate confidentiality of the data."

MCSO has addressed the security and integrity of data in GH-5 (Early Identification System), as well as instituted facility inspections throughout the Districts – including the security of terminals, access to information, and mobile displays. We spot-check technology and security of old forms during each site visit and have found no problems to date. Additionally, on November 6, 2017, MCSO published the operating procedure for System Log audit requests; this became effective on November 30, 2017. The procedure outlines how PSB personnel will notify the Technology Management Bureau of any misuse of MCSO information systems allegations and request a review of the suspected breach. We discussed this operating procedure, BAS SOP 17-4, during our January 2018 site visit meetings; it meets all of the concerns voiced since the February 2017 discovery of two cases where data was compromised, but no one notified the Technology Management Bureau. We believe this procedure has proven effective to this point. In addition, we are provided all internal investigation summaries initiated each month; and found only one instance in March 2019 where a deputy is accused of misusing ACJIS. This complaint was investigated and unfounded by PSB. We will continue to evaluate the effectiveness of MCSOs attention to data integrity.

MCSO is in compliance with this Subparagraph.

MCSO meets some of the requirements of Paragraph 81, but there remain a variety of activities that are currently ongoing that need to be completed before MCSO will be compliant. These range from the finalization of the TSMR, TSQR, and TSAR methods and publication of associated reports to the completion of revisions to the EIU Operations Manual. AIU has improved the tracking of alert investigations with the creation the EIS Alert Review Process Inspection; and initiated an inaugural BIO Action Form tracking inspection. MCSO presented this inspection during our July site visit and will use the results of this first inspection to propose a regular BIO Action Form inspection. We have also requested that MCSO devise an inspection for the NTCFs that have been accumulating over the past year. We and the Parties remain concerned that we have not noted many instances where supervisors proactively intervene with their subordinates; rather, the supervisors wait until prompted by EIS alerts or the ARG review of completed alert investigations. Command staff have taken a more active role in evaluating the work of supervisors as evidenced by the number of alert investigations returned to supervisors for revision or additional inquiry. MCSO has suggested a proposal to initiate a statistical evaluation of accumulated NTCFs. We have provided feedback to this proposal and will evaluate the progression of this methodology as it becomes available. We will continue to evaluate progress toward the goals outlined in this Paragraph.

Section 9: Supervision and Evaluation of Officer Performance

COURT ORDER X. SUPERVISION AND EVALUATIONS OF OFFICER PERFORMANCE

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

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

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.

Phase 2: In compliance

During our July site visit, we interviewed supervisors and commanders from District 2 and Lake Patrol to determine compliance with MCSO policies and the requirements of this Paragraph.

During our visit to District 2, we met with the District Commander, a lieutenant, and a sergeant. The District 2 hours of operation remain the same: business days, from 8:00 a.m.-4:00 p.m. District 2 is on a 3/13 schedule. District 2 is the largest with regard to land mass; the District covers 5,200 square miles. It includes three contract cities: Gila Bend; Goodyear; and Litchfield Park. Crime concerns are mostly property crimes, with theft and criminal damage being the most common. Crime statistics were reported as remaining mostly unchanged. The most common calls for service are welfare checks, burglar alarms, and shooting too close to populated areas. District 2 has also reported concerns with graffiti. The District 2 Commander advised that personnel have taken the approach that the quicker graffiti is cleaned up, the better. To assist with this effort, District 2 has partnered with local volunteers for the clean-up. District 2 has addressed the shooting concerns by partnering with local and County officials, and by using County codes and park codes to cite violators. District 2 also coordinated a social media campaign with MCSO's Community Outreach Division (COrD), to raise awareness of improper

discharging of firearms. District 2 personnel advised us that the District is short 10 deputies, three detectives, and one sergeant. To help with the shortage, the District uses backfill deputies from other Divisions to cover vacant positions. We inquired as to concerns related to body-worn cameras and learned that, as with other Districts, District 2 deputies have experienced significant technical failures with the cameras. With regard to traffic stops, we learned that deputies have a better understanding of the TSAR process and are no longer hesitant of conducting traffic stops. Deputies are looking forward to the issuance of new body-worn cameras and cell phones. Personnel also advised us that deputy morale has significantly improved since the announcement of a new District 2 station.

During our visit to Lake Patrol, we interviewed the District Commander and a lieutenant. Lake Patrol District serves mostly a transient public visiting recreational areas. The District office hours are 7:00 a.m.-4:00 p.m., and deputies work from 8:00 a.m.-10:00 p.m. The District reported that car burglaries have increased in the last few months, as visitor traffic has also increased. Arrests and citations have also gone up due to the increase in visitors using the river for tubing. In our reviews of arrest reports we have noted that many of these are alcohol-related arrests for underage possession and use. Driving under the influence arrests (DUIs) also appear to be on the rise. Lake Patrol personnel reported that they do not do a lot of community outreach during the summer months, as deputies are quite busy with the increased level of activity in recreational areas. Nevertheless, the District has partnered with Scottsdale Community College to work with and recruit students in police sciences. With regard to body-worn cameras, Lake Patrol deputies are still experiencing connectivity issues, resulting in long delays of videos uploading. The District is anticipating the distribution of new cameras, but they do not have a set timeline for delivery.

We reviewed a representative sample of 68 Incident Reports for April**,** for the randomly selected date of April 13, 2019. Of the 68 Incident Reports, 66 had proper documentation of timely supervisory review. Of the 68 Incident Reports, 21 were vehicle collisions. Nineteen of 21 Vehicle Crash Reports had documentation that a supervisor had reviewed and approved the reports. The compliance rate for timely supervisory review of Incident Reports in April was 97%. During our quality control review of Incident Reports, we noted no significant deficiencies. For April, MCSO reported 774 hours of community policing. We note that in our reviews of Patrol Activity Logs, we identified only one instance in which Patrol deputies documented some type of community engagement activity. The only notation explaining the community-policing event on the CAD report was "Circle K."

We reviewed a representative sample of 98 Incident Reports for May**,** for the randomly selected date of May 12. Ninety-three of the 98 Incident Reports were reviewed and memorialized by a supervisor within the required seven days. There were 14 Vehicle Crash Reports submitted in the sample for May, of which all included documentation of supervisory review. The compliance rate for timely supervisory review of Incident Reports in May was 95%. We reviewed 17 bookings and 13 criminal citations. Two of the 13 criminal citations were out of compliance, as a supervisor had not reviewed them within the required 72 hours. We conducted a quality review on a 10% random sample of the reports we reviewed, and found no significant

errors. For May, MCSO reported 682 hours of community policing. In our sample reviews of Patrol Activity Logs, we noted three instances in which Patrol deputies documented some type of community engagement activity. The only notation on each of the CAD reports associated with these activities was "Field Event."

We reviewed a representative sample of 86 Incident Reports June**,** for the randomly selected date of June 7. Eighty-three of the 86 Incident Reports had been turned in before the end of the shift. Eighty-two of the 86 Incident Reports included documentation that they had been reviewed and approved by supervisors as required by this Paragraph. There were 22 Vehicle Crash Reports submitted in the June sample; we confirmed timely supervisory review of all 22 reports. Supervisors reviewed and approved 16 of 19 Arrest Reports within the required 72 hours. Late reviews of Arrest Reports could be a concern if not addressed. We conducted a quality review on a 10% random sample of the reports submitted and found no significant deficiencies. For June, MCSO reported 193 hours of community policing. In our reviews of Patrol Activity Log samples, we noted two instances in which Patrol deputies documented some type of community engagement activity. The only notation on the CAD reports for each of these activities was "Field Event."

For each month of the quarter, we selected a supervisor and a squad of deputies from each District. We requested several documents, including Patrol Activity Logs (PALs), for each deputy. We reviewed PALs for each month of the quarter to assess if deputies turned them in by the end of each shift, and if supervisors reviewed each PAL.

For April, we reviewed PALs for 31 deputies and eight supervisors. All 31 deputies' Patrol Activity Logs contained documentation of supervisory review. All eight supervisors' Patrol Activity Logs contained documentation of command-level review. For May, we reviewed Patrol Activity Logs for 25 deputies and seven supervisors. All 21 deputies' PALs contained documentation of supervisory review. All seven supervisors' PALs contained documentation of command-level review. For June, we reviewed Patrol Activity Logs for 24 deputies and seven supervisors. All 24 deputies' PALs contained documentation of supervisory review; all seven sergeants' PALs contained documentation of command-level review. Based on the review of PAL samples selected for April, on a daily basis deputies completed an average of 1.6 incident reports, handled an average of 5.13 calls for service, took an average of 2.35 self-initiated calls, and travelled an average of 55 miles. Based on the review of PAL samples selected for May, on a daily basis deputies completed an average of .8 incident reports, handled an average of 4.4 calls for service, took an average of 2.76 self-initiated calls, and travelled an average of 69.2 miles. Based on the review of PAL samples selected for June, on a daily basis deputies completed an average of .7 incident reports, handled an average of 4.17 calls for service, took an average of 2.43 self-initiated calls, and travelled an average of 79.17 miles.

We also reviewed deputies' and supervisors' PALs to determine if supervisors provided on-scene supervision, and if those supervisor-deputy contacts were documented. For the sample dates selected in April, there were 18 supervisor-deputy field contacts reported by deputies and supervisors. For the sample dates selected in May, there were 15 supervisor-deputy field

contacts reported by deputies and supervisors. For the sample dates selected in June, there were 13 supervisor-deputy field contacts reported by deputies and supervisors.

For April, May, and June, we reviewed selected samples of non-traffic incidents involving stops and detentions, which were recorded in Non-Traffic Contact Forms (NTCFs). For April, we selected 26 NTCFs for review. All 26 NTCFs had been submitted prior to the end of the shift. Twenty-four of the 26 NTCFs were reviewed and approved by supervisors within 72 hours, as required. The compliance rate for timely submission and timely supervisory review of NTCFs in April was 92%. For May, we selected 24 NTCFs to review. Twenty-two of the 24 NTCFs were submitted prior to the end of the shift. Twenty-one of the 24 NTCFs were reviewed and approved by supervisors within the required timeframe. Of the 24 NTCFs reviewed, 19 were in compliance. The compliance rate for timely submission and timely supervisory review of NTCFs in May was 79%. For June, we selected 25 NTCFs for review. All 25 NTCFs were submitted within the required timeframe. All 25 NTCFs were reviewed and approved by supervisors within the required 72 hours. The compliance rate for timely submission and timely supervisory review of NTCFs in June was 100%. For this reporting period, compliance with timely submission and timely supervisory review of NTCFs was 91%. We assess compliance with this Paragraph, as it relates to NTCFs in conjunction with timely reviews of VSCFs, under Paragraph 90. As noted in our reviews for Paragraph 26, Latinos were involved in 40% of the contacts documented on NTCFs. This percentage is higher than the 31% Latino population in Maricopa County.

With regard to community engagement, we have previously noted that community-policing activities reported by deputies in Patrol Activity Logs have decreased. During this reporting period, from the sample of PALs reviewed, we noted seven instances where deputies noted community-policing events. There were insufficient details provided, in the CAD reports associated with these activities, to differentiate between casual contacts and actual problem-solving policing. We requested to review a sample of the community-policing worksheets recently implemented by MCSO. We reviewed 26 samples from the period of January-May. There was a variety of activities recorded including presentations to school and community groups, public safety expositions, police canine demonstrations, attending city council meetings, and some business contacts. COrD has also reported an average of 550 community outreach hours during this reporting period. While we support all types community outreach, we encourage more problem-solving contacts between deputies and community members, as these interactions will go a long way in establishing trust and community satisfaction with MCSO services. In particular, we recommend that MCSO reach out to the Latino community and increase the outreach in areas with heavier concentrations of people of color. During our reviews of the samples of community policing worksheets, we noted that many of the events were held in Fountain Hills and Queen Creek, areas where MCSO already has working relationships with the residents. From the sample of worksheets we reviewed, we did not note any of these events occurring in Guadalupe.

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

Phase 1: In compliance

- GB-2 (Command Responsibility), most recently amended on June 28, 2019.

Phase 2: In compliance

To verify Phase 2 compliance with this Paragraph, we reviewed monthly rosters and shift rosters for the second quarter of 2019. During this reporting period, consistent with our methodology, for April, we reviewed a sample of shift rosters from Districts 4, 6, and 7, and Lake Patrol; for May, we reviewed a sample of shift rosters from Districts 1, 2, and 3; and for June, we reviewed a sample of shift rosters from Districts 4, 6, and 7, and Lake Patrol. Monthly and daily rosters indicated that deputies were assigned to one single consistent supervisor. For the 66 dates selected in this reporting period, all shifts were in compliance. There were 17 span of control memos generated during this reporting period, indicating that those shifts or part of those shifts exceeded the supervisor-deputy ratio of 1:8. Six of the span of control memos were generated by District 1. Five of the span of control memos were generated by District 2. Five of the span of control memos were generated by District 3, and one memo was generated by Lake Patrol. MCSO had two occasions in District 1 where a sergeant had more than 10 deputies for part of a shift. MCSO remains in compliance with this Paragraph.

In its latest quarterly report, MCSO asserted Full and Effective Compliance (FAEC), as defined in the Court Order, with Paragraph 84. We will evaluate MCSO's assertion and report on it in our next quarterly report.

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

Phase 1: In compliance

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

Phase 2: In compliance

Consistent with our methodology, we requested that MCSO provide copies of reports documenting that supervisors are meeting with and discussing individually the stops made by each deputy, at least once per month. We requested documentation for one randomly selected supervisor from each District, for each month of the reporting period, and the squad of deputies

who reports to that supervisor. Supervisors record the discussion of traffic stops by applying the "Discussed with Deputy" option. MCSO documents supervisor-deputy discussions in a spreadsheet, which it submits for inspection. The spreadsheet also documents timely supervisory review of VSCFs. In addition to the spreadsheet, MCSO submits all VSCFs for the month in review. We select a 10% random sample of VSCFs from each District to review for content. We also inspect the sample of VSCFs submitted for review of traffic stops under Paragraphs 25 and 54, as part of compliance with Paragraph 91, to verify if supervisors are addressing deficiencies in the documentation related to the stops.

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

For April, MCSO submitted the March traffic stops for each deputy, by District. The total number of traffic stops for each District was: District 1, seven; District 2, one; District 3, two; District 4, 10; Lake Patrol, five; District 6, 24; and District 7, 29. There were a total of 78 traffic-related events in April for all Districts, and sergeants discussed 77 of these events with the deputies who conducted them, for a compliance rate of 99%.

For May, MCSO submitted the April traffic stops for each deputy, by District. The total number of traffic stops for each District were: District 1, three; District 2, four; District 3, five; District 4, 27; Lake Patrol, 112; District 6, 70; and District 6, 22. There were a total of 243 traffic-related events for all Districts, and sergeants discussed all 243 traffic stops with the deputies that conducted them, for a compliance rate of 100%.

For June MCSO submitted the May traffic stops for each deputy, by District. The total number of traffic stops for each District were: District 1, 36; District 2, nine; District 3, three; District 4, 72; Lake Patrol, 93; District 6, two; and District 7, three. There were a total of 218 traffic-related events in June, and sergeants discussed all 218 of those with the deputies who conducted them, for a compliance rate of 100%.

The compliance rate for discussion of traffic stops was 99% for this reporting period. We commend MCSO supervisors for the added diligence in their reviews of traffic stop documentation. The documentation in 98 of 105 traffic stops was in compliance with Paragraph 91, or 93%. Additional comments are provided in our review of Paragraph 91.

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

Phase 1: In compliance

- GB-2 (Command Responsibility), most recently amended on June 28, 2019.

Phase 2: In compliance

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

MCSO deputies' and sergeants' activities are captured in Patrol Activity Logs (PALs). We selected a random sample of one day per month, and one squad per District, for review. For April, we requested PALs for eight sergeants and 31 deputies, which we reviewed. We noted a total of 18 field supervisor-deputy contacts between the combined deputies' and sergeants' PALs for the selected dates. For May, we requested PALs for 25 deputies and seven sergeants. We received and reviewed all requested PALs, and noted a total of 15 field supervisor-deputy contacts between the combined deputies' and sergeants' PALs for the selected dates. For June, we reviewed PALs for 24 deputies and seven sergeants. We noted a total of 41 field supervisor-deputy contacts between the combined deputies' and sergeants' PALs for the selected dates. We reviewed the monthly shift rosters for each month of the reporting period. Our reviews indicate that supervisors are assigned to work the same hours as the deputies under their supervision. Our reviews of Patrol Activity Logs indicate that supervisors have been available to provide on-scene supervision.

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

Phase 1: In compliance

- GC-4 (Employee Performance Appraisals), most recently amended on July 25, 2019.
- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.

Phase 2: Not in compliance

Consistent with our methodology, we requested the names of all deputies and supervisors whose performance appraisals were completed during this reporting period. From the lists of employees submitted, we requested a representative sample.

We received and reviewed performance evaluations submitted for six deputies and five supervisors whose performance evaluations were completed in April 2019. All of the six deputy EPAs were in compliance. We note that one of the raters did not assess the deputy on the dimension of leadership, stating it was not applicable. Leadership is not exclusive to supervisors. From time to time we have seen supervisors skip this dimension in deputy EPAs. We recommend that MCSO address this issue in the training for the revised EPA process. With regard to supervisors' EPAs, four of the five EPAs rated the supervisors on the quality of their reviews. The deficient EPA involved a command level employee who was not rated on the requirements of Paragraph 176. All five EPAs addressed the quality and effectiveness of supervision. All five EPAs addressed the complaint history and their dispositions, discipline, commendations, awards, civil or administrative claims, lawsuits, training history, assignment and rank history, supervisory actions, and EIS histories. Three of the five supervisors' EPAs had comments on the employees' ability to identify and respond to misconduct. Five of the six EPAs assessed supervisors on the quality of their internal affairs investigations and/or the quality of their reviews of internal affairs investigations, as required by Paragraph 176. In total, one of six supervisors' EPAs met all requirements. For April, including both deputy and supervisor EPAs, six of 11 EPAs were in compliance, or 55%.

We received and reviewed performance evaluations submitted for five deputies and 12 supervisors whose EPAs were completed in May 2019. All five deputy EPAs addressed all required areas of assessment, including the requirements of Paragraph 99. All of the 12 supervisors' EPAs rated the supervisors on the quality and effectiveness of their supervision. All of the 12 EPAs addressed the quality of supervisory reviews. All of the 12 supervisors' appraisals included comments related to the supervisors' ability to identify and respond to misconduct. All of the 12 EPAs addressed the complaint history and their dispositions, discipline, commendations, awards, civil or administrative claims, lawsuits, training history, assignment and rank history, supervisory actions, and EIS histories. Eleven of the 12 EPAs assessed the supervisors' quality of internal investigations and/or the quality of their reviews of internal investigations. In total, 11 of the 12 supervisors' EPAs met all requirements. For May, including both deputy and supervisor EPAs, 16 of 17 EPAs were in compliance, or 94%.

We received and reviewed Employee Performance Appraisals submitted for six deputies and 10 supervisors whose EPAs were completed in June. All six deputy EPAs addressed all requirements. All 10 supervisors' EPAs rated the employees on the quality and effectiveness of their supervision. All 10 EPAs addressed the quality of supervisory reviews. Nine of the 10 supervisors' appraisals included comments related to the supervisors' ability to identify and respond to misconduct. All of the EPAs addressed the complaint history and their dispositions, discipline, commendations, awards, civil or administrative claims, lawsuits, training history,

assignment and rank history, supervisory actions, and EIS histories. Eight of the 10 EPAs assessed supervisors on the quality of their internal affairs investigations and/or the quality of their reviews of internal investigations, as required by Paragraph 176. In total, eight of the 10 supervisors' EPAs met all requirements. For June, including both deputy and supervisor EPAs, 14 of 16 EPAs were in compliance, or 88%. Of the 39 EPAs reviewed for the first quarter, 31 were in compliance. The compliance rating for this reporting period was 79%.

During our July site visit, we again met with Human Resources and discussed the progress of the EPA revision. MCSO advised us that the revised EPA draft was in review by the command staff. MCSO intends to pilot the revised EPA in one of the Patrol Districts, to ensure that they have a workable product. MCSO will distribute the finalized revision once all feedback has been received, evaluated, and appropriate adjustments made. We inquired as to the timeline for implementation, and MCSO advised us that the revised EPA should be in place in the first quarter of 2020.

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.*

In Full and Effective Compliance

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

For April, May, and June we received lists containing all incidents involving MCSO arrests and criminal citations. For each month, we requested a random sample of arrests and criminal citations. In total, we reviewed 51 incidents involving arrests and 84 incidents involving criminal citations. We also reviewed a random sample of 251 Incident Reports for this reporting period. During our reviews of the documentation provided for this reporting period, we have found no evidence to indicate any violations of this Paragraph.

On December 28, 2018, MCSO asserted Full and Effective Compliance with this Paragraph. After review, we concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with our determination.

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

Phase 1: In compliance

- EA-11 (Arrest Procedures), most recently amended on June 18, 2019.
- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), most recently amended on January 11, 2018.
- GF-5 (Incident Report Guidelines), most recently amended on July 25, 2019.

Phase 2: In compliance

To assess MCSO's compliance with this Paragraph, we requested all reports related to immigration status investigations, any immigration-related crimes, or any incidents or arrests involving lack of identity documents. The Incident Reports requested were for the period of April 1-June 30, 2019. Any incident wherein a deputy requests a supervisor's permission to contact Immigration and Customs Enforcement (ICE) or Customs and Border Patrol (CBP) – to ascertain the legal status of an individual involved in a stop, detention, or any incident under investigation by MCSO – falls under the reporting requirements of this request. For this reporting period, there were no reported events that would fall under the requirements of this Paragraph.

We also received a booking list and a criminal citation list for each month of the reporting period. From each list, we selected a 10% random sample of incidents. In total, we reviewed 51 incidents resulting in arrest and 84 incidents involving criminal citations. In addition, we reviewed 251 Incident Reports for the quarter. All of the documentation we reviewed during this reporting period indicates that MCSO is in compliance with this Paragraph.

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

Phase 1: In compliance

- EA-11 (Arrest Procedures), most recently amended on June 18, 2019.

Phase 2: In compliance

We reviewed 35 incidents involving traffic stops for April 2019. There were 20 stops related to speeding, 13 of which resulted in citations and seven of which resulted in warnings. There were two stops related to equipment violations. Ten stops were for moving violations other than speeding. Three stops related to registration or license plate violations. Sixteen of the stops resulted in citations, and 19 resulted in warnings. All 35 Vehicle Stop Contact Forms we reviewed noted the serial number of the reviewing supervisor, date, and time of supervisory review. All of the 35 VSCFs were reviewed within the required 72 hours. For April, MCSO submitted a spreadsheet documenting each VSCF by District, for a total of 114 VSCFs. Supervisors reviewed 112 VSCFs within 72 hours, for a compliance rate of 98%.

We reviewed 35 incidents involving traffic stops for May 2019**.** Fifteen of the 35 traffic stops related to speeding. Of the 15 stops related to speeding, eight drivers received citations, and seven received warnings. Five of the stops related to equipment violations. Thirteen stops involved moving traffic infractions other than speeding. Two stops related to registration or license plate violations. Of the 35 stops, 15 resulted in citations, and 20 resulted in warnings. Supervisors reviewed 34 of the 35 VSCFs within 72 hours. For May, MCSO submitted a spreadsheet documenting each VSCF by District, for a total of 212 VSCFs. Supervisors reviewed 210 VSCFs within 72 hours, for a compliance rate of 99%.

We reviewed 35 incidents involving traffic stops for June 2019**.** Twenty of the 35 traffic stops involved speeding violations. Of the 20 stops related to speeding, 13 drivers received citations and seven drivers received warnings. Three stops related to equipment violations. Ten stops involved traffic violations other than speeding. Two stops related to registration or license plate violations. Of the 35 stops, 15 resulted in citations and 20 resulted in warnings. All of the 35 Vehicle Stop Contact Forms had timely supervisory reviews. For June, MCSO submitted a spreadsheet documenting each VSCF by District, for a total of 119 VSCFs. We reviewed the data and supervisors reviewed 113 VSCFs within 72 hours, for a 95% compliance rate.

For each month of the quarter, we requested a list of non-traffic incidents involving stops and detentions, which were recorded in Non-Traffic Contact Forms (NTCFs). From the list provided by MCSO, we requested a sample to review. For April, we selected 26 NTCFs from

the list. All NTCFs had been submitted prior to the end of the shift. Twenty-four of the 26 NTCFs were reviewed and approved by supervisors within 72 hours as required by the First Order. The compliance rate for timely supervisory review of NTCFs in April was 92%. For May, we selected 24 NTCFs from the list submitted by MCSO. Twenty-two of the 24 NTCFs were submitted prior to the end of the shift. Twenty-one of the 24 NTCFs were reviewed and approved by supervisors within the required timeframe. The compliance rate for timely submission and timely supervisory review of NTCFs in May was 79%. For June, we selected 25 NTCFs, from the list submitted by MCSO. All 25 NTCFs were submitted within the required timeframe. All 25 NTCFs were reviewed and approved by supervisors within the required 72 hours. The compliance rate for timely supervisory review of NTCFs in June was 100%.

We take into account all stops and detentions, both traffic and non-traffic, when we determine the compliance rate for this Paragraph. The compliance rate for timely reviews of all combined stops and detentions, from the samples chosen, for this reporting period was 97%. For this reporting period, our inspection of the documentation provided has not revealed any evidence of boilerplate or conclusory language, inconsistent or inaccurate information, or lack of articulation, as to the legal basis for stops and detentions.

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

Phase 1: In compliance

- EA-11 (Arrest Procedures), most recently amended on June 18, 2019.
- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), most recently amended on January 11, 2018.
- GF-5 (Incident Report Guidelines), most recently amended on July 25, 2019.

Phase 2: Not in compliance

We reviewed traffic stop data reported by MCSO for its April inspection (BI2019-0052). To determine compliance with this Paragraph, for April, we randomly selected 35 traffic-related events, which BIO then inspected for compliance. Of the 35 traffic-related events, MCSO reported that 33 or 94% had no deficiencies. As a result of the inspection, two BIO Action Forms were generated. BIO identified a stop where a deputy failed to record a traffic stop in its entirety, and another stop where two data forms from the same stop contained two different MC numbers. We reviewed the same traffic-related events, independent of BIO's inspections, as

part of our compliance assessment for Paragraphs 25 and 54. In our reviews, we noted one stop that had a violation of policy, which should have been addressed by supervisors.

We reviewed a spreadsheet documenting each VSCF by District, for April, to determine if supervisors were reviewing VSCFs within the required 72 hours. We reviewed data for 114 traffic stops, and determined that supervisors had completed timely reviews in 98% of the cases. For April, we requested 26 NTCFs from the list that MCSO submitted. We reviewed the NTCFs to determine if supervisors were reviewing them within the required 72 hours. We determined that supervisors had completed timely reviews in 92% of the cases.

For April, we requested a sample of 24 corrective actions generated during the month. Corrective actions are documented on Blue Team Supervisory Notes. Of the 25 corrective actions, nine were associated with body-worn camera and recording issues, including: failure to activate the BWC; late activation of the BWC; turning off the camera before the event was concluded; or poor positioning of the BWC. One corrective action was associated with inaccurate or missing information on VSCFs, citations, or written warnings. Two corrective actions were taken as a result of procedural or policy violations during traffic stops. Four corrective actions were taken as a result of procedural or policy violations, not related to traffic stops. Three corrective actions resulted from deputy performance issues. Two corrective actions pertained to safety procedures during traffic stops. Three Blue Team entries were not associated with corrective actions, but were generated to document BWC malfunctions. There was one Blue Team entry where we could not identify any deficiencies or related actions.

We reviewed traffic stop data reported by MCSO for its May inspection (BI2019-0068). We randomly selected 35 traffic-related events, which BIO then inspected for compliance. The inspection report noted that 31 stops, or 89%, had no deficiencies. The inspection found one stop where the warning issued to the driver contained the wrong statute for the violation that was observed on the BWC. In another stop, the license plate number on the VSCF did not match the number listed on the warning. In the third stop, the deputy indicated in the VSCF that no seizure had taken place, but in fact, he had seized a fictitious license plate. In the last stop, there was a conflict between CAD and the VSCF regarding the reason for the stop. BIO generated four Action Forms for the noted deficiencies. We reviewed the same traffic-related events, independent of BIO's inspections, as part of our compliance assessment for Paragraphs 25 and 54. In our reviews, we noted three stops that had errors in the documentation, or had policy violations, which should have been addressed by supervisors – all avoidable deficiencies.

We reviewed a spreadsheet documenting each VSCF by District, for May, to determine if supervisors were reviewing VSCFs within the required 72 hours. We reviewed 212 VSCFs and determined that supervisors had completed timely reviews in 99% of the cases. From the list submitted by MCSO, we requested a sample of 24 NTCFs that were generated in May. We inspected the NTCFs to determine if supervisors were reviewing them within the required 72 hours. We determined that supervisors had completed timely reviews in 100% of the cases.

For May, we requested a list of corrective actions. From the list submitted, we selected 24 corrective actions to review. Of the 24 corrective actions, six were associated with body-worn camera and recording issues: failure to activate the BWC; late activation of the BWC; turning off the camera before the event was concluded; or poor positioning of the BWC. Seven corrective actions were associated with inaccurate or missing information on VSCFs, citations, or written warnings. Five corrective actions were associated with procedural or policy violations during traffic stops. Two corrective actions were associated with procedural or policy violations, not involving traffic stops. There were three Blue Team entries that were not related to corrective actions, but were generated to document technical failures in BWCs. One corrective action involved deputy safety issues. There was one Blue Team entry where we could not determine if there was a deficiency noted, or what the associated corrective action was.

We reviewed traffic stop data reported by MCSO for its June inspection (BI2019-0085). We randomly selected 35 traffic-related events, which BIO then inspected for compliance. The inspection report noted that 33 stops, or 94%, had no deficiencies. The inspection found one stop where the location noted in the VSCF and the location listed in CAD differed. In another stop, the inspector was unable to locate the Assisting Deputy and BWC Log Form. One BIO Action Form was generated for both deficiencies, since both occurred in the same Division. We reviewed the traffic-related events we had selected for BIO's inspections, for June, as part of our compliance assessment for Paragraphs 25 and 54. In our reviews, we noted five stops that had errors in the documentation, or had policy violations, which should have been addressed by supervisors; these were avoidable deficiencies.

For June, we requested a list of corrective actions. From the list submitted, we selected a sample of 25 corrective actions to review for the month. Of the 25 corrective actions, nine were associated with body-worn camera and recording issues: failure to activate the BWC; late activation of the BWC; turning off the camera before the event was concluded; or poor positioning of the BWC. Six corrective actions were associated with inaccurate or missing information on VSCFs, citations, or written warnings. Eight corrective actions were associated with procedural or policy violations involving traffic stops. There was one Blue Team entry that was not associated with a corrective action, but was generated to document a technical failure in the BWC. There was one Blue Team entry where we could not determine if there was a deficiency noted, or what the associated corrective action was.

We reviewed a spreadsheet documenting each VSCF by District, for June, to determine if supervisors were reviewing VSCFs within the required 72 hours. We reviewed 119 VSCFs and determined that supervisors had completed timely reviews in 95% of the cases. For this month, we requested 25 NTCFs from the list submitted by MCSO, for June. We reviewed all 25 NTCFs to determine if supervisors were reviewing NTCFs within the required 72 hours. We determined that supervisors had completed timely reviews in 100% of the cases.

Paragraph 90 requires timely supervisory reviews of documentation pertaining to stops and detentions. Paragraph 91 requires supervisors to identify policy violations, deficiencies, and training issues noted in stops and detentions. Of the sample of 105 stops inspected for this reporting period, there were deficiencies in documentation, or policy violations, in eight of the stops, that supervisors failed to identify in their reviews. This is a compliance rate of 92%. We commend the effort by MCSO supervisors to address deficiencies noted in stops and detentions. However, supervisory actions to address deficiencies in stops and detentions, based on the number of stops, were insufficient to meet the requirements of this Paragraph for the period in review. We are hopeful, based on the increased level of attention by supervisors, that MCSO will be in compliance during the next reporting period. We again note concerns with BWC malfunctions. We recommend that the issuance of new equipment be completed as expeditiously as possible.

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

Phase 1: In compliance

- GC-4 (Employee Performance Appraisals), most recently amended on July 25, 2019.

Phase 2: Not in compliance

To determine compliance with this Paragraph, we reviewed EIS Alerts Inspection Reports. The methodology requires the Monitoring Team to select a sample of 15 EIS alerts completed and closed. The selected alerts are then inspected by BIO using the EIS Alerts Inspection Matrix. Due to the time it requires to process the information, the data from EIS alerts is reviewed two months retroactively.

For March, we selected a sample of 15 EIS alerts completed or closed, which BIO then inspected for compliance. The inspection report, BI2019-0044, concluded that 12 of 15 closed alerts were in compliance. All three deficiencies noted were for failure to complete the action required within 30 days. District 3 completed two BIO Action Forms, and the Extraditions Unit completed one. Nine of the alert interventions resulted in meetings between supervisors and deputies. Six of the alerts concluded with no further action. Nine of the alerts noted that there were open administrative investigations in progress. The compliance rate for this inspection was 80%, an increase from the 66.66% from the previous month.

For April, we selected a sample of 15 EIS alerts completed or closed, which BIO then inspected for compliance. The inspection report, BI2019-0059, concluded that 10 of the 15 closed alerts were in compliance. All five deficiencies noted in the non-compliant cases were for failure to complete the action required within 30 days. BIO generated five Action Forms for the deficiencies. District 1 generated two BIO Action Forms, District 4 generated two, and District 2 generated one. Six of the alert interventions resulted in meetings between supervisors and deputies; one resulted in a meeting between a commander and the deputy. Eight of the alerts concluded with no further action. Nine of the alerts noted that there were open administrative investigations in progress. For the inspection of completed April EIS alerts, the compliance rate was 67%. The compliance rate decreased 13% from the 80% compliance rate for the March inspection.

For May, we selected a sample of 15 EIS alerts completed or closed, which BIO then inspected for compliance. The inspection report, BI2019-0076, concluded that nine of the 15 closed alerts were in compliance. All six deficiencies in the non-compliant cases were for failure to complete the action required within 30 days. BIO generated five Action Forms for the deficiencies. One of the deficiencies did not require a BIO Action Form. The deficiencies requiring BIO Action Forms originated in District 3, District 6, Lake Patrol, CID, and Lower Buckeye Jail. Six of the alert interventions resulted in meetings between supervisors and deputies. One intervention resulted in an Action Plan. One intervention resulted in training. Seven of the alerts concluded with no further action. Nine of the alerts noted that there were open administrative investigations in progress. The compliance rate for this inspection was 60%, a 7% decrease from the compliance rate from the previous month.

There was insufficient proof of compliance in this quarter to meet the requirements of this Paragraph. In addition, MCSO does not yet have an audit process for NTCFs.

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

Phase 1: In compliance

- EA-11 (Arrest Procedures), most recently amended on June 18, 2019.
- GF-5 (Incident Report Guidelines), most recently amended on July 25, 2019.

Phase 2: In compliance

We reviewed a representative sample of 68 Incident Reports for April 2019 for the randomly selected date of April 13, 2019. The sample of 68 Incident Reports included 21 Vehicle Crash Reports. Of the 47 Incident Reports not related to vehicle crashes, all were turned in by the end of the shift and reviewed by supervisors within the required timeframes. MCSO submits a separate spreadsheet documenting vehicle crash reviews. We confirmed supervisory review and

approval of 19 of the 21 Vehicle Crash Reports. We reviewed four arrest reports and found all to be in compliance with this Paragraph. In total, the compliance rate for timely submission and supervisory reviews of incident reports was 97%.

We reviewed a representative sample of 98 Incident Reports for May**,** for the randomly selected date of May 12, 2019. Of the 98 reports submitted, there were 14 Vehicle Crash Reports. We confirmed timely supervisory review on all Vehicle Crash Reports. Of the remaining 84 Incident Reports, we confirmed timely supervisory review on 79 of the reports. In total, 93 of 98 Incident Reports for the selected date had documentation of timely supervisory review. The compliance rate for timely supervisory reviews of Incident Reports was 95%. With regard to arrests, there were a total of 17 bookings and criminal citations. Fifteen of the arrest reports had timely supervisory reviews. We conducted a quality review on a 10% random sample of the reports we reviewed. For the reports we reviewed for May we did not find any significant deficiencies.

We reviewed a representative sample of 86 Incident Reports for June**,** for the randomly selected date of June 7, 2019. Of the 86 Incident Reports, 17 were Vehicle Crash Reports. MCSO submits proof of compliance of supervisory reviews of Vehicle Crash Reports in a spreadsheet. We confirmed timely supervisory reviews on all 17 Vehicle Crash Reports. Of the remaining 69 Incident Reports, we confirmed timely submission on 65 of 69 reports, and we confirmed timely supervisory reviews on 64 of 69 reports. Of the 19 Arrest Reports, 16 were reviewed and approved by supervisors within 72 hours. These three Arrest Reports were part of the five reports that were non-compliant due to the lateness of the supervisory reviews. In total, 81 of 86 Incident Reports were in compliance, or 94%. We conducted a quality review on a 10% random sample of Incident Reports and noted no significant deficiencies.

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

Phase 1: In compliance

- EA-11 (Arrest Procedures), most recently amended on June 18, 2019.
- GF-5 (Incident Report Guidelines), most recently amended on July 25, 2019.

Phase 2: Not in compliance

To determine compliance with this Paragraph, we review documentation related to arrests where MCSO found deficiencies and took corrective action, which are documented in Incident Memorialization Forms (IMFs), and arrests where the Maricopa County Attorney's Office

(MCAO) declined prosecution. The Maricopa County Attorney's Office generally does not provide specific details as to the reason arrests cases are declined for prosecution. For each arrest where MCAO declined prosecution, and no specific reasons are provided, there must be an inquiry to determine if the cause of the rejection was due to lack of probable cause, if there was a violation of MCSO policy, or there is a need for corrective action or review of MCSO policy, strategy, tactics, or training. If the rejection was related to any of these factors, we look for the supervisor's comments and any corrective action taken. We also review the BIO inspection reports associated with MCAO turndowns. Due to the time it takes MCSO to process Blue Team notes, our verification of proof of compliance with Paragraphs 94 and 96 will consist of the review of documentation for the last month of the preceding quarter, and the first two months of the quarter in review.

For this reporting period, we received three Incident Memorialization Forms (IMFs), all in April, that fall within the purview of this Paragraph. The first IMF was generated as a result of a DUI arrest where the deputy made several irreversible errors, including failing to obtain consent for intoxilyzer testing, and failing to complete mandatory paperwork. The supervisor met with the deputy for coaching and training. This IMF met the requirements of Paragraph 94. The second IMF was generated in a vehicle burglary case where the deputy had several deficiencies in the investigation, including lack of articulation of the deputy's actions in the investigation. A lieutenant met with the deputy to go over the mistakes, and to ensure the deputy understood the agency's expectations. The third IMF was related to the second IMF previously discussed. The deputy's supervisor failed to properly review and correct all the mistakes the deputy had made in the vehicle burglary investigation. A commanding officer met with the supervisor and discussed the issues, as well as supervisory responsibilities in report reviews.

We reviewed the inspection report for County Attorney Dispositions for March (BI2019-0031). BIO reviewed 20 of 120 dismissals of criminal cases from the Maricopa County Justice Courts and 45 cases from the Maricopa County Superior Court. BIO notes that the focus of the inspection is the identification of irreversible errors. For the March case inspection, MCSO found no irreversible errors and 19 non-compliance deficiencies outside of the scope of the inspection. The inspection resulted in a 100% compliance rating. With regard to the 19 non-compliance deficiencies noted, BIO issued 15 BIO Action Forms. We reviewed the 45 Superior Court cases selected for inspection, and determined that 20 of the 45 were arrest cases that fell within the scope of this Paragraph. In addition, all Justice Court cases involved criminal citations and/or bookings, and were applicable to this Paragraph. Of the total 40 applicable cases for March, BIO noted nine deficient cases that should have been addressed by the supervisory review process. According to the data in the BIO inspection report, we concluded that 31 of 40 applicable arrest cases were in compliance.

In response to our request for proof of compliance with this Paragraph, MCSO submitted 16 Superior Court cases that had been turned down for prosecution in March. We reviewed MCSO's investigation of the 16 applicable cases and found that the documentation in one of the 16 cases was in compliance with this Paragraph. In addition to the one case (out of 16) we

found in compliance, the BIO inspection found four of five cases in compliance. From a total of 56 total applicable cases reviewed, 32 were in compliance. The compliance rate for Paragraph 94, for March, was 80%.

We reviewed the inspection report for County Attorney Dispositions for April (BI2019-0046). From the total 386 Justice Court cases for the month, BIO selected a random sample of 25 cases, of which five were reviewed. From the Superior Court, BIO reviewed all 28 cases that were rejected for prosecution. The inspection found no irreversible errors and three deficiencies, involving two cases, outside of the scope of the inspection. The inspection resulted in a 100% compliance rating. We reviewed the BIO inspection list and determined that five of the 28 Superior Court cases were arrests that fall within the scope of this Paragraph. In addition, all five Justice Court cases involved criminal citations and/or bookings, and were applicable to this Paragraph. None of the five Justice Court cases had any deficiencies. From the five applicable Superior Court arrest cases, BIO noted one case that had deficiencies. In this arrest case, two deficiencies were attributed to the same deputy. According to BIO, this was an arrest in which the deputy submitted the case without probable cause, resulting in a "further." The deputy also failed to interview the suspect/investigative lead.

In response to our request for proof of compliance with this Paragraph, MCSO submitted seven cases, of which three were arrests; four were basket cases and therefore not within the scope of this Paragraph. Basket cases are incidents where deputies do not make an arrest, but submit the facts gathered in their investigation to the prosecutor for evaluation of charges. Of the three applicable cases, we found that two had proper investigations and follow-up by the chain of command.

There were 13 reviewed cases that were applicable to this Paragraph. In addition to the two cases we found out of compliance, the BIO inspection found one case out of compliance. In total, we found one of three cases in compliance, and BIO found nine of 10 cases in compliance. From the total applicable 13 cases, 10 were in compliance, or 77%.

We reviewed the inspection report for County Attorney Dispositions for May (BI2019-0064). BIO reviewed 20 of 132 dismissals, from the Justice Courts, and 53 dismissals from the Superior Court. The inspection found two irreversible errors and 13 deficiencies outside of the scope of the inspection. The inspection resulted in a 97.26% compliance rating. BIO generated 13 Action Forms as a result of the deficiencies. We reviewed the Superior Court cases selected for inspection by BIO and determined that 19 of the 53 cases were arrests that fall within the requirements of this Paragraph. The remaining 34 cases were submittals that do not fall within the scope of this Paragraph. All 20 Justice Court cases involved bookings and/or criminal citations and were applicable to this Paragraph. There were a total of 39 arrest cases reviewed. BIO found 33 of 39 of the applicable cases in compliance.

For May, MCSO submitted 17 Superior Court cases that were rejected, in response to our request for proof of compliance with this Paragraph. We found that one of the 17 cases was a submittal, not an arrest. We reviewed MCSO's investigation of the 16 applicable Superior Court cases that were rejected. We found none of the 16 cases in compliance with this Paragraph, as none of them had a supervisory investigation as to the rejection by the County Attorney. Based on the total 55 cases reviewed, 33, or 60%, were in compliance.

The Monitoring Team and the Parties have been working with MCSO on an inspection methodology that will replace the current County Attorney/Justice Court Turndowns Inspection report. The new methodology will review a sample of arrest reports on a monthly basis, two months retroactively. The added attention of the new inspection is expected to increase supervisory oversight. MCSO is anticipating an increase in Incident Memorialization Forms, and a decrease in the number of deficient arrest cases. Implementation of the new methodology is expected in September.

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

Phase 1: In compliance

- GC-4 (Employee Performance Appraisals), most recently amended on July 25, 2019.

Phase 2: Not in compliance

To assess compliance with supervisory tracking of violations or deficiencies in arrests, and corrective actions taken, we review the EIS Alerts Inspection Reports. For this reporting period, MCSO was in compliance with Paragraph 100, as it relates to assessing the quality of supervisory reviews in supervisory EPAs.

For March, we selected a sample of 15 EIS alerts completed or closed, which BIO then inspected for compliance. The inspection report, BI2019-0044, concluded that 12 of 15 closed alerts were in compliance. All three deficiencies noted were for failure to complete the action required within 30 days. Two BIO Action Forms were completed by District 3, and one was completed by the Extraditions Unit. Nine of the alert interventions resulted in meetings between supervisors and deputies. Six of the alerts concluded with no further action. Nine of the alerts noted that there were open administrative investigations in progress. The compliance rate for this inspection was 80%, an increase from the 66.66% from the previous month.

For April, we selected a sample of 15 EIS alerts completed or closed, which BIO then inspected for compliance. The inspection report, BI2019-0059, concluded that 10 of the 15 closed alerts were in compliance. All five deficiencies noted, on the non-compliant cases, were for failure to complete the action required within 30 days. Five BIO Action Forms were generated for the deficiencies. There were two BIO Action Forms generated by District 1, two by District 4, and one by District 2. Six of the alert interventions resulted in meetings between supervisors and deputies; one resulted in a meeting between a commander and the deputy. Eight of the alerts concluded with no further action. Nine of the alerts noted that there were open administrative investigations in progress. For the inspection of completed April EIS alerts, the compliance rate was 67%. The compliance rate decreased 13% from the 80% compliance rate for March inspection.

For May, we selected a sample of 15 EIS alerts completed or closed, which BIO then inspected for compliance. The inspection report, BI2019-0076, concluded that nine of the 15 closed alerts were in compliance. All six deficiencies noted in the non-compliant cases were for failure to complete the action required within 30 days. Five BIO Action Forms were generated for the deficiencies. One of the deficiencies did not require a BIO Action Form. The deficiencies requiring BIO Action Forms originated in District 3, District 6, Lake Patrol, CID, and Lower Buckeye Jail. Six of the alert interventions resulted in meetings between supervisors and deputies. One intervention resulted in an Action Plan. One intervention resulted in training. Seven of the alerts concluded with no further action. Nine of the alerts noted that there were open administrative investigations in progress. The compliance rate for this inspection was 60%, a decrease from the 67% compliance rate from the previous month.

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

Phase 1: In compliance

- EA-11 (Arrest Procedures), most recently amended on June 18, 2019.

Phase 2: Not in compliance

This Paragraph requires that a command-level official review a supervisor's investigation of the circumstances pertaining to any arrest that lacks probable cause, is in violation of policy, or where there is a need for corrective action or review of the agency's policy, strategy, tactics, or training. We review cases documented in Incident Memorialization Forms, and we review cases in which the Maricopa County Attorney's Office declines prosecution. The Maricopa County Attorney's Office (MCAO) generally does not provide specific details as to the reason

arrests cases are declined for prosecution. For each arrest where MCAO declined prosecution, and no specific reasons are provided, there must be an inquiry to determine if the cause of the rejection was due to any of the factors listed above. If the rejection was related to any of these factors, we look for the supervisor's comments related to the investigation, and any corrective action taken. To verify compliance with this Paragraph, we review the cases submitted for Paragraph 94, to determine if there was Command review of the supervisor's investigation within 14 days of the supervisor's submission, and if the commander evaluated any corrective actions that resulted from deficiencies.

For this reporting period, we received three Incident Memorialization Forms (IMFs) that fall within the purview of this Paragraph. The first IMF was generated as a result of a DUI arrest wherein the deputy made several irreversible errors, including failing to get consent for intoxilyzer testing, and failing to complete mandatory paperwork. The supervisor met with the deputy for coaching and training. This IMF had appropriate command review, within required timelines, and met the requirements of Paragraph 96. The second IMF was generated in a vehicle burglary case where the deputy had several deficiencies in the investigation, including lack of articulation of the deputy's actions. A commanding officer met with the deputy to go over the mistakes and to ensure the deputy understood the agency's expectations. The IMF discussed had appropriate timely command review, and met the requirements of Paragraph 96. The third IMF was associated to the second IMF previously discussed. The supervisor failed to properly identify and correct all the mistakes the deputy had made in the vehicle burglary investigation. A commanding officer met with the supervisor and discussed the issues, as well as the supervisor's responsibilities with regard to report reviews. This IMF had appropriate and timely command review, and met the requirements of this Paragraph.

We have previously noted concerns with the low number of Incident Memorialization Forms. Only three IMFs were generated in this quarter. In the past, MCSO has asserted that the low number of IMFs is an indication of increased quality in deputies' work product. We do not consider this a valid argument without additional data to support it. The low number of IMFs could possibly be an indication of increased quality in arrest reports, if there were other factors to support that premise, such as a decrease in number of cases rejected by MCAO.

As part of our review of proof of compliance with this Paragraph, we look for timely command review of supervisors' investigations of cases rejected for prosecution. Of the 16 cases submitted for April, for Paragraph 94, one had a completed investigation by the supervisor. A commander conducted proper review of this case within the required 14 days. Of the seven cases submitted for Paragraph 94, for May, only three were arrests that were applicable. Of these three cases, two were in compliance with this Paragraph. None of the 16 cases submitted for June, for Paragraph 94, had completed supervisory investigations. In total, there were three IMFs reviewed, as well as four supervisory investigations of MCAO rejections. Of the total of seven cases reviewed for this Paragraph, six were in compliance, or 86%.

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

Phase 1: In compliance

- GH-5 (Early Identification System), most recently amended on January 4, 2019.

Phase 2: Not in compliance

As per GH-5 (Early Identification System) and GB-2 (Command Responsibility), supervisors are required to conduct EIS reviews twice per month for sworn members. Command review of EIS profiles of supervisory and command personnel began in February 2017. Consistent with our methodology, for every month of the reporting period, we selected a supervisor and a squad of deputies from each District. We then reviewed the documentation provided as verification of compliance with this Paragraph. We also requested that EIS reviews of the commanders responsible for the selected personnel be included.

For April, we reviewed the documentation provided for 51 employees – which included the ranks of deputy, sergeant, lieutenant, and captain. Of the 51 employees, 48 had the required two EIS reviews in the month, for a 94% compliance rate. For May, we reviewed Supervisory Notes requested as verification of compliance for 50 employees. Of the 50 selected employees, 48 had appropriate documentation of timely EIS reviews, for a compliance rate of 96%. For June, we received Supervisory Notes as verification of compliance of EIS reviews for the selected 53 employees. Of the 53 employees, 52 had appropriate documentation of compliance with this Paragraph, for a compliance rate of 98%. The total compliance rate for the quarter, for periodic supervisory and command EIS reviews, was 96%. However, review of broader pattern-based reports, as required by Paragraph 81.c., and assessments of interventions as required by this Paragraph, has not been sufficiently documented to meet compliance with this Paragraph.

d. Regular Employee Performance Review and Evaluations

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

Phase 1: In compliance

- GC-4 (Employee Performance Appraisals), most recently amended on July 25, 2019.

Phase 2: Not in compliance

Employee Performance Appraisal Training was completed during the third quarter of 2017, and the new EPA format was initiated on September 1, 2017. Our reviews of EPAs are discussed in detail in Paragraph 87. Of the 44 EPAs reviewed for this reporting period, 37 were in compliance. The compliance rating for this reporting period was 84%. MCSO did not meet the requirements of this Paragraph during this reporting period.

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

Phase 1: In compliance

- GC-4 (Employee Performance Appraisals), most recently amended on July 25, 2019.

Phase 2: In compliance

Pursuant to a discussion with MCSO, we agreed to accept the acknowledgement, signed by the supervisor, at the conclusion of the EPA, as proof of compliance with the requirements of this Paragraph. This acknowledgment states that the supervisor has done due diligence in researching the employee's history for the review period, as it pertains to the requirements of Paragraph 99. The areas of review include: complaint investigations and dispositions; discipline; citizen complaints; commendations; awards; civil or administrative claims; and past supervisory actions taken pursuant to EIS alerts. Supervisors completing EPAs are required to document their findings relevant to these areas if their reviews reveal any applicable events or actions. The acknowledgement indicates that if something was discovered, it is included in the appropriate areas of the appraisal. Training history, and rank and assignment history, will continue to be documented in separate sections. During our July site visit, we met with MCSO to discuss the progress of the EPA revision, and expected timeline for implementation. The new EPA process is tentatively scheduled for deployment in the first quarter of 2020. MCSO also advised us that, as it pertains to this Paragraph, the new EPA form would include a section for supervisors to note their findings pertaining to each of the requirements of Paragraph 99. If there are any applicable entries, the supervisor will complete the required section. If the specific area of review has no events or actions to report, the supervisor will affirmatively note it in the EPA.

For this reporting period, we reviewed Employee Performance Appraisals for 17 deputies and 27 supervisors. Of the 17 deputies' appraisals, all were in compliance with the requirements of Paragraph 99. Of the 27 supervisors' appraisals, all were in compliance with this Paragraph.

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

Phase 1: In compliance

- GC-4 (Employee Performance Appraisals), most recently amended on July 25, 2019.

Phase 2: In compliance

We reviewed Employee Performance Appraisals for 27 supervisors and commanders who received EPAs during this reporting period. All 27 appraisals rated the quality and effectiveness of supervision. Twenty-four of the 27 appraisals contained comments and/or rated the supervisors' demonstrated ability to identify and effectively respond to misconduct. Twenty-six of the 27 appraisals addressed the requirements of this Paragraph, as it pertains to the quality of supervisory reviews.

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.

In Full and Effective Compliance

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

For April, May, and June we received lists containing all incidents involving MCSO arrests and criminal citations. For each month, we requested a random sample of arrests and criminal citations. In total, we reviewed 51 incidents involving arrests and 84 incidents involving criminal citations. We also reviewed a random sample of 251 Incident Reports for this reporting period. During our reviews of the documentation provided for this reporting period, we found no evidence to indicate any violations of this Paragraph.

On December 28, 2018, MCSO asserted Full and Effective Compliance with this Paragraph. After review, the Monitor concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with the Monitor's determination.

Section 10: Misconduct and Complaints

COURT ORDER XI. MISCONDUCT AND COMPLAINTS

a. Internally-Discovered Violations

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

Phase 1: In compliance

- CP-2 (Code of Conduct), most recently amended on March 15, 2019.
- CP-3 (Workplace Professionalism: Discrimination and Harassment), most recently amended on January 24, 2019.
- CP-5 (Truthfulness), most recently amended on April 18, 2019.
- CP-11 (Anti-Retaliation), most recently amended on December 13, 2018.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- GC-16 (Employee Grievance Procedures), most recently amended on April 2, 2019
- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.

Phase 2: In compliance

During our assessments of compliance with this Paragraph, we review hundreds of misconduct investigations involving MCSO personnel. Many of them have been internally generated.

During this reporting period, we reviewed 91 administrative misconduct investigations. Twenty-eight of these were internally generated. Twelve involved sworn personnel, 11 involved Detention personnel, three involved civilian personnel, and two involved Posse members.

MCSO has continued to identify and address misconduct that is raised by other employees or identified by supervisory personnel. While some of these investigations did not meet all requirements for the proper reporting or completion of misconduct investigations, we address these failures in other Paragraphs in this report.

b. Audit Checks

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

Phase 1: Not in compliance

- Audits and Inspections Unit Operations Manual, Section 303, currently under revision.
- GH-4 (Bureau of Internal Oversight Audits and Inspections), most recently amended on October 30, 2018.

Phase 2: Not in compliance

MCSO established the Audits and Inspections Unit (AIU), a unit of the Bureau of Internal Oversight (BIO), to take responsibility for these requirements. AIU continues to develop an Operations Manual that will outline how the AIU will fulfill the "targeted" Paragraph 103 requirements. We and the Parties provided comments on different versions of the relevant section of the manual. During our July site visit, AIU personnel informed us that it would provide the next iteration in August; we received it in September.

During our last several site visits, AIU personnel have reported that the Unit's main priority is completing the AIU Operations Manual. We will inquire with AIU as to its progress on this manual during our upcoming site visit.

While the review process of the operations manual is still underway, for this reporting period, BIO again submitted several completed inspections in support of the "regular" and "random" elements of this Paragraph. The inspections examined, for example, complaint intake tests, Supervisory Notes, Patrol Activity Logs, traffic stop data, County Attorney turndown dispositions, and Patrol Shift Rosters. We reviewed these reports and believe that they comport with the Paragraph 103 requirement for "regular" and "random" integrity audit checks.

c. Complaint Tracking and Investigations

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

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

Phase 2: In compliance

In the fall of 2015, MCSO developed a draft checklist and investigative format for administrative investigations. All the requirements in this Paragraph are included in these protocols. The checklist and formats were approved for use in early 2016, and all personnel through the rank of captain were required to attend a training session regarding the use of these forms. Effective June 1, 2016, all administrative investigations were required to use these forms. MCSO has consistently met this requirement, and MCSO has included the checklists in administrative investigations forwarded for our review.

Since that time, the Professional Standards Bureau (PSB) drafted revisions to the investigation checklist and format to provide additional clarification on procedural requirements. We and the Parties reviewed the revisions and provided our feedback. The revised format and investigation checklist were approved for use. The Misconduct Investigative Training for personnel outside of PSB also now includes a discussion of the revisions to these forms.

During this reporting period, we reviewed 91 administrative misconduct investigations. Fifty-two involved identified sworn MCSO personnel. All were completed after July 20, 2016 and included the use of an approved investigative format and checklist. We continue to note that deputies consistently appear for scheduled interviews, provide all required information to investigators, and cooperate with investigations. There was one instance during this reporting period where an investigator failed to notify an employee's supervisor of the intended administrative interview. There were no instances where a supervisor failed to facilitate a deputy's attendance at a required interview.

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

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

Phase 2: In compliance

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

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

During our reviews for this reporting period, we reviewed 32 sustained administrative misconduct investigations. Seventeen of these 32 involved misconduct by sworn personnel. Eight cases involved misconduct by Detention personnel. Two cases involved civilian personnel and five involved Posse members. Twenty-three of the 32 investigations involved personnel still employed by MCSO at the time final findings or discipline decisions were made. In all these cases, the PSB Commander determined the findings and presumptive discipline range for the sustained violations. We found these preliminary decisions to be consistent with the Discipline Matrices in effect at the time the decisions were made. We also found that generally, where appropriate, discipline history, past complaints, performance evaluations, traffic stop and patrol data, and training records were included in the documents considered for final discipline findings.

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.*

In Full and Effective Compliance

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

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

On June 3, 2019, MCSO asserted Full and Effective Compliance with this Paragraph. After review, we concurred with this assertion, and neither the Plaintiffs nor the Plaintiff-Intervenors disagreed with our determination.

Section 11: Community Engagement

COURT ORDER XII. COMMUNITY ENGAGEMENT

a. Community Outreach Program

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

Paragraph 109. *The Monitor shall hold at least one public meeting per quarter to coincide with the quarterly site visits by the Monitor in a location convenient to the Plaintiffs class. The meetings shall be for the purpose of reporting the MCSO' progress in implementing this Order. These meetings shall be used to inform community members of the policy changes or other significant actions that the MCSO has taken to implement the provisions of this Order. Summaries of audits and reports completed by the MCSO pursuant to this Order shall be made available. The meetings shall be under the direction of the Monitor and/or his designee. The Sheriff and/or the MCSO will participate in the meetings to provide substantive comments related to the Melendres case and the implementation of the orders resulting from it, as well as answer questions related to its implementation, if requested to do so by the Monitor or the community. If the Sheriff is unable to attend a meeting due to other obligations, he shall notify the Monitor at least 30 days prior to that meeting. The Monitor shall consult with Plaintiffs' representatives and the Community Advisory Board on the location and content of the meetings. The Monitor shall clarify for the public at these meetings that MCSO does not enforce immigration laws except to the extent that it is enforcing Arizona and federal criminal laws.*

Phase 1: Not applicable

Phase 2: In compliance

This Paragraph, per the June 3, 2019 Order (Document 2431), returned the community meetings to the Monitor's supervision and directed the Monitor to hold at least one public meeting per quarter to coincide with the quarterly site visits by the Monitor in a location convenient to the Plaintiffs' class. In order to provide adequate time to fully consult with Plaintiffs' representatives and the Community Advisory Board (CAB) on the location and structure of future meetings, the Monitoring Team did not hold a community meeting during our July 2019 site visit.

Paragraph 110. *The meetings present an opportunity for the Monitor and MCSO representatives to listen to community members' experiences and concerns about MCSO practices. The Monitor may investigate and respond to those concerns. The Monitor shall inform the public that the purpose of the meeting is to discuss the Melendres case and the orders implementing the relief of that case. 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 Defendant's compliance with this order, it may inform the complainant how to file an appropriate complaint with the MCSO or appropriate law enforcement agency. The Sheriff may respond to non-Melendres questions raised at meetings to the extent, in his sole discretion, if the Sheriff wishes to do so.*

Phase 1: Not applicable

Phase 2: Not applicable

As noted above, we did not hold a community meeting during our July 2019 site visit in order to provide adequate time to fully consult with Plaintiffs' representatives and the Community Advisory Board (CAB) on the location and structure of future meetings.

Paragraph 111. *English and Spanish-speaking 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. The Plaintiffs' and Plaintiff-Intervenor's representatives shall be invited to attend and the Monitor shall announce their presence and state their availability to answer questions.*

Phase 1: Not applicable

Phase 2: Not applicable

As noted above, we did not hold a community meeting during our July 2019 site visit in order to provide adequate time to fully consult with Plaintiffs' representatives and the Community Advisory Board (CAB) on the location and structure of future meetings.

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

Phase 1: Not applicable

Phase 2: Not applicable

As noted above, we did not hold a community meeting during our July 2019 site visit in order to provide adequate time to fully consult with Plaintiffs' representatives and the Community Advisory Board (CAB) on the location and structure of future meetings.

b. MCSO Community Liaison

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

Phase 1: In compliance

- GJ-24 (Community Relations and Youth Programs), most recently revised on September 7, 2018.

Phase 2: In compliance

This Paragraph requires that MCSO select or hire a Community Liaison who is fluent in English and Spanish; and that MCSO post on its public website the hours and contact information of the Community Outreach Division (COrD), which is responsible for public communications and questions regarding MCSO.

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

Paragraph 114. *The COD shall have the following duties in relation to community engagement:*

a. to coordinate the district community meetings described above in Paragraphs 109 to 112;

b. to provide administrative support for, coordinate and attend meetings of the Community Advisory Board described in Paragraphs 117 to 118; and

c. to compile any complaints, concerns and suggestions submitted to the COD by members of the public about the implementation of this Order and the Court's order of December 23, 2011, and its findings of fact and conclusions of law dated May 24, 2013, even if they don't rise to the level of requiring formal action by IA or other component of the MCSO, and to respond to Complainants' concerns; and

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

Phase 1: In compliance

- Court Implementation Division Operations Manual, most recently revised on August 17, 2018.
- GJ-24 (Community Relations and Youth Programs), most recently revised on September 7, 2018.

Phase 2: In compliance

Pursuant to the June 3, 2019 Order (Document 2431), subparagraphs a. and b. of this Paragraph are no longer applicable.

During this reporting period, the Deputy Chief designated as the CAB's point of contact worked with and provided support to the CAB. He distributed policies and other materials for CAB members to review and provide feedback, and tracked and responded to CAB members' inquiries and requests for information about MCSO's implementation of the Orders.

During this reporting period, the CAB did not hold any public meetings. Some CAB members attended a few of the Monitoring Team's compliance meetings during our July site visit. CAB members also exchanged numerous email messages with the Deputy Chief who is the CAB's designated point of contact regarding various inquiries and requests for information.

Following discussions during our October 2017 site visit, COrD created a form for capturing information on complaints, concerns, and suggestions submitted by members of the public to the COrD. MCSO has provided documentation that all current COrD personnel completed an online Complaint Intake and Processing course, to assist them in receiving and appropriately directing any complaints or concerns from community members they receive.

During this reporting period, COrD personnel reported that they occasionally receive concerns from community members, and that they forward those that are complaints to PSB. They also reported that they sometimes receive inquiries for which COrD staff believe it is appropriate to direct community members to written materials or the MCSO website. During this reporting period, COrD did not submit any MCSO Complaint and Comment Forms for our review. COrD personnel wrote, "The Community Outreach Division did not receive any complaints, concerns, or suggestions from the public concerning the implementation of the Court's Order."

Per this Paragraph, the COrD is also required to communicate concerns received from the community at regular meetings with the Monitor and MCSO leadership. During our upcoming site visit, we will again inquire with COrD personnel to learn more about how COrD communicates community concerns to the MCSO leadership.

c. Community Advisory Board

Paragraph 115. *MCSO and Plaintiffs' representatives shall work with community representatives to create a Community Advisory Board ("CAB") to facilitate regular dialogue between the MCSO and the community, and to provide specific recommendations to MCSO and the Monitor 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. The MCSO shall cooperate with the Monitor to assure that members of the CAB are given appropriate access to relevant material, documents, and training so the CAB can make informed recommendations and commentaries to the Monitor.*

Phase 1: In compliance

- Court Implementation Division Operations Manual, most recently revised on August 17, 2018.

Phase 2: In compliance

During this reporting period, CAB members and representatives of MCSO – specifically, the Deputy Chief who is the CAB's designated point of contact – exchanged numerous email messages, which the Monitoring Team also received. In these messages, among other topics, CAB members provided specific recommendations to MCSO about policies and practices that will increase community trust and ensure that the provisions of this Order and other orders entered by the Court in this matter are met.

Paragraph 116. *The CAB shall have five members, two to be selected by MCSO and two to be selected by Plaintiffs' representatives. One member shall be jointly selected by MCSO and Plaintiffs' representatives. Members of the CAB shall not be MCSO Employees or any of the named class representatives nor any of the attorneys involved in this case. The CAB shall continue for at least the length of this Order.*

Phase 1: In compliance

- Court Implementation Division Operations Manual, most recently revised on August 17, 2018.

Phase 2: In compliance

The June 3, 2019 Order modified several requirements related to community engagement and the CAB, but it did not alter the requirements related to the composition of the CAB. The CAB remains a five-member body – with two members selected by MCSO, two members selected by Plaintiffs' attorneys, and one member jointly selected by MCSO and Plaintiffs' attorneys.

In September 2017, MCSO and the Plaintiffs' counsel announced their selection of the CAB members. At that time, one of the two CAB members who had served prior to the issuance of Document 2100 resigned, leaving one CAB member previously appointed by the Plaintiffs' representatives. The MCSO and Plaintiffs' representatives then appointed four new CAB members, resulting in a total of five members: two selected by MCSO; two selected by the Plaintiffs' representatives; and one jointly selected by MCSO and Plaintiffs' representatives. None of the current CAB members are MCSO employees, named class representatives, or attorneys involved in this case.

In July 2019, the two CAB members selected by MCSO resigned. As of this report, MCSO had not yet named its two new appointees to the CAB.

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

Phase 1: Not applicable

Phase 2: Not applicable

During this reporting period, the CAB did not hold any public meetings. Some CAB members attended a few of the Monitoring Team's compliance meetings during our July site visit. We also held two constructive meetings with CAB members; in the first, we discussed opportunities to expand the CAB's role in planning the quarterly community meetings; providing input on MCSO's policies and training programs; and seeking and providing community input on MCSO operations, particularly as they affect the Plaintiffs' class. In the second meeting, which

immediately followed the first, the Chief Deputy and the Executive Deputy Chief for Compliance joined us for an open and frank discussion regarding ways to improve the relationship between the CAB and MCSO.

Paragraph 118. *During the meetings of the CAB, members will relay or gather concerns from the community about MCSO practices that may violate the provisions of this Order and the Court's previous injunctive orders entered in this matter and transmit them to the Monitor and the MCSO for investigation and/or action. The Parties will also be given the CAB's reports and recommendations to the Monitor.*

Phase 1: Not applicable

Phase 2: Not applicable

As noted above, during this reporting period, the CAB did not hold any public meetings. However, during this reporting period, as in the past, CAB members, as in the past, inquired with MCSO officials regarding concerns that they received from the community. CAB members indicated that they would share this information with the community. Some CAB members also attended a few of the Monitoring Team's compliance meetings during our July site visit.

Second Supplemental Permanent Injunction/Judgment Order

Section 12: Misconduct Investigations, Discipline, and Grievances

COURT ORDER XV. MISCONDUCT INVESTIGATIONS, DISCIPLINE, AND GRIEVANCES

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

A. Policies Regarding Misconduct Investigations, Discipline, and Grievances

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

Phase 1: Not applicable

Phase 2: Deferred

MCSO provided us with the following:

- CP-2 (Code of Conduct), most recently amended on March 15, 2019.
- CP-3 (Workplace Professionalism: Discrimination and Harassment), most recently amended on January 24, 2019.
- CP-5 (Truthfulness), most recently amended on April 18, 2019.
- CP-8 (Preventing Racial and Other Bias-Based Profiling), most recently amended on September 26, 2018.
- CP-11 (Anti-Retaliation), most recently amended on December 13, 2018.
- EA-2 (Patrol Vehicles), most recently revised on February 20, 2019.

- GA-1 (Development of Written Orders), most recently amended on March 28, 2019.
- GB-2 (Command Responsibility), most recently amended on June 28, 2019.
- GC-4 (Employee Performance Appraisals), most recently amended on July 25, 2019.
- GC-7 (Transfer of Personnel), most recently amended on September 27, 2018.
- GC-11 (Employee Probationary Periods), most recently amended on March 28, 2019.
- GC-12 (Hiring and Promotional Procedures), most recently amended on June 14, 2019.
- GC-16 (Employee Grievance Procedures), most recently amended on April 2, 2019.
- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices), most recently amended on May 3, 2019.
- GE-4 (Use, Assignment, and Operation of Vehicles), most recently amended on June 27, 2019.
- GG-1 (Peace Officer Training Administration), most recently amended on August 14, 2019.
- GG-2 (Detention/Civilian Training Administration), most recently amended on August 14, 2019.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- GH-4 (Bureau of Internal Oversight Audits and Inspections), most recently amended on October 30, 2018.
- GH-5 (Early Identification System), most recently amended on January 4, 2019.
- GI-5 (Voiance Language Services), most recently amended on January 4, 2019.
- GJ-24 (Community Relations and Youth Programs), most recently revised on September 7, 2018.
- GJ-26 (Sheriff's Reserve Deputy Program), most recently amended on June 28, 2019.
- GJ-27 (Sheriff's Posse Program), currently under revision.
- GJ-35 (Body-Worn Cameras), most recently amended on January 7, 2017.
- Administrative Services Division Operations Manual, published on June 17, 2019.
- Audits and Inspections Unit Operations Manual, currently under revision.
- Body-Worn Camera Operations Manual, published on December 22, 2016.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

- Training Division Operations Manual, currently under revision.

We received a majority of the documents listed above within one month of the entry of the Order. The Monitoring Team and the Parties conducted initial reviews and returned the revised documents, with additional recommendations, to MCSO for additional work. MCSO continues to revise the remaining policies and operations manuals related to misconduct investigations, the Sheriff's Posse Program, Audits and Inspections, and Training. Those remaining policies and operations manuals identified by MCSO were in some phase of review by us and the Parties at the end of this reporting period.

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

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

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

a. Conflicts of interest in internal affairs investigations or in those assigned by the MCSO to hold hearings and make disciplinary decisions shall be prohibited. This provision requires the following:

i. No employee who was involved in an incident shall be involved in or review a misconduct investigation arising out of the incident.

ii. No employee who has an external business relationship or close personal relationship with a principal or witness in a misconduct investigation may investigate the misconduct. No such person may make any disciplinary decisions with respect to the misconduct including the determination of any grievance or appeal arising from any discipline.

iii. No employee shall be involved in an investigation, whether criminal or administrative, or make any disciplinary decisions with respect to any persons who are superior in rank and in their chain of command. Thus, investigations of the Chief Deputy's conduct, whether civil or criminal, must be referred to an outside authority. Any outside authority retained by the MCSO must possess the requisite background and level of experience of internal affairs investigators and must be free of any actual or perceived conflicts of interest.

b. If an internal affairs investigator or a commander who is responsible for making disciplinary findings or determining discipline has knowledge of a conflict of interest

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

c. Investigations into an employee's alleged untruthfulness can be initiated by the Commander of the Professional Standards Bureau or the Chief Deputy. All decisions not to investigate alleged untruthfulness must be documented in writing.

d. Any MCSO employee who observes or becomes aware of any act of misconduct by another employee shall, as soon as practicable, report the incident to a Supervisor or directly to the Professional Standards Bureau. During any period in which a Monitor is appointed to oversee any operations of the MCSO, any employee may, without retaliation, report acts of alleged misconduct directly to the Monitor.

e. Where an act of misconduct is reported to a Supervisor, the Supervisor shall immediately document and report the information to the Professional Standards Bureau.

f. Failure to report an act of misconduct shall be considered misconduct and may result in disciplinary or corrective action, up to and including termination. The presumptive discipline for a failure to report such allegations may be commensurate with the presumptive discipline for the underlying misconduct.

g. No MCSO employee with a rank lower than Sergeant will conduct an investigation at the District level.

Phase 1: In compliance

- CP-2 (Code of Conduct), most recently amended on March 15, 2019.
- CP-3 (Workplace Professionalism: Discrimination and Harassment), most recently amended on January 24, 2019.
- CP-5 (Truthfulness), most recently amended on April 18, 2019.
- CP-11 (Anti-Retaliation), most recently amended on December 13, 2018.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- GC-16 (Employee Grievance Procedures), most recently amended on April 2, 2019.
- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- Administrative Services Division Operations Manual, published on June 17, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

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

During this reporting period, we reviewed 91 closed administrative misconduct investigations. Sworn or Detention personnel assigned to the Professional Standards Bureau (PSB) conducted 35 of the investigations. The contract investigator hired by MCSO conducted four investigations. Sworn supervisors in the Districts or Divisions outside of PSB conducted 52 of the investigations.

Paragraph 167.a.i-iii. prohibits any employee with any conflicts of interest from participating in, holding hearings on, or making any disciplinary decisions in a misconduct investigation. During this reporting period, there were four instances where a potential conflict of interest was identified. In all four, the investigations were outsourced to the contract investigator hired by MCSO.

Paragraph 167.b. requires that if the internal affairs investigator or a commander responsible for making disciplinary decisions identifies a conflict of interest, appropriate notifications must be made immediately. Our review of the 91 completed administrative investigations for this reporting period revealed that there were four instances where MCSO identified a conflict of interest by an MCSO investigator or commander responsible for making disciplinary decisions. In all four cases, the investigation and determination of initial findings were outsourced to the contract investigator hired by MCSO.

Paragraph 167.c. requires that investigations into truthfulness be initiated by the Chief Deputy or the PSB Commander. MCSO identified three instances during this reporting period where MCSO believed a truthfulness allegation was appropriate. In all three, the PSB Commander approved the truthfulness investigation. We identified one instance where we believe a truthfulness investigation should have been initiated and was not.

Paragraph 167.d. requires that any MCSO employee who observes or becomes aware of misconduct by another employee shall immediately report such conduct to a supervisor or directly to PSB. Per the requirement, during the period in which the Monitor has authority to oversee any operations of MCSO, any employee may also report alleged misconduct to the Monitor. Of the 91 administrative cases we reviewed for this reporting period, there were 24 investigations where an employee reported potential misconduct by another employee, or a supervisor identified potential employee misconduct. There were no instances identified where an employee failed to report potential misconduct to a supervisor as required.

Paragraph 167.e. requires that when supervisors learn of an act of misconduct, the supervisor shall immediately document and report the information to PSB. In all 24 cases, the supervisor appropriately documented the information and immediately forwarded it to PSB, and an administrative investigation was initiated.

Paragraph 167.f. provides for the potential for a disciplinary sanction or other corrective action if an employee fails to bring forth an act of misconduct. During this reporting period, there were no investigations initiated because an employee failed to bring forth information regarding

potential misconduct of another employee about which the employee was aware. We did not identify any circumstances during our reviews that we believe would have necessitated any action related to this Subparagraph.

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

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

Phase 1: In compliance

- CP-2 (Code of Conduct), most recently amended on March 15, 2019.
- CP-3 (Workplace Professionalism: Discrimination and Harassment), most recently amended on January 24, 2019.
- CP-5 (Truthfulness), most recently amended on April 18, 2019.
- CP-11 (Anti-Retaliation), most recently amended on December 13, 2018.
- GC-16 (Employee Grievance Procedures), most recently amended on April 2, 2019.
- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Administrative Services Division Operations Manual, published on June 17, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

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

There was one completed investigation where an employee alleged several policy violations by the Division's Command personnel, including retaliation for reporting concerns to the Human Resources Division. This investigation was outsourced to the contract investigator hired by MCSO, who found the allegations not sustained. We agree with this decision. MCSO reported that there were no grievances or other documents filed with PSB or the Administrative Services Division that alleged any other misconduct related to the requirements of this Paragraph.

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

Phase 1: In compliance

- CP-2 (Code of Conduct), most recently amended on March 15, 2019.
- CP-3 (Workplace Professionalism: Discrimination and Harassment), most recently amended on January 24, 2019.
- CP-5 (Truthfulness), most recently amended on April 18, 2019.
- CP-11 (Anti-Retaliation), most recently amended on December 13, 2018.
- GC-16 (Employee Grievance Procedures), most recently amended on April 2, 2019.
- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Administrative Services Division Operations Manual, published on June 17, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 91 administrative misconduct investigations that were completed during this reporting period. One complaint of retaliation was filed by an MCSO employee; and the finding was not sustained, as noted in Paragraph 168. There were no grievances or other documents submitted to PSB or to the Administrative Services Division that alleged any other retaliation related to the requirements of this Paragraph.

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

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 91 completed administrative misconduct investigations conducted during this reporting period. Twenty-eight were initiated as a result of internal complaints, and 63 were generated based on external complaints. We also reviewed seven criminal misconduct investigations, four of which were generated as a result of external complaints.

Of the 91 administrative misconduct investigations we reviewed for this reporting period, seven involved externally generated anonymous complaints. Two involved third-party complaints. None of the criminal misconduct investigations we reviewed during this reporting period were generated due to an anonymous complaint. We have not become aware of any evidence that indicates that MCSO refused to accept and complete investigations in compliance with the requirements of this Paragraph. None of the 91 administrative misconduct investigations we reviewed during this reporting period included any allegations indicating that any third-party or anonymous complaint was not appropriately accepted and investigated.

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

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

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

We determined that nine of the 91 completed administrative investigations involved complainants who sought to withdraw their complaints; or were unavailable, unwilling, or unable to cooperate. MCSO completed all nine investigations and reached a finding as required. We also found that in 13 of the 91 investigations, the principal left MCSO employment prior to the finalization of the investigation or discipline process. MCSO completed all these investigations and reached a finding. Of the 91 investigations we evaluated for compliance, none were prematurely terminated.

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

Phase 1: In compliance

- CP-5 (Truthfulness), most recently amended on April 18, 2019.
- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph during this reporting period, we reviewed 91 completed administrative misconduct investigations conducted by MCSO personnel. There were no investigations identified by MCSO where an employee failed to accurately provide all information or evidence required during the investigation. We identified one case during our reviews where we believe an employee may have intentionally failed to provide all required information or evidence during an investigation and MCSO failed to further investigate. We will discuss this case with PSB during our next site visit.

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

Phase 1: In compliance

- GC-4 (Employee Performance Appraisals), most recently amended on July 25, 2019.
- GC-11 (Employee Probationary Periods), most recently amended on March 28, 2019.
- GC-12 (Hiring and Promotional Procedures), most recently amended on June 14, 2019.

Phase 2: In compliance

MCSO has established a protocol to address the requirements of this Paragraph. When a promotion list is established for sworn or Detention personnel, a copy of the list is forwarded to the Professional Standards Bureau (PSB). Before any promotion is finalized, PSB conducts a check of each employee's disciplinary profile in the automated system (IAPro). As part of the promotional process, MCSO conducts a meeting with command staff to discuss each employee's qualifications. During this meeting, the results of the IAPro checks are provided to

the staff for review and consideration. The PSB Commander generally attends the promotion meetings for both Detention and sworn personnel, and clarifies any questions regarding the disciplinary history that the staff may have. When an employee is moved from a civilian employment position to a sworn employment position, MCSO conducts a thorough background investigation. The process involves a review and update of the candidate's PSB files, which is completed by Pre-Employment Services. For Detention employees who are moving to sworn positions, the information in the employee's file is updated to include any revised or new information. Due to the scheduling of our site visits, we will inspect personnel files for employees who were promoted during the last month of the preceding quarter, and the first two months of the period in review. In our reviews, we ensure that the documentation, as it pertains to compliance with this Paragraph, is included in personnel files.

During this reporting period, MCSO reported the promotions of 27 sworn employees, 12 Detention employees, and 20 civilian employees. The list of sworn employees included 20 promotions to deputy sheriff trainee positions and seven to supervisory positions. Three of the employees had open PSB investigations. None of the allegations involved serious misconduct. During our July site visit, we inspected the files of employees who had been promoted during the last month of the previous quarter, and the first two months of this reporting period. We verified that the allegations involving the three promoted employees did not involve serious misconduct; and if sustained, would not result in serious discipline. MCSO also reported the hiring of sworn, Detention, and civilian employees. Several new hires were actually re-hires who retired from one classification and were rehired as civilian employees. Some of these re-hired employees had minor discipline, but the discipline was not related to serious misconduct.

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

Phase 1: In compliance

- GC-12 (Hiring and Promotional Procedures), most recently amended on June 14, 2019.

Phase 2: In compliance

For employees who are promoted, the documentation submitted by MCSO generally includes the disciplinary history for the previous 10 years and any applicable disciplinary actions. MCSO also provides the disciplinary history of Detention and civilian employees who have been upgraded in classification to sworn status.

During this reporting period, MCSO reported the hiring and promotions of several sworn, Detention, and civilian employees. Fourteen employees who were either promoted or hired had records of previous disciplinary actions. New hires who had records of discipline were former employees who were rehired under different classifications. None of the 14 employees who were promoted or hired had a history of multiple sustained allegations of misconduct, and none had any sustained allegations of Category 6 or 7 offenses. During our July site visit, we inspected the files of employees who had been promoted during the last month of the previous quarter, and the first two months of this reporting period. We found the employee personnel files to be in compliance.

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

Phase 1: In compliance

- GH-5 (Early Identification System), most recently amended on January 4, 2019.
- GC-7 (Transfer of Personnel), most recently amended on September 27, 2018.

Phase 2: In compliance

Per policy, MCSO is to conduct an EIS review within 14 days of an affected employee's transfer. We requested a list of employees that were transferred during this reporting period. From the list, we selected a sample of employees to review and verify that there was documentation of the required EIS reviews. To verify compliance with this Paragraph, we review the transfer request documents that MCSO completes for each employee. The documents memorialize the commander's acknowledgment of review of the transferred employee's disciplinary history, as well as the review of the employee's performance appraisals for the previous five years. This review is generally conducted before the gaining commander accepts the transfer, a few days prior to the transfer becoming effective.

For April, we requested a list of employees who were transferred during the previous month. MCSO submitted a list, and we selected a sample of 35 employees. The list we requested included 24 Detention employees, 10 sworn employees, and one civilian. Of the 24 Detention employees, all had proper documentation of command review of their EIS profiles. Of the 10 sworn employees, all had documentation of command review of their EIS profiles. We found that the civilian employee also had proper documentation of command review of their EIS profile. The compliance rate for April was 100%.

For May, we requested a list of employees who were transferred during the previous month. MCSO submitted a list, and we selected a sample of 25 employees. The list we requested included 18 Detention employees and seven sworn employees. Of the 18 Detention employees, 17 had proper documentation of command review of their EIS profiles. Of the seven sworn employees, all had documentation of command review of their EIS profiles. The compliance rate for May was 96%.

For June, we requested a list of employees who were transferred during the previous month. MCSO submitted a list, and we selected a sample of 25 employees. Three of the employees from the sample were new academy recruits, and therefore not considered transfers. The documentation provided included 10 Detention employees, 11 sworn employees, and one civilian. Of the 10 Detention employees, all had proper documentation of command review of their EIS profiles. Of the 11 sworn employees, 10 had documentation of command review of their EIS profiles. We were able to confirm command review of the civilian's disciplinary profile. The compliance rate for June was 95%. The compliance rate for the second quarter was 98%.

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

Phase 1: In compliance

- GC-4 (Employee Performance Appraisals), most recently amended on July 25, 2019.

Phase 2: Not in compliance

We reviewed Employee Performance Appraisals for 27 supervisors and commanders who received EPAs during this reporting period. All 27 EPAs rated the quality and effectiveness of supervision. Twenty-four of the 27 EPAs contained comments and/or rated the supervisors' demonstrated ability to identify and effectively respond to misconduct. Twenty-six of the 27 EPAs rated supervisors on the quality of their reviews. Twenty-one of the 27 supervisors' EPAs assessed the employees' quality of internal investigations and/or the quality of their reviews of internal investigations, as required by this Paragraph. The number of EPAs that met the requirements of this Paragraph increased during this reporting period. The compliance rate for the previous quarter was 53%. The compliance rate for this reporting period was 78%.

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

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

Phase 2: In compliance

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

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

B. Misconduct-Related Training

Paragraph 178. *Within three months of the finalization of these policies consistent with ¶ 65of this Order, the Sheriff will have provided all Supervisors and all personnel assigned to the Professional Standards Bureau with 40 hours of comprehensive training on conducting employee misconduct investigations. This training shall be delivered by a person with subject matter expertise in misconduct investigation who shall be approved by the Monitor. This training will include instruction in:*

a. investigative skills, including proper interrogation and interview techniques, gathering and objectively analyzing evidence, and data and case management;

b. the particular challenges of administrative law enforcement misconduct investigations, including identifying alleged misconduct that is not clearly stated in the complaint, or that becomes apparent during the investigation;

c. properly weighing the credibility of civilian witnesses against employees;

d. using objective evidence to resolve inconsistent statements;

e. the proper application of the appropriate standard of proof;

f. report-writing skills;

g. requirements related to the confidentiality of witnesses and/or complainants;

h. considerations in handling anonymous complaints;

i. relevant MCSO rules and policies, including protocols related to administrative investigations of alleged officer misconduct; and

j. relevant state and federal law, including Garrity v. New Jersey, and the requirements of this Court's orders.

Phase 1: Not applicable

Phase 2: In compliance

MCSO did not deliver the Misconduct Investigative Training (PSB40) during this reporting period.

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

Phase 1: In compliance

- GG-1 (Peace Officer Training Administration), most recently amended on August 14, 2019.
- GG-2 (Detention/Civilian Training Administration), most recently amended on August 14, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

In June, MCSO provided the 2018 annual eight-hour in-service training (PSB8 External) once to one supervisor who did not require test remediation.

MCSO did not deliver the 2019 annual eight-hour in-service training for PSB personnel (PSB8 Internal) during this reporting period. In June, MCSO contracted with the Equal Employment Opportunity Commission (EEOC) Training Institute for delivery of this training by a representative of the EEOC Phoenix District Office. This eight-hour training was delivered on July 18, 2019. The curriculum contained an overview of the EEOC and information on conducting effective investigations.

Development of the 2019 PSB8 (External) in-service began during this reporting period. The Training Division and PSB are jointly developing the curriculum, associated documents, and internal videos. The course is designed to assist supervisors in conducting an investigation of an external complaint. It includes the utilization of pre-recorded audio and video interviews and body-worn camera recordings. Supervisors will be required to complete all associated forms and Blue Team entries. Group activities are intended to identify and display any deficiencies and provide corrective actions based on MCSO policy.

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

Phase 1: In compliance

- CP-2 (Code of Conduct), most recently amended on March 15, 2019.
- CP-3 (Workplace Professionalism: Discrimination and Harassment), most recently amended on January 24, 2019.
- CP-11 (Anti-Retaliation), most recently amended on December 13, 2018.
- GB-2 (Command Responsibility), most recently amended on June 28, 2019.
- GC-16 (Employee Grievance Procedures), most recently amended on April 2, 2019.
- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- GG-1 (Peace Officer Training Administration), most recently amended on August 14, 2019.
- GG-2 (Detention/Civilian Training Administration), most recently amended on August 14, 2019.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- GJ-26 (Sheriff's Reserve Deputy Program), most recently amended June 28, 2019.
- GJ-27 (Sheriff's Posse Program), most recently amended on April 4, 2014.
- Training Division Operations Manual, most recently amended on September 21, 2017.

Phase 2: In compliance

MCSO uses the HUB, a training management system, to distribute all policies. Employees are required to complete personal attestations that indicate that they have read and understand the policies each time a policy is revised and distributed.

We reviewed the reports of attestations that identify each individual and their dates of review for each of the following policies to assess MCSO's compliance with this Paragraph: CP-2 (Code of Conduct); CP-3 (Workplace Professionalism: Discrimination and Harassment); CP-11 (Anti-Retaliation); GB-2 (Command Responsibility); GH-2 (Internal Investigations); GC-16 (Employee Grievance Procedures); and GC-17 (Employee Disciplinary Procedures).

Previously, we documented MCSO's problems with HUB reporting. The Training Division has devoted a significant amount of time to address this issue. Consequently, the quality and

accuracy of reporting has improved. HUB reports now provide additional information such as the date a Briefing Board (BB) was published, the date the individual was hired, and the date a policy review or online training was completed. These reporting changes allow personnel ample time for training completion and the accurate reporting of when training is completed. Furthermore, these improvements provide accurate information for our Team to correctly assess compliance levels.

During this reporting period, we reviewed the status of individual reviews for BB 19-28 (GC-17), BB 19-29 (CP-2), BB 18-31 (GH-2), 19-30 (GB-2), BB 18-48 (CP-11), BB 19-04 (CP-3), and BB 19-14 (GC-16).

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

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- GG-1 (Peace Officer Training Administration), most recently amended on August 14, 2019.
- GG-2 (Detention/Civilian Training Administration), most recently amended on August 14, 2019.
- Training Division Operations Manual, most recently amended on September 21, 2017.

Phase 2: In compliance

Complaint Intake and Reception Training is delivered via the HUB. Reporting during this reporting period indicates that all categories of personnel, with the exception of civilian, are in compliance with the requirements of this Paragraph. We attribute this slight downturn to civilian hire dates.

During our July site visit, Training Division personnel told us they had worked with the Human Resource Division to develop a new onboarding procedure for new hires. One part of this procedure is providing the opportunity for new hires to complete their required training within a limited period of time upon beginning employment at MCSO. Implementing this process would help alleviate any concerns MCSO has regarding new hires completing the training required by this Paragraph.

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

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- GG-1 (Peace Officer Training Administration), most recently amended on August 14, 2019.
- GG-2 (Detention/Civilian Training Administration), most recently amended on August 14, 2019.
- Training Division Operations Manual, most recently amended on September 21, 2017.

Phase 2: In compliance

We previously discussed the difficulties the Training Division experienced that extended the curriculum development cycle for the 2018 ACT. The curriculum was missing clear directions regarding supervisory actions when called to a scene by a subordinate to accept a civilian complaint. There were only references to policy. MCSO continued the development of the 2019 ACT and SRELE during this reporting period. Our review process will ensure that clear and precise language reaffirming the requirements of this Paragraph is included.

C. Administrative Investigation Review

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

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

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 143 completed administrative misconduct investigations conducted during this reporting period.

Of the 91 cases we reviewed, 89 (98%) complied with the requirements of this Paragraph. In two cases, we do not believe the findings were based on an appropriate standard of proof. In one, we believe a finding of not sustained should have been made and was not. In the remaining case, MCSO should have conducted additional investigation before reaching any finding.

During our next site visit, we will discuss these investigations with PSB personnel.

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

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 91 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period. We also reviewed seven criminal misconduct investigations. In all of the administrative and criminal cases, PSB was immediately notified at the time of the complaint as required.

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

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

During numerous site visits, we have met with PSB personnel to discuss and observe the capabilities of IAPRO, which serves as the technology instrument that meets the compliance criteria of this Paragraph. IAPRO logs critical dates and times, alerts regarding timeframes and deadlines, chronological misconduct investigation status, notifications, and dispositions. The tracking system provides estimates of key timeframes for all investigators to ensure that they learn of previous and upcoming investigative milestones. PSB has confirmed that civil notice claims are entered in the tracking system. The IAPro system integrates exceptionally well with the EIS and Blue Team technology systems and can be remotely accessed.

PSB has hired a management analyst dedicated to the administration of the centralized tracking system. The documentation that PSB has provided to us for review, and the direct user access that a member of our Team has to the centralized numbering and tracking system, indicates that the system possesses the functionality as required by this Paragraph and is being used according to the requirements of this Paragraph.

During this reporting period, we found that all 91 of the administrative misconduct investigations were properly assigned a unique identifier. All of these cases were both initiated and completed after July 20, 2016. Of the 91 cases, 63 involved an external complaint requiring that PSB provide the complainant with this unique identifier. In all 63 cases, MCSO sent the initial letter that includes this unique identifier to the complainant within seven days, or provided an appropriate explanation for not doing so. In some cases, anonymous complainants do not provide contact information; and in others, known complainants decline to provide MCSO with adequate contact information. PSB has developed a form that identifies the reason why a required notification letter is not sent, and includes this document in the cases they forward for our review.

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

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

Phase 2: In compliance

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

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

In May 2018, PSB relocated to its new offsite facility. We confirmed at that time that PSB maintained both hardcopy and electronic files intended to contain all documents required for compliance with this Paragraph at the new facility.

During our January 2019 site visit, a member of our Team verified continued compliance at the PSB facility by inspecting both the criminal and administrative investigation file rooms and randomly selecting internal affairs case files to verify that all information is also being electronically maintained in IAPro.

During our July 2019 site visit, a member of our Team again accessed IAPRO and reviewed random cases to verify that electronic files are being properly maintained.

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

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

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

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

During this reporting period, we reviewed 91 closed administrative misconduct investigations and 81 closed service complaints. All complied with the requirements of this Paragraph.

With the approved revisions to the internal investigations and discipline policies in May 2017, PSB is authorized to determine that some complaints can be classified as service complaints. PSB has initiated both a process and a complaint-tracking system for these complaints.

During the last reporting period, MCSO completed and closed 64 service complaints. All but five complied with the requirements of this Paragraph.

During this reporting period, MCSO completed and closed 81 service complaints. Twelve service complaints were appropriately reclassified to administrative misconduct investigations after review by PSB. The remaining 69 were classified and handled as service complaints. Of these 69, 66 met the requirements established for service complaints. In one case, we believe the complainant alleged employee misconduct and PSB should have conducted an administrative investigation. In one case, while we agree with the outcome of the service complaint, the complainant was not properly advised. In one additional case, no final letter was sent to the complainant when contact information was available to do so. As is our practice, we will discuss these cases with MCSO during our next site visit.

As we have consistently noted in our review of service complaints, the majority of these complaints involve laws, policies, or procedures where there is no employee misconduct; or are complaints where it is determined that MCSO employees are not involved. During this reporting period, 26 (38%) of the 69 service complaints did not involve MCSO employees. Twenty-nine (42%) did not involve allegations of employee misconduct, seven were closed due to lack of specificity, and the remaining seven were closed based on a combination of factors.

During our April, July, and October 2018 site visits, we discussed the service complaint process with PSB personnel. During our discussions, PSB personnel advised us that the number of service complaints continued to far exceed their expectations. They also noted that 20-25% of the service complaints were consistently determined not to involve MCSO employees, and our reviews for these reporting periods confirmed this assertion. We agreed to review an expedited process for handling complaints where it could be immediately determined that the complaint did not involve MCSO personnel.

During our January 2019 site visit, the PSB Commander informed us that PSB had assigned a Detention supervisor in PSB to manage Detention employee service complaints. In addition, The PSB Commander informed us that PSB was working on a plan to identify supervisors in the Detention facilities to handle some of the service complaints. They would ensure that these supervisors met all of the requirements for those who conduct internal investigations. The PSB Commander also informed us that the sworn supervisor who has been managing all service complaint intake would continue to manage service complaints involving only sworn personnel.

During our July 2019 site visit, PSB advised us that 237 service complaints had been opened during the first six months of 2019. PSB informed us that the Bureau now intends to move forward with the proposed revision relative to the expedited process for handling service complaints where it can be immediately identified that the complaint does not involve MCSO employees. We again agreed to assess this process once it is developed and submitted for our review.

PSB intends to finalize the revised service complaint form during the next reporting period. In addition to addressing the expedited process for addressing service complaints that do not involve MCSO, they also intend to add an additional signature line for District and Division

Command personnel to note their review and approval of service complaints prior to them being forwarded to PSB for a final determination. In addition, they will be addressing any future deficiencies found in these service complaints with a formal memorandum. This is to ensure accountability for the initial decisions made by District and Division personnel regarding the appropriate classification of these complaints. PSB expects to forward the new form to our Team for review during the next reporting period.

Consistent with the provisions of the revised policies on internal investigations and discipline, the PSB Commander now has the discretion to determine that internal complaints alleging minor policy violations can be addressed without a formal investigation if certain criteria exist. If the PSB Commander makes this determination, it must be documented.

During the last reporting period, the PSB Commander determined that 10 internally generated complaints could be addressed without a formal investigation. All 10 involved at fault traffic accidents where there was minor damage and no injuries. We concurred with the decision of the PSB Commander.

During this reporting period, the PSB Commander determined that eight internally generated complaints could be addressed without a formal investigation. All eight involved at fault traffic accidents with minor property damage and no injuries. The employees involved met the established criteria for the handling of these complaints without a formal investigation. PSB provided sufficient documentation and all eight employees appropriately received coaching.

Paragraph 189. *The Professional Standards Bureau shall administratively investigate:*

a. misconduct allegations of a serious nature, including any allegation that may result in suspension, demotion, or termination; and

b. misconduct indicating apparent criminal conduct by an employee.

Phase 1: In compliance

- CP-2 (Code of Conduct), most recently amended on March 15, 2019.
- CP-3 (Workplace Professionalism: Discrimination and Harassment), most recently amended on January 24, 2019.
- CP-5 (Truthfulness), most recently amended on April 18, 2019.
- CP-11 (Anti-Retaliation), most recently amended on December 13, 2018.
- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

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

Division or District personnel outside of PSB investigated 52 of the 91 administrative misconduct investigations conducted during this reporting period. PSB investigated 35 of the cases and four investigations were conducted by the outside contractor hired by PSB. PSB also submitted seven investigations involving criminal allegations for review. We did not identify any misconduct investigations that were conducted by a District supervisor where we believe that potential additional misconduct discovered during the initial investigation should have resulted in the investigation being forwarded to PSB for completion and was not.

Paragraph 190. *Allegations of employee misconduct that are of a minor nature may be administratively investigated by a trained and qualified Supervisor in the employee's District.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed a total of 98 misconduct investigations conducted by MCSO personnel and completed during this reporting period. Of these, 91 were administrative investigations, and seven involved alleged criminal misconduct. PSB personnel conducted all of the criminal investigations.

Of the 91 administrative misconduct cases we reviewed for this Paragraph, PSB investigators conducted 35. Fifty-two were investigated at the District or Division level, and four were investigated by the contract investigator retained by MCSO. We did not identify any instances where a District or Division supervisor outside of PSB conducted an investigation that we believe should have been forwarded to PSB for investigation.

During the last reporting period, we reviewed 72 administrative misconduct investigations conducted by Divisions or Districts outside of PSB. Twenty-three of the investigations were initiated before the 40-hour Misconduct Investigative Training was completed. Sixteen (70%) of these 23 were in compliance with the requirements for completion of misconduct investigations. Forty-nine of the investigations were both initiated and finalized after the completion of the 40-hour Misconduct Investigative Training. Thirty-nine (80%) were in compliance with all requirements for the completion of administrative misconduct investigations.

During this reporting period, we reviewed 52 administrative misconduct investigations conducted by Divisions or Districts outside of PSB. Six of the investigations were initiated prior to the completion of the 40-hour Misconduct Investigative Training. District supervisors conducted all of them, and none were compliant with the requirements for completion of misconduct investigations. Of the 46 investigations initiated after the completion of the

training, 13 were not compliant with all requirements for the completion of administrative misconduct investigations. All 13 investigations were completed by District supervisors.

Before this reporting period, we had seen continuing improvement in those investigations conducted outside of PSB, particularly in those cases that were completed after the 40-hour Misconduct Investigative Training. The overall compliance for this reporting period for all cases investigated outside of PSB dropped from 76% for the last reporting period to 63% for this reporting period.

MCSO has complied with the requirements to train all supervisors who conduct minor misconduct investigations; and they provide a monthly report regarding those supervisors who they have determined are not qualified to conduct these investigations.

Paragraph 191. *If at any point during a misconduct investigation an investigating Supervisor outside of the Professional Standards Bureau believes that the principal may have committed misconduct of a serious or criminal nature, he or she shall immediately notify the Professional Standards Bureau, which shall take over the investigation.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 91 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period. Of the 52 administrative misconduct cases investigated at the District level, we did not identify any cases where we believe that potential serious misconduct was discovered by the investigating supervisor and the supervisor failed to forward the case to PSB.

Paragraph 192. *The Professional Standards Bureau shall review, at least semi-annually, all investigations assigned outside the Bureau to determine, among the other matters set forth in ¶ 251 below, whether the investigation is properly categorized, whether the investigation is being properly conducted, and whether appropriate findings have been reached.*

Phase 1: In compliance

- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

PSB command personnel advised us that they continue to review investigations in "real time" as they come into the Bureau. During this reporting period, MCSO provided copies of PSB's reviews of 42 completed Division-level misconduct investigations that were assigned outside the Bureau; which is a decrease from the previous reporting period when 68 reviews were conducted. The report review template used by PSB includes sections that address whether or

not the investigation is properly categorized, whether the investigation is properly conducted, and whether appropriate findings have been reached. Additionally, copies of emails detailing the quality of the investigation, identified deficiencies, and required edits sent electronically to affected Division Commanders were provided for each case reviewed.

PSB included the information required by this Paragraph in its semi-annual public Misconduct Investigations Report, which is required under Paragraph 251. The most recent report was published on MCSO's website in July 2019. The report covers the period of July 1-December 31, 2018; and contains an analysis as to whether cases assigned outside of PSB are properly categorized, whether the investigations were properly conducted, and whether appropriate findings have been reached. Some of the issues of concern identified in the review of the investigations where improvement is needed include: failure to audio and video record all interviews; a lack of details within the report to support the findings; the improper use of leading questions; failure to interview all parties (e.g., investigative leads and witnesses); and failure to identify all potential policy violations. PSB identified the following trends during its review of the investigations: failure to use the appropriate findings and not listing the allegations properly.

Paragraph 193. *When a single act of alleged misconduct would constitute multiple separate policy violations, all applicable policy violations shall be charged, but the most serious policy violation shall be used for determining the category of the offense. Exoneration on the most serious offense does not preclude discipline as to less serious offenses stemming from the same misconduct.*

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Administrative Services Division Operations Manual, published on June 17, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 91 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period. Thirty-two cases had sustained allegations against one or more employees. In 23 of these 32 investigations, the employee involved was still an MCSO employee at the time the investigation was completed or discipline decisions were made. In all 23 cases, the most serious policy violation was used to determine the category of the offense if more than one policy violation was sustained.

In cases where multiple violations of policy occurred, this information was listed on the preliminary discipline document. There were no cases where the exoneration of any offense precluded discipline for sustained allegations.

Paragraph 194. *The Commander of the Professional Standards Bureau shall ensure that investigations comply with MCSO policy and all requirements of this Order, including those related to training, investigators' disciplinary backgrounds, and conflicts of interest.*

Phase 1: In compliance

- CP-2 (Code of Conduct), most recently amended on March 15, 2019.
- CP-3 (Workplace Professionalism: Discrimination and Harassment), most recently amended on January 24, 2019.
- CP-5 (Truthfulness), most recently amended on April 18, 2019.
- CP-11 (Anti-Retaliation), most recently amended on December 13, 2018.
- GC-16 (Employee Grievance Procedures), most recently amended on April 2, 2019.
- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Administrative Services Division Operations Manual, published on June 17, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: Not in compliance

We determine Phase 2 compliance with this Paragraph by a review of completed misconduct investigations conducted by MCSO personnel, the review of attendance by internal investigators at required Misconduct Investigative Training, the disciplinary backgrounds of internal investigators and the efforts being made by the PSB Commander to reach compliance.

During this reporting period, we reviewed 91 administrative misconduct investigations and seven criminal investigations. All seven (100%) of the criminal investigations complied with MCSO policy and the requirements of the Second Order. Of the 91 administrative misconduct investigations, 73% were in compliance with all the investigative and administrative requirements. This is a decrease from 84% the last reporting period.

Of the 91 administrative misconduct cases we reviewed, PSB personnel completed 35. Thirty-three (94%) were in compliance with all investigative and administrative requirements. This is the same compliance percentage that we found during the last reporting period. The contract investigator hired by MCSO completed four investigations. While all four were well-written and the findings were appropriate, they were found non-compliant as none included a request for, or approval of, an investigative extension. Of the 39 investigations conducted by, or at the direction of PSB, 85% were in compliance.

Sworn personnel in PSB conducted 15 of these 39 investigations. All 15 (100%) were in compliance with all investigative and administrative requirements. This is consistent with the compliance findings for the last reporting period.

Twenty of the investigations conducted by PSB were completed by Detention personnel assigned to PSB. Of these 20, 18 (90%) were in compliance with all investigative and administrative requirements. This is a slight decrease from the 92% compliance during the last reporting period. One case was not compliant because of a failure to address a training issue. In the second case, the non-compliant finding resulted from the lack of approval for an investigative extension. Four cases were conducted by the contract investigator and were not compliant due only to the lack of investigative extension requests and approvals.

Fifty-two investigations were conducted by Districts or Divisions outside of PSB. We found 3e (63%) to be in compliance with all investigative and administrative requirements. This is a decrease from the 75% compliance during the last reporting period. All seven of the investigations conducted by a Division other than Patrol were compliant. Of the 45 conducted by the Patrol Division, 26 (58%) were compliant, a reduction of 19% from the last reporting period. While we had previously seen ongoing improvement in District cases, especially since the completion of the 40-hour Misconduct Investigative Training, that was not the case this reporting period.

There are many factors that impact the PSB Commander's ability to ensure compliance in all cases. One factor is that the PSB Commander must rely on other members of PSB staff to conduct case reviews and ensure proper documentation is completed. We continue to find that, in most cases, PSB personnel are identifying and ensuring that corrections are made and all documentation is completed in those cases they review. In some cases, deficiencies cannot be corrected after the fact.

Another factor affecting the PSB Commander's ability to ensure all investigations are properly completed is that the Appointing Authority – not the PSB Commander – determines the final findings and discipline decisions. During this reporting period, there were no instances where the Appointing Authority overturned any finding made by the PSB Commander. While there were three instances where the Appointing Authority assessed discipline other than the presumptive discipline, in all three, he provided justification for doing so, and we agree with his decisions. We have continued to see over the past several reporting periods that the decisions made by the Appointing Authority are well-thought out, documented, and in compliance with the requirements of the Second Order.

The most significant factor that has adversely impacted compliance in the investigation of administrative misconduct is the non-compliance of those cases completed outside of PSB, including the continuing failure of District Command personnel to identify and correct deficiencies prior to forwarding cases to PSB for review. During this reporting period, we found few examples of District Command staff identifying and addressing concerns and deficiencies in those investigations conducted by their personnel. We found six instances where PSB identified concerns with the District Commander approval of misconduct investigations and forwarded these concerns to Deputy Chiefs to address.

While PSB continues to experience challenges in ensuring that completed internal investigations are reaching full compliance with both MCSO policy and both Court Orders, the Bureau has continued to make efforts to improve compliance. A member of our Team continues to meet personally with the PSB Commander every two weeks to discuss Class Remedial Matters. We also use this opportunity to discuss other ongoing related concerns that affect compliance with the Second Order. The ability to discuss investigative or administrative concerns during these meetings has resulted in concerns being immediately addressed; and in some cases, has resulted in necessary actions being taken to correct issues that have been identified.

Since October 2016, during each site visit, we have met with PSB personnel and District and Division command personnel to update them on our identification of training and performance issues that adversely affect compliance with the Second Order. Since January 2017, Detention personnel assigned to PSB to oversee investigations have also participated in these meetings.

In our discussions with PSB during our past site visits, we have discussed many issues that have impacted compliance with the Orders. As a result of these discussions, PSB has taken numerous actions.

Based on concerns with the initial quality of investigations conducted by Detention supervisors in PSB, additional training and oversight was provided. Cases investigated by these supervisors have shown a continuing improvement in compliance and have now had a compliance finding of 90% or more for this and the last two reporting periods.

To address compliance concerns with those cases completed by District personnel, PSB liaisons were assigned, and an additional level of PSB review was instituted. While this has had a positive impact on the final quality of these investigations, many are still non-compliant when they leave the Districts; and they are subsequently returned for the correction of deficiencies. As we have previously noted, this assistance and review results in the dedication of significant PSB manpower being utilized to oversee the performance of other MCSO personnel.

In May 2017, PSB proposed, and we approved, a service complaint process to address those complaints that do not allege employee misconduct. Hundreds of investigations are now being handled by this process. During the first six months of 2019, 237 complaints were handled as service complaints. PSB represented to us during early reviews of service complaints that more than 20% of the service complaints they initiate do not involve MCSO or any of its employees. Our reviews of service complaints have confirmed this assertion by PSB; and in some recent reporting periods, these non-MCSO complaints have comprised over 30% of the total service

complaints submitted for our review. PSB has proposed an expedited process for handling those complaints that do not involve MCSO personnel, and will be forwarding a revised service complaint form for our review. We have also approved a process where the PSB Commander can resolve some minor internally generated complaints – without the necessity to conduct an administrative misconduct investigation. PSB is currently using this process only for employee at-fault vehicle accidents with minor damage and no injuries.

In December 2018, after we and the Parties reviewed a proposed protocol for the completion of witness interviews submitted by PSB, we approved a process where some witness interviews do not have to be completed if certain criteria exist. The protocol includes the requirement for a written justification that must be approved by a command level supervisor. We also agreed that while in-person complainant interviews must be offered, should a complainant prefer only a phone interview, the case could still be found in compliance.

In addition to those actions that have been approved to address continuing backlogs and other challenges with administrative misconduct investigations, we have had ongoing discussions with PSB and the Parties during our site visits regarding other potential opportunities to address these challenges. These discussions have included many suggestions and potential modifications to existing protocols, including such changes as: expanding the use of the service complaint process; using alternative types of administrative closures; discontinuing investigations of former employees if the conduct was not criminal in nature, would not affect law enforcement certification, and did not involve current MCSO employees; discretion for the investigation of minor policy violations that occurred more than three years prior to the complaint being filed; implementing an expedited discipline process for sustained cases; and increasing investigative time requirements. Many of PSB's suggestions and proposed modifications have been discussed during prior site visits. The Parties have articulated their understanding of PSB's concerns and have indicated a willingness to discuss ideas that are brought forward. We also remain willing to discuss any proposals from PSB.

In 2014, PSB initiated 717 internal investigations. In 2015, PSB initiated 916 cases; and in 2016, 847 cases. There were 1,028 cases initiated in 2017. In 2018, there were 1,114 investigation initiated; 354 service complaints; 716 administrative misconduct investigations, 36 criminal investigations, and eight critical incident investigations. For the first six months of 2019, PSB has initiated 347 misconduct investigations and 237 service complaints. This indicates the total investigations for 2019 will likely be close to that of 2018.

PSB has consistently told us over past reporting periods that the caseload for PSB investigators has continued to increase each quarter. That continues to be true for this reporting period. The average active monthly caseload for PSB sworn investigators is now 47, and for Detention investigators, it is 42. Some investigators have a caseload as high as 60 active cases per month. This increasing caseload continues to adversely impact the timely completion of investigations. The average number of days to finalize and close a PSB investigation now exceeds 300 days.

Despite the fact that PSB was authorized 11 new positions in the July 2018 budget, during this reporting period, PSB advised that only one of these positions, a Detention supervisor, was filled. There is no indication when any of the additional positions will be filled. Recognizing the difficulty in filling sworn or Detention positions, for the July 2019 budget, PSB has requested eight civilian personnel, believing they might be able to be more expeditiously hired. These eight positions include administrative assistants, analysts, and investigators. PSB believes that these civilian positions could complete some of the functions currently completed by the investigators, freeing up additional time for investigative activities.

Despite the efforts of PSB, the agency must address staffing issues and pursue those avenues necessary to meet its needs. The number of investigations has continued to increase since 2014 and there is no indication that will change. MCSO should not be willing to continue to accept this status quo in the investigation of complaints. Some action must be taken to address the ongoing and growing concern.

In July 2018, we discussed the investigation of the 1,459 identifications that had been impounded at the MCSO Property Room and then checked out by an MCSO sergeant. This investigation was initiated in 2015 but then stalled due to other, more immediate priorities for investigations. Of the total 1,459 identifications, 596 were believed to belong to members of the Plaintiffs' class.

During our October 2018 site visit, we continued to discuss the status of the 1,459 identifications investigation after PSB provided us a written update on the investigation. After discussion with MCSO, and recognizing investigative limitations based on lack of information on many of the identifications, and the time commitment involved with continuing to investigate these identifications, we agreed to select a random sample from the 464 of the 596 IDs that had not been linked to an MCSO employee through MCSO databases, or had not yet been run through any database. The sample selection included IDs that contained searchable information beyond a name, creating a higher likelihood of obtaining some result. A suitable sample was determined to be one in 20. A sample of 25 was selected and forwarded to PSB.

During our April 2019 site visit, PSB presented the results of the inquiries on the 25 sample identifications. Based on the extensive history of this ID case, the large amount of data, and the research that has been conducted, we requested that PSB provide a written document that laid out the history of the 1,459 IDs investigation, MCSO's findings on the research, the status of this investigation, and any recommendations for further action. MCSO provided this document as requested.

During our July 2019 site visit, we discussed the documentation provided by PSB regarding these identifications and what additional actions should be taken. It was decided that investigators would attempt to contact the owners of the 25 identifications to determine if the owners knew how their identifications might have gotten into MCSO custody. PSB intends to complete this follow-up and present the results during our next site visit.

During our past site visits, PSB staff have continued to communicate that they are properly outsourcing those cases where conflicts of interest exist. PSB has contracted with a qualified

private vendor to conduct these investigations. Additionally, PSB has outsourced investigations to other law enforcement entities.

During this reporting period, we received and reviewed four investigations completed by the contract investigator retained by MCSO. Numerous additional investigations are still in process and MCSO outsourced four additional cases to the contract investigator during this reporting period due to identified conflicts. One case was outsourced to the State Attorney General's Office during last reporting period, and one was outsourced to the Federal Bureau of Investigation (FBI) during this reporting period.

After the Second Order was implemented, PSB reviewed the disciplinary backgrounds of all those who might conduct internal investigations, and notified us of those supervisors who would be prohibited from conducting such investigations due to their backgrounds. One supervisor remains ineligible to conduct internal investigations. Since January 2017, PSB personnel have reported on a monthly basis that they have not identified any additional members of MCSO who are disqualified from conducting misconduct investigations

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

Phase 1: In compliance

- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: Not in compliance

In conjunction with this Paragraph, Paragraph 178 mandates that within three months of the finalization of policies consistent with Paragraph 165, all PSB personnel would receive 40 hours of comprehensive training. Paragraph 178 requires training of all supervisors within three months of the finalization of policies, and further requires sufficient trained personnel in PSB within six months of the entry of the Order. The first week of the required Misconduct Investigative Training commenced on September 18, 2017 and the training was completed prior to the end of 2017.

During our July and October 2018 site visits, PSB informed us that a total of 11 additional personnel had been approved for PSB in MCSO's July 2018 budget. PSB personnel informed us that due to ongoing staffing shortages they did not believe any of these positions would be filled before 2019.

During our January and April 2019 site visits, PSB personnel informed us that they had not yet received any of the 2018 budgeted positions for PSB. They further noted that it continued to remain unlikely that they would receive any of the positions in the foreseeable future due to ongoing personnel staffing shortages throughout the organization. PSB continued to note that with the continuing influx of new cases, and the ongoing backlog of investigations, even if these personnel were added, the Bureau would still be insufficiently staffed to meet its responsibilities. The PSB budget requests for the July 2019 budget year included only civilian

staff. Their requests included: two administrative assistants, two management analyst assistants, one special projects manager, and three civilian investigators. PSB believed that the addition of these positions would allow sworn and Detention supervisors to focus more on the investigative process and mitigate some of the administrative requirements currently being handled by these personnel.

During our July 2019 site visit, PSB advised that of the 11 approved positions in the July 2018 budget, one has now been filled – that of a Detention sergeant. It is unknown when any of the remaining 10 positions will be filled.

PSB personnel also told us that of the eight civilian positions requested in the July 2019 budget, five positions were approved. These approved positions include two management assistants and three civilian investigators.

The Second Order requires that PSB have "sufficient trained personnel to fulfill the requirements of this Order." MCSO has delivered the required Misconduct Investigative Training, and our focus has shifted to the sufficiency of PSB staff to carry out its mission. As documented in this and previous reports, PSB, in its command's estimation, is understaffed and the agency must find a way to address this issue. We will not find MCSO in compliance with this Paragraph until MCSO addresses PSB's staffing issues.

Paragraph 196. *Where appropriate to ensure the fact and appearance of impartiality, the Commander of the Professional Standards Bureau or the Chief Deputy may refer administrative misconduct investigations to another law enforcement agency or may retain a qualified outside investigator to conduct the investigation. Any outside investigator retained by the MCSO must possess the requisite background and level of experience of Internal Affairs investigators and must be free of any actual or perceived conflicts of interest.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

During our April 2017 site visit, the PSB Commander indicated that MCSO had not envisioned any need to retain additional contract investigators beyond the one investigator that had been already retained. A member of PSB's staff serves as MCSO's single point-of-contact to liaise and assist with scheduling for the contract investigator. The contract investigator will advance the investigations to the level of recommending findings.

PSB previously outsourced three misconduct investigations to a separate regional law enforcement agency. Two of these investigations were completed by the outside law enforcement agency and closed by MCSO. One was closed as the Independent Investigator was investigating the same alleged misconduct.

During the last reporting period, PSB outsourced three additional investigations to the contract investigator PSB retained to conduct such cases. These were outsourced due to identified conflicts. PSB also outsourced one criminal investigation to the Attorney General's Office due to an identified conflict.

During this reporting period, four additional cases were outsourced to the outside investigator. One case was outsourced to the FBI due to the circumstances of the incident that involved the FBI as well as other local police agencies, including MCSO.

This investigator has completed numerous assigned investigations and forwarded them to PSB for review. We have now received and reviewed four investigations, and have found them to be thorough and well-written. Numerous investigations assigned to the contract investigator are still in progress.

Paragraph 197. *The Professional Standards Bureau will be headed by a qualified Commander. The Commander of the Professional Standards Bureau will have ultimate authority within the MCSO for reaching the findings of investigations and preliminarily determining any discipline to be imposed. If the Sheriff declines to designate a qualified Commander of the Professional Standards Bureau, the Court will designate a qualified candidate, which may be a Civilian Director in lieu of a sworn officer.*

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Administrative Services Division Operations Manual, published on June 17, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

In January 2018, MCSO advised that due to reorganizations within the Office, the responsibility to serve as the PSB Commander for purposes of compliance with this Order would be transferred to a captain within PSB. The PSB Deputy Chief, who previously had this responsibility was promoted, but maintains overall oversight of PSB as an Executive Chief.

During the last reporting period, a new captain was assigned as the Commander of PSB. We had worked with him prior to his promotion to captain, reviewed his qualifications, and believed he possessed the requisite qualifications and capabilities to fulfill the requirements of this Paragraph.

During our July site visit, and our regularly scheduled meetings with PSB to discuss CRMs and other internal affairs matters during this reporting period, we have had continuing opportunities to interact with the captain now serving as the PSB Commander. He is an experienced PSB investigator and is cognizant of the many requirements and responsibilities of his new position. He is responsive to our input, and we have had a number of productive discussions with him regarding PSB processes and internal investigations. In those cases where we have expressed concerns or requested information, he has generally provided timely responses. We continue to note that MCSO must support the PSB Commander with resources and executive leadership.

Paragraph 198. *To promote independence and the confidentiality of investigations, the Professional Standards Bureau shall be physically located in a facility that is separate from other MCSO facilities, such as a professional office building or commercial retail space. This facility shall be easily accessible to the public, present a non-intimidating atmosphere, and have sufficient space and personnel for receiving members of the public and for permitting them to file complaints.*

Phase 1: Not applicable

Phase 2: In compliance

In May 2018, PSB moved into the first and second floors of 101 West Jefferson Street. PSB's address is available on the comment and complaint form that is accessible to the public at the Districts and on MCSO's website. PSB's criminal investigators are housed on the first floor, and administrative investigators are housed on the second floor of the building. PSB's off-site facility has two dedicated security personnel assigned during normal business hours of 8:00 am-4:00 pm, Monday-Friday. MCSO remains in compliance with this requirement.

Paragraph 199. *The MCSO will ensure that the qualifications for service as an internal affairs investigator shall be clearly defined and that anyone tasked with investigating employee misconduct possesses excellent investigative skills, a reputation for integrity, the ability to write clear reports, and the ability to be fair and objective in determining whether an employee committed misconduct. Employees with a history of multiple sustained misconduct allegations, or one sustained allegation of a Category 6 or Category 7 offense from MCSO's disciplinary matrices, will be presumptively ineligible to conduct misconduct investigations. Employees with a history of conducting deficient investigations will also be presumptively ineligible for these duties.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

GH-2 reflects the directive of this Paragraph, to ensure that only supervisors who meet the criteria established by this Paragraph are assigned misconduct investigations. The PSB Operations Manual, which formalizes the review process, states that if any supervisor is deemed ineligible, the PSB commander will notify the supervisor's commander in writing, and will ensure that a Blue Team entry is made to memorialize the supervisor's ineligibility to conduct misconduct investigations. A record of supervisors deemed ineligible to conduct misconduct investigations is maintained in PSB. These procedures were finalized and documented in the PSB Manual, published on December 13, 2018.

During this reporting period, MCSO did not have any additions to the list of employees prohibited from conducting misconduct investigations. During our July site visit, we inquired as to the status and the list remains unchanged. During this reporting period, there were four employees transferred into PSB. We reviewed the background information submitted and concluded that all the employees met the requirements of this Paragraph.

Paragraph 200. *In each misconduct investigation, investigators shall:*

a. conduct investigations in a rigorous and impartial manner designed to determine the facts;

b. approach investigations without prejudging the facts and without permitting any preconceived impression of the principal or any witness to cloud the investigation;

c. identify, collect, and consider all relevant circumstantial, direct, and physical evidence, including any audio or video recordings;

d. make reasonable attempts to locate and interview all witnesses, including civilian witnesses;

e. make reasonable attempts to interview any civilian complainant in person;

f. audio and video record all interviews;

g. when conducting interviews, avoid asking leading questions and questions that may suggest justifications for the alleged misconduct;

h. make credibility determinations, as appropriate; and

i. attempt to resolve material inconsistencies between employee, complainant, and witness statements.

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 91 administrative misconduct investigations that were completed by MCSO personnel during this reporting period. All 91 investigations were both initiated and completed after the issuance of the Second Order. All but three were also initiated and completed after May 18, 2017, and are subject to all requirements of the internal affairs policies finalized and published on that date. PSB investigated 35 of the total cases. Four cases were investigated by the outside contractor hired by MCSO. District or Division supervisory personnel not assigned to PSB investigated 52 of the cases. Of the cases we reviewed, 63 involved external complaints and 28 were internally generated.

Paragraph 200.a. requires that misconduct investigations be conducted in a rigorous and impartial manner. During the last reporting period, one investigation (1%) fell short of compliance with this Subparagraph. During this reporting period, three investigations (3%) again fell short of compliance with this Subparagraph.

Paragraph 200.b. requires that investigations be approached without prejudging the facts or permitting preconceived impressions. During the last reporting period, one investigation (1%) fell short of compliance with this Subparagraph. During this reporting period, one investigation (1%) again fell short of compliance with this Subparagraph.

Paragraph 200.c. requires that investigators identify, collect, and consider all relevant evidence. During the last reporting period, one investigation (1%) fell short of compliance with this Subparagraph. During this reporting period, again one investigation (1%) fell short of compliance with this Subparagraph.

Paragraph 200.d. requires that investigators make reasonable attempts to locate and interview all witnesses. During the last reporting period, two investigations (1%) fell short of compliance with this Subparagraph. During this reporting period, one investigation (1%) fell short of compliance with this Subparagraph.

Paragraph 200.e. requires that investigators make reasonable attempts to interview civilian complainants in person. During the last reporting period, all investigations complied with the requirements of this Subparagraph. During this reporting period, two investigations (2%) fell short of compliance with this Subparagraph.

Paragraph 200.f. requires audio- and video-recording of all interviews. During the last reporting period, there were 36 investigations that were not both audio- and video-recorded. All included documented appropriate reasons why the interviews were not. During this reporting period, there were 12 investigations where the interviews of all complainants, witnesses, and investigative leads were not both audio- and video-recorded. In all of these investigations, MCSO documented appropriate reasons why they were not.

Paragraph 200.g. requires that when conducting interviews, investigators avoid asking leading questions or questions that may suggest justification for the alleged misconduct. During the last reporting period, five investigations (3%) did not comply with all requirements of this

Subparagraph. During this reporting period, 2 investigations (2%) fell short of compliance with this Subparagraph.

Paragraph 200.h. requires that proper credibility determinations be made. During the last reporting period, one completed investigation (1%) fell short of compliance with this Subparagraph. During this reporting period, three investigations (3%) again fell short of compliance with this Subparagraph.

Paragraph 200.i. requires that investigators attempt to resolve all material inconsistencies. During the last reporting period, all investigations complied with the requirements of this Subparagraph. During this reporting period, two investigations (2%) fell short of compliance with this Subparagraph.

Paragraph 201. *There will be no automatic preference for an employee's statement over a non-employee's statement. Internal affairs investigators will not disregard a witness's statement solely because the witness has some connection to either the complainant or the employee or because the witness or complainant has a criminal history, but may consider the witness's criminal history or any adjudicated findings of untruthfulness in evaluating that witness's statement. In conducting the investigation, internal affairs investigators may take into account the record of any witness, complainant, or officer who has been determined to have been deceptive or untruthful in any legal proceeding, misconduct investigation, or other investigation.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

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

Of the 91 completed administrative misconduct investigations, 63 involved complainants that were not MCSO employees. Forty-two of the 91 total investigations also included interviews with witnesses or investigative leads who were not MCSO employees. We identified one case where there was an automatic preference for the statement of an employee over a non-employee's statement. We will discuss this case with MCSO during our next site visit.

We did not identify any completed investigations where a witness's statement was disregarded solely because of any connection identified in this Paragraph, nor where a witness's criminal history or findings of truthfulness were considered.

Paragraph 202. *Internal affairs investigators will investigate any evidence of potential misconduct uncovered during the course of the investigation, regardless of whether the potential misconduct was part of the original allegation.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 91 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period. In four of the 91 investigations, MCSO identified additional potential misconduct during the course of the investigations and properly added additional allegations or initiated new investigations. We identified one investigation during this reporting period where we believe additional misconduct may have occurred and was not addressed by MCSO. We will discuss this investigation with MCSO during our next site visit.

Paragraph 203. *If the person involved in the encounter with the MCSO pleads guilty or is found guilty of an offense, internal affairs investigators will not consider that information alone to be determinative of whether an MCSO employee engaged in misconduct, nor will it by itself justify discontinuing the investigation. MCSO training materials and policies on internal investigations will acknowledge explicitly that the fact of a criminal conviction related to the administrative investigation is not determinative of whether an MCSO employee engaged in misconduct and that the mission of an internal affairs investigator is to determine whether any misconduct occurred.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

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

There were no indications in any of the completed investigations we reviewed that any MCSO investigators considered alone any pleading or finding of guilty by any person as a reason to make any determination regarding the potential misconduct of any MCSO personnel, nor were any investigations discontinued for this reason.

Paragraph 204. *Internal affairs investigators will complete their administrative investigations within 85 calendar days of the initiation of the investigation (60 calendar days if within a Division). Any request for an extension of time must be approved in writing by the Commander of the Professional Standards Bureau. Reasonable requests for extensions of time may be granted.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

Phase 2: In compliance

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

During the last reporting period, 92 (64%) of the total 143 administrative misconduct investigations reviewed for the reporting period were not completed within the 60 or 85-day timeline. Of these, five (5%) did not contain a timely extension request or approval.

During this reporting period, 61 (67%) of the total 91 administrative misconduct investigations reviewed were not completed within the 60- or 85-day timeline. Of these, six (10%) did not contain a timely request for an extension.

PSB conducted 35 of the 91 administrative misconduct investigations we reviewed. Thirty-three of these investigations were not completed within the required 85-day time period. All 33 investigations included a request for, and an approval of, an extension. Of the four investigations conducted by the contract investigator hired by MCSO, none were completed in 85 days and none contained an extension request or approval.

As noted in previous reporting periods, we now determine the 60-day time period compliance findings for those investigations conducted by personnel outside of PSB based on the original date the investigation is approved by the District or Division Commander and forwarded to PSB. We acknowledge that with the delays in the completion and reviews of internal investigations, District and Division personnel may not know that PSB has found internal investigations they have submitted to require further investigation or other action, until after the 60-day time period has expired. In those cases where deficiencies are identified by PSB, the cases will continue to be found non-compliant in other relevant Paragraphs, and specifically in Paragraph 213, which requires the District or Division Commander ensure that investigations conducted by their personnel are complete and the findings are supported by the evidence prior to their submittal to PSB.

Districts or Divisions outside of PSB conducted 52 of the administrative misconduct investigations. Twenty-four (46%) of these 52 investigations were not submitted to PSB within the required 60-day timeframe. All but two of the 24 included a timely request, and an approval for an extension.

In addition to those investigations not completed within 60 or 85 days as required by this Paragraph, 80 of the 91 cases exceeded the 180-day timeframe. In one of seven cases without

an approved 180-day extension, the employee discipline was a suspension. It is cases of this kind for which the 180-day requirement is applicable. While the employee did not appeal the suspension, had he done so, the failure to complete a timely 180-day extension request could have affected the final outcome of the case.

MCSO has been in compliance with the requirements of this Paragraph for numerous reporting periods. During this reporting period, MCSO fell below the required compliance, with a 90% compliance rate. This is primarily due to the four cases submitted by the contract investigator – none of which were in compliance with the 85-day requirement, and none had an investigative extension request. These investigations are considered part of the compliance for PSB investigations, as they are conducted on behalf of, and at the request of, PSB. Should MCSO fall below the required compliance for this Paragraph during the next reporting period, we will withdraw our Phase 2 compliance finding.

Paragraph 205. *The Professional Standards Bureau shall maintain a database to track all ongoing misconduct cases, and shall generate alerts to the responsible investigator and his or her Supervisor and the Commander of the Professional Standards Bureau when deadlines are not met.*

Phase 1: In compliance

- GC-16 (Employee Grievance Procedures), most recently amended on April 2, 2019.
- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- GH-5 (Early Identification System), most recently amended on January 4, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

We determine compliance with this Paragraph by assigning a member of our Team to observe demonstrations of the IAPro database during our site visits or other meetings with PSB throughout the reporting period. The IAPro technology serves as the centralized electronic numbering and tracking system for all allegations of misconduct, whether internally discovered or based on an external complaint. This database contains the capacity to manage and store information required for compliance with this Paragraph.

During our site visits, we have met with PSB personnel on numerous occasions and observed IAPRO to ensure that the system generates appropriate alerts to responsible investigators and PSB commanders if deadlines are not met. We have reviewed emails PSB disseminates each month to Districts and Divisions to identify investigative deadlines. We have also reviewed the Blue Team Dashboard, which uses a color-coded system to identify investigations that are nearing deadlines or are past deadlines. The information appears in each supervisor's Blue Team account when they are monitoring open cases.

The civilian PSB Special Projects Manager is primarily responsible for administering the centralized tracking system. In addition, all PSB and Division investigators can access the electronic Blue Team database – a system that integrates with IAPro – at any time to view the assignment and status of administrative investigations. PSB has also trained two lieutenants to administer the system.

In May 2018, PSB relocated to an offsite location. In July 2018, a member of our Team verified that the existing tracking mechanisms continue to be used for the tracking of investigations at the new facility.

During our January and July 2019 site visits, a member of our Team again verified that the tracking mechanisms remain in place. We also continue to receive monthly notifications from PSB regarding closed administrative investigations, and we evaluate these closed investigations for the entirety of a reporting period against a multitude of criteria, including whether the cases were completed in a timely fashion. (See Paragraph 204.)

Paragraph 206. *At the conclusion of each investigation, internal affairs investigators will prepare an investigation report. The report will include:*

a. a narrative description of the incident;

b. documentation of all evidence that was gathered, including names, phone numbers, and addresses of witnesses to the incident. In situations in which there are no known witnesses, the report will specifically state this fact. In situations in which witnesses were present but circumstances prevented the internal affairs investigator from determining the identification, phone number, or address of those witnesses, the report will state the reasons why. The report will also include all available identifying information for anyone who refuses to provide a statement;

c. documentation of whether employees were interviewed, and a transcript or recording of those interviews;

d. the names of all other MCSO employees who witnessed the incident;

e. the internal affairs investigator's evaluation of the incident, based on his or her review of the evidence gathered, including a determination of whether the employee's actions appear to be within MCSO policy, procedure, regulations, orders, or other standards of conduct required of MCSO employees;

f. in cases where the MCSO asserts that material inconsistencies were resolved, explicit credibility findings, including a precise description of the evidence that supports or detracts from the person's credibility;

g. in cases where material inconsistencies must be resolved between complainant, employee, and witness statements, explicit resolution of the inconsistencies, including a precise description of the evidence relied upon to resolve the inconsistencies;

h. an assessment of the incident for policy, training, tactical, or equipment concerns, including any recommendations for how those concerns will be addressed;

i. if a weapon was used, documentation that the employee's certification and training for the weapon were current; and

j. documentation of recommendations for initiation of the disciplinary process; and

k. in the instance of an externally generated complaint, documentation of all contacts and updates with the complainant.

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

Phase 2: In compliance

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

Paragraph 206.a. requires a written description on the incident be included in the investigative report. All completed investigations that we reviewed complied with the requirements of this Subparagraph.

Paragraph 206.b. requires documentation of all evidence gathered, including all known information about witnesses. All completed investigations that we reviewed complied with the requirements of this Subparagraph.

Paragraph 206.c. requires documentation of whether employees were interviewed, and a transcript or recording of these interviews. All of the completed investigations that we reviewed complied with the requirements of this Subparagraph.

Paragraph 206.d. requires that the names of all MCSO employees who witnessed the incident be included in the report. All completed investigations that we reviewed complied with the requirements of this Subparagraph.

Paragraph 206.e. requires that the internal affairs investigator's evaluation of the incident includes a determination of whether the employee's actions appear to be within MCSO policy, procedure, regulations, orders, or other standards of conduct required of MCSO employees. All completed investigations that we reviewed complied with the requirements of this Subparagraph.

Paragraph 206.f. requires that when MCSO asserts that material inconsistencies were resolved, explicit credibility findings, including a precise description of the evidence that supports or detracts from the person's credibility must be provided. All but two of the completed investigations that we reviewed complied with the requirements of this Subparagraph.

Paragraph 206.g. requires that when material inconsistencies must be resolved, a precise description of the evidence be included in the report. All but two of the completed investigations that we reviewed complied with the requirements of this Subparagraph.

Paragraph 206.h. requires that assessment of the incident for policy, training, tactical, or equipment concerns be included in the investigative report, to include any recommendations. We identified two completed investigation where MCSO personnel failed to identify and address a potential policy issue or training need.

Paragraph 206.i. requires that if a weapon was used, documentation that the employee's certification and training for the weapon must be included in the investigative written report. All completed investigations that we reviewed complied with the requirements of this Subparagraph.

Paragraph 206.j. requires that documentation of the initiation of the disciplinary process be included in the investigation. Compliance is achieved when the misconduct investigator completes the investigation with a finding of sustained, when applicable, and the PSB Commander subsequently approves the finding. This is considered the initiation of the disciplinary process. Twenty-three of the 91 administrative misconduct investigations we reviewed had sustained findings against one or more active MCSO employee. All complied with the requirements of this Subparagraph.

Paragraph 206.k. requires that any contacts and updates with the complainant be documented in the investigative report. All of the investigations we reviewed for this Subparagraph complied with this requirement.

Paragraph 207. *In assessing the incident for policy, training, tactical, or equipment concerns, investigation reports will include an assessment of whether:*

a. the law enforcement action was in compliance with training and legal standards;

b. the use of different tactics should or could have been employed;

c. the incident indicates a need for additional training, counseling, or other non-disciplinary corrective actions; and

d. the incident suggests that the MCSO should revise its policies, strategies, tactics, or training.

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

During this reporting period, we reviewed 91 administrative misconduct investigations. MCSO properly assessed and documented whether any of the requirements of this Paragraph were relevant in all but two of the completed cases we reviewed for this reporting period. MCSO identified eight cases where action related to this Paragraph was appropriate; and addressed the concerns identified with one-on-one meetings with employees, additional training, additional supervisory oversight – and where appropriate, policy review.

PSB continues to use an internal tracking form to ensure that those concerns that are forwarded to other Divisions within MCSO for action or review are addressed. We receive and review this tracking document each month. This tracking form contains regularly updated information on the status of concerns that have been identified.

Paragraph 208. *For each allegation of misconduct, internal affairs investigators shall explicitly identify and recommend one of the following dispositions for each allegation of misconduct in an administrative investigation:*

a. "Unfounded," where the investigation determines, by clear and convincing evidence, that the allegation was false or not supported by fact;

b. "Sustained," where the investigation determines, by a preponderance of the evidence, that the alleged misconduct did occur and justifies a reasonable conclusion of a policy violation;

c. "Not Sustained," where the investigation determines that there is insufficient evidence to prove or disprove the allegation; or

d. "Exonerated," where the investigation determines that the alleged conduct did occur but did not violate MCSO policies, procedures, or training.

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we review administrative misconduct investigations conducted by MCSO personnel and completed during the reporting period. We evaluate compliance with this Paragraph against the standard of whether a finding was made, and whether the finding was correct.

During the last reporting period, we concurred with the findings of the PSB Commander in 140 (98%) of the 143 cases that were completed.

During this reporting period, we concurred with the findings of the PSB Commander in 89 (98%) of the 91 administrative misconduct investigations we reviewed. In one investigation, while the PSB Commander made a final finding of sustained, we believe additional misconduct may have occurred and was not investigated. In the second investigation, a finding of

exonerated was made without sufficient evidence to do so and the finding should have been not sustained. There were no investigations during this reporting period where the Appointing Authority changed the findings made by the PSB Commander. As is our practice, we will discuss the cases where we disagree with the findings with PSB during our next site visit.

Paragraph 209. *For investigations carried out by Supervisors outside of the Professional Standards Bureau, the investigator shall forward the completed investigation report through his or her chain of command to his or her Division Commander. The Division Commander must approve the investigation and indicate his or her concurrence with the findings.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 52 administrative misconduct investigations not conducted by PSB personnel and completed during this reporting period. All 52 investigations completed outside of PSB were forwarded to PSB as required, and all contained the approval of the responsible District or Division Commander. As noted in previous reporting periods, and again during *this* reporting period, some of the District or Division level investigations were not in compliance with various requirements of the Second Order – as indicated throughout this report. However, we assessed MCSO's compliance with this Paragraph based on these cases being forwarded through the chain of command for approval of the investigation and findings.

Paragraph 210. *For investigations carried out by the Professional Standards Bureau, the investigator shall forward the completed investigation report to the Commander.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 39 administrative misconduct investigations that were conducted by PSB personnel or the contract investigator and completed during this reporting period. All 39 complied with the requirements of this Paragraph.

Paragraph 211. *If the Commander—meaning the Commander of the PSB or the Commander of the Division in which the internal affairs investigation was conducted—determines that the findings of the investigation report are not supported by the appropriate standard of proof, the Commander shall return the investigation to the investigator for correction or additional investigative effort, shall document the inadequacies, and shall include this documentation as an addendum to the original investigation. The investigator's Supervisor shall take appropriate action to address the inadequately supported determination and any investigative deficiencies that led to it. The Commander shall be responsible for the accuracy and completeness of investigation reports prepared by internal affairs investigators under his or her command.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

Phase 2: Not in compliance

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

PSB investigated 35 of the 91 administrative misconduct investigations we reviewed during this reporting period. In 33 (94%) of those cases investigated by PSB personnel, we found the investigations to be thorough and well-written; and we concurred with the findings by the PSB Commander. This is the same percentage of compliance as the last reporting period.

Four cases assigned to PSB were investigated by the contract investigator hired by MCSO. All four of these investigations were well-written and thorough; and we concur with the findings. However, all four were non-compliant as they lacked the required 85-day extension memos. As these investigations are conducted by the outside investigator at the direction of PSB, their compliance findings affect the overall findings for PSB. For the total 39 investigations conducted out of PSB, 32 (85%) were in compliance with all requirements.

Of the 52 investigations investigated by Districts or Divisions outside of PSB, 33 (63%) were in compliance with the requirements for the completion of administrative investigations. This is a concerning decrease from the 76% compliance during the last reporting period. We or PSB identified 19 investigations (37%) where we had some concerns regarding the investigation or documentation. We continue to believe that many of the concerns found in these cases could, and should, have been identified at the District or Division level prior to forwarding the cases to PSB for review. Concerns with these investigations included: inappropriate and unjustified findings; failure to follow up on identified policy concerns; lack of detail in the reports; leading questions; and administrative errors. We will discuss these cases with both PSB and the Division/District Commanders during our next site visit.

In our past several reports, we had noted a continuing increase in the compliance of those cases investigated by Districts and Divisions outside of PSB and believed that the 40-hour Misconduct Investigative Training was a significant factor in this improvement. We would have expected to continue to find improvement this reporting period, but that was not the case.

A reduction from 76% to 63% compliance after several years of working within the requirements of current investigative processes is cause for concern.

In January 2018, we requested that MCSO begin providing us documentation that reflects the actions being taken to address deficient misconduct investigations. We requested that PSB and command personnel provide a response to this request on a monthly basis. We have consistently received the requested documentation since March 2018.

During this reporting period, we did not note any instances where District Commanders documented finding deficiencies or concerns in investigations conducted by their personnel. We acknowledge that due to the time delays in the finalization of investigations, those we reviewed for this reporting period would have been initially sent to PSB prior to this reporting period.

We noted six instances this reporting period where PSB authored deficiency memorandums for District Command personnel and forwarded these concerns to Deputy Chiefs to be addressed. In all of these instances, proper documentation was prepared and submitted. These concerns are being addressed by Deputy Chiefs in one-on-one meetings with the Command personnel involved; and where appropriate, Supervisory Notes are being prepared. PSB continues to track the deficiencies and the outcome of any intervention. We did not note any instances during this reporting period where we believe actions other than those being taken by MCSO would be necessary. However, since we believe the majority of deficiencies found in the District and Division cases should be identified prior to forwarding the case to PSB, we will closely monitor these interventions to ensure that appropriate corrective actions are being taken to address the ongoing deficiencies being found. In addition to the deficiencies documented by PSB for District and Division cases, PSB also identified a deficiency by a PSB employee and properly addressed it with a one-on-one meeting and Supervisory Notes.

We have noted in numerous prior reporting periods that both the supervisors who complete deficient investigations and the command personnel who approve them must be held accountable if MCSO is to achieve Phase 2 compliance with this Paragraph. During this reporting period, our review of cases completed by PSB personnel continues to indicate PSB's ongoing efforts to achieve compliance, and we are optimistic that PSB will continue to do so.

However, based on our review of investigations during this reporting period, we do not have the same optimism regarding those cases completed outside of PSB. Training has been provided, and personnel have been working with the requirements of the MCSO policy for misconduct investigations and the Orders for several years. Compliance should not be declining. We encourage MCSO executive staff to take appropriate action to ensure that command personnel are properly reviewing and addressing administrative misconduct investigations conducted by their personnel.

Paragraph 212. *Where an internal affairs investigator conducts a deficient misconduct investigation, the investigator shall receive the appropriate corrective and/or disciplinary action. An internal affairs investigator's failure to improve the quality of his or her investigations after corrective and/or disciplinary action is taken shall be grounds for demotion and/or removal from a supervisory position or the Professional Standards Bureau.*

Phase 1: In compliance

- GB-2 (Command Responsibility), most recently amended on June 28, 2019.
- GC-4 (Employee Performance Appraisals), most recently amended on July 25, 2019.

Phase 2: In compliance

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

The 40-hour Misconduct Investigative Training was completed in late 2017. In January 2018, we requested that MCSO begin providing us with a document that reflects what actions are being taken to address deficient misconduct investigations on a monthly basis. As discussed in Paragraph 211, we have consistently received the required documentation since March 2018. During this reporting period, PSB identified and documented numerous deficiencies regarding investigations completed outside of PSB. District Command personnel documented that they did not identify or address any deficiencies or concerns during this reporting period.

We will closely monitor these monthly reports submitted by MCSO command personnel, along with reviewing completed misconduct investigations, to ensure that deficiencies are being properly identified and addressed.

Paragraph 213. *Investigations of minor misconduct conducted outside of the Professional Standards Bureau must be conducted by a Supervisor and not by line-level deputies. After such investigations, the investigating Supervisor's Commander shall forward the investigation file to the Professional Standards Bureau after he or she finds that the misconduct investigation is complete and the findings are supported by the evidence. The Professional Standards Bureau shall review the misconduct investigation to ensure that it is complete and that the findings are supported by the evidence. The Professional Standards Bureau shall order additional investigation when it appears that there is additional relevant evidence that may assist in resolving inconsistencies or improving the reliability or credibility of the findings. Where the findings of the investigation report are not supported by the appropriate standard of proof, the Professional Standards Bureau shall document the reasons for this determination and shall include this documentation as an addendum to the original investigation.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 91 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period. Of the 91 investigations, 35 were investigated by PSB personnel. Four were investigated by the contract investigator hired by MCSO, and 52 were investigated by MCSO personnel outside of PSB.

None of the documentation we received regarding investigations conducted outside of PSB indicated that any person below the rank of sergeant was responsible for the investigation.

During the last reporting period, all 72 District or Division level approved cases were forwarded to, and reviewed by, PSB as required. Eighteen (25%) of the 33 cases investigated at the District or Division level were returned by PSB personnel for additional investigation, corrections, proper documentation, or other changes.

During this reporting period, all 52 District or Division level investigations were forwarded to and reviewed by, PSB as required. Nineteen (37%) were found to have concerns or deficiencies, either by PSB or our Team, including six where PSB determined that improper findings had been reached. Many of the concerns identified in these investigations could and should have been addressed at the District or Division level prior to being forwarded to PSB. We noted that in some cases, the deficiencies or errors found by PSB or our Team could not be corrected after the fact. We also noted that in two cases, our non-compliance finding was based on inaccurate documentation completed by PSB personnel.

As is our practice, we will discuss these cases with MCSO during our next site visit.

Paragraph 214. *At the discretion of the Commander of the Professional Standards Bureau, a misconduct investigation may be assigned or re-assigned to another Supervisor with the approval of his or her Commander, whether within or outside of the District or Bureau in which the incident occurred, or may be returned to the original Supervisor for further investigation or analysis. This assignment or re-assignment shall be explained in writing.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

Phase 2: In compliance

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

Our analysis for this reporting period revealed that of the 91 investigations conducted outside of PSB, 12 were returned by PSB to the original investigating supervisor for further investigation, analysis, or corrections. There were no instances where an investigation was assigned or reassigned to a different supervisor.

Paragraph 215. *If, after an investigation conducted outside of the Professional Standards Bureau, an employee's actions are found to violate policy, the investigating Supervisor's Commander shall direct and ensure appropriate discipline and/or corrective action. Where the incident indicates policy, training, tactical, or equipment concerns, the Commander shall also ensure that necessary training is delivered and that policy, tactical, or equipment concerns are resolved.*

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 52 administrative misconduct investigations conducted by MCSO personnel outside of PSB and completed during this reporting period.

Fifteen of the 52 completed misconduct investigations conducted outside of PSB resulted in sustained findings. In four cases, the employee left MCSO employment prior to the completion of the investigation or the discipline process. In the remaining 11 cases, the reports included documentation that appropriate discipline or corrective action was taken. In two of the 11 investigations, in addition to discipline, the need for additional training was also identified and addressed.

Paragraph 216. *If, after an investigation conducted by the Professional Standards Bureau, an employee's actions are found to violate policy, the Commander of the Professional Standards Bureau shall direct and ensure appropriate discipline and/or corrective action. Where the incident indicates policy, training, tactical, or equipment concerns, the Commander of the Professional Standards Bureau shall also ensure that necessary training is delivered and that policy, tactical, or equipment concerns are resolved.*

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

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

Thirty-five of the completed investigations were conducted by PSB personnel. Four were conducted by the contract investigator hired by MCSO. Seventeen resulted in a sustained finding against one or more MCSO employee. In 12 of these sustained investigations, the PSB Commander ensured that appropriate discipline and/or corrective action was recommended. In the five remaining cases, the employees left MCSO employment prior to the determination of discipline. The PSB Commander provided the preliminary determination of the range of discipline in all 12 cases involving current MCSO employees. The PSB Commander cannot ensure that appropriate discipline or corrective action are the final outcome of sustained misconduct investigations, as the Appointing Authority makes the final decisions for discipline on both minor misconduct cases and in serious misconduct cases that result in PDHs. The hearing officer has the authority to change the findings or reduce the discipline.

Of the 12 sustained misconduct investigations conducted by PSB, two indicated a need for additional training, in addition to the discipline imposed. MCSO took the appropriate action and documented it as required.

Paragraph 217. *The Professional Standards Bureau shall conduct targeted and random reviews of discipline imposed by Commanders for minor misconduct to ensure compliance with MCSO policy and legal standards.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: Not applicable

Based on the requirements of the Second Order, District and Division Commanders will not impose discipline for minor misconduct. In all cases, the PSB Commander will determine the final findings for internal investigations and the presumptive range of discipline for those cases with sustained findings. The Appointing Authority will then make the final determination of discipline.

Paragraph 218. *The Professional Standards Bureau shall maintain all administrative investigation reports and files after they are completed for record-keeping in accordance with applicable law.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

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

A member of our Team has inspected the file rooms where hardcopies of administrative investigations are stored and randomly reviewed case files to verify compliance on multiple occasions when PSB was housed at MCSO Headquarters. Our Team member also used the access granted to IAPro to randomly select internal affairs case files to verify that all information was being maintained electronically.

PSB completed the move to its new offsite facility in May 2018. Subsequent to the move, a member of our Team conducted an inspection of the file rooms in the new facility; and conducted a review of random internal investigations in IAPRO to ensure ongoing compliance.

During our January 2019 site visit, a member of our Team again verified compliance at the PSB facility by inspecting both the criminal and administrative investigation file rooms and randomly selecting internal affairs case files to verify that all information is also being electronically maintained in IAPro.

During our July 2019 site visit, a member of our Team again verified that electronic files are being properly maintained, by accessing IAPRO and reviewing randomly selected cases.

D. Discipline

Paragraph 219. *The Sheriff shall ensure that discipline for sustained allegations of misconduct comports with due process, and that discipline is consistently applied, fair, and based on the nature of the allegation, and that mitigating and aggravating factors are identified and consistently applied and documented regardless of the command level of the principal of the investigation.*

Paragraph 220. *To ensure consistency in the imposition of discipline, the Sheriff shall review the MCSO's current disciplinary matrices and, upon approval of the parties and the Monitor, will amend them as necessary to ensure that they:*

a. establish a presumptive range of discipline for each type of violation;

b. increase the presumptive discipline based on an employee's prior violations;

c. set out defined mitigating and aggravating factors;

d. prohibit consideration of the employee's race, gender, gender identity, sexual orientation, national origin, age, or ethnicity;

e. prohibit conflicts, nepotism, or bias of any kind in the administration of discipline;

f. prohibit consideration of the high (or low) profile nature of the incident, including media coverage or other public attention;

g. clearly define forms of discipline and define classes of discipline as used in policies and operations manuals;

h. provide that corrective action such as coaching or training is not considered to be discipline and should not be used as a substitute for discipline where the matrix calls for discipline;

i. provide that the MCSO will not take only non-disciplinary corrective action in cases in which the disciplinary matrices call for the imposition of discipline;

j. provide that the MCSO will consider whether non-disciplinary corrective action is also appropriate in a case where discipline has been imposed;

k. require that any departures from the discipline recommended under the disciplinary matrices be justified in writing and included in the employee's file; and

l. provide a disciplinary matrix for unclassified management level employees that is at least as demanding as the disciplinary matrix for management level employees.

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Administrative Services Division Operations Manual, published on June 17, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

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

During this reporting period, 32 of the 91 administrative misconduct investigations resulted in sustained findings against one or more members of MCSO. In nine of the sustained cases, the employee left MCSO employment prior to the completion of the investigation or the discipline findings. In the remaining 23 cases, compliance findings for this Paragraph are based on the discipline findings for both minor and serious discipline. In those cases where only serious discipline is recommended, compliance findings specific to those cases are addressed in Paragraph 226.

Paragraph 220.a. requires a presumptive range of discipline for each type of violation. Of the total 32 sustained cases, nine involved employees who left MCSO employment prior to the completion of the investigation or discipline process. In the remaining 23 cases, the PSB Commander determined and documented the presumptive discipline range in compliance with this Subparagraph.

Paragraph 220.b. requires that presumptive discipline be increased if an employee has prior violations. In 11 of the 23 sustained investigations where discipline was assessed, the employee had prior sustained violations. The PSB Commander considered and increased the presumptive discipline or discipline range based on the matrices in place at the time of the investigation.

Paragraph 220.c. requires that mitigating and aggravating factors be defined. Aggravating and mitigating factors are not specifically defined in the internal affairs investigation or discipline policy in effect prior to May 18, 2017. The revised discipline policy, effective May 18, 2017, does define these factors. We note that aggravating or mitigating factors are not identified by the PSB Commander, but are identified and considered by the Appointing Authority when making the final disciplinary decisions. During this reporting period, the Appointing Authority provided justification and documentation for all factors he considered when making the final discipline decisions for cases initiated both before and after May 18, 2017. We also found that he continues to specifically identify those instances where there are aggravating or mitigating factors in the justification documents when appropriate.

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

Paragraph 220.e. prohibits any conflicts, nepotism, or bias of any kind in the administration of discipline. None of the sustained cases we reviewed during this reporting period had any indication of conflicts, nepotism, or bias of any kind when determining the disciplinary sanction.

Paragraph 220.f. prohibits the consideration of the high (or low) profile nature of an incident when determining discipline. None of the sustained cases we reviewed during this reporting period indicated any consideration of the high- or low-profile nature of the incident when considering discipline.

Paragraph 220.g. requires that clearly defined forms of discipline and classes of discipline be defined. Phase 2 compliance is not applicable to this Subparagraph.

Paragraph 220.h. requires that corrective action such as coaching or training is not considered to be discipline and should not be used as a substitute for discipline. None of the sustained investigations resulted in the use of coaching or training as a substitute when discipline was required.

Paragraph 220.i. requires that MCSO will not take only non-disciplinary action in cases where the Discipline Matrices call for the imposition of discipline. None of the sustained cases we reviewed during this reporting period resulted in MCSO taking non-disciplinary action when the Discipline Matrices in effect required the imposition of discipline.

Paragraph 220.j. requires that MCSO consider whether non-disciplinary corrective action is also appropriate in a case where discipline has been imposed. Investigators identified four cases where non-disciplinary corrective action was also appropriate. In all four, additional training was recommended.

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

During the last reporting period, 24 investigations with sustained findings resulted in employee discipline. Thirteen involved minor discipline; 11 involved serious discipline. In one case, the Appointing Authority aggravated the discipline sanction above the presumptive discipline, but still within the range of discipline. In two of the cases, the discipline was mitigated to a lower sanction than the presumptive discipline, but still fell within the range of discipline. The Appointing Authority authored justification documents for all three of these investigations, and we concur with his decisions.

During this reporting period, 23 investigations with sustained findings resulted in discipline or other action. Ten involved minor discipline; 13 involved serious discipline. In 20 of the 23 cases where discipline was assessed, the final discipline was the presumptive for the offense. In two cases, the Appointing Authority aggravated the discipline sanction above the presumptive discipline, but still within the range of discipline. In one case, the discipline was mitigated to a lower sanction than the presumptive discipline, but still fell within the range of discipline. The Appointing Authority authored justification documents for all three of these investigations, and we concur with his decisions.

As we have previously noted, compliance for this Paragraph is based on the final discipline outcome for all sustained investigations. Those instances that involve only serious discipline are specifically covered in Paragraph 226 of this Order.

Paragraph 220.l. requires that a Discipline Matrix for unclassified management employees be at least as demanding as the Discipline Matrix for management-level employees. We have reviewed the approved policies that affect discipline for unclassified management employees, and they comply with this requirement. During this reporting period, MCSO did not complete or submit any administrative investigations involving unclassified management employees.

Of the 23 total sustained investigations where discipline occurred, one was initiated prior to May 18, 2017. In this case, the Discipline Matrices in effect at the time provided only a presumptive discipline range. The final discipline for the case fell within the established range.

Twenty-two of the sustained investigations where discipline occurred were both initiated and completed after May 18, 2017, and are subject to all the requirements relative to investigations and disciplinary procedures contained in these revised policies. Those investigations initiated and completed after May 18, 2018 have both a discipline range and a presumptive discipline. Aggravating or mitigating the presumptive discipline requires a justification. In 19 of these cases, the final discipline was the presumptive discipline identified in the matrices in effect. In three cases, though the discipline fell within the range of discipline, it was not the presumptive.

The Appointing Authority provided a written justification in all three cases, and we concur with his decisions.

Paragraph 221. *The Sheriff shall mandate that each act or omission that results in a sustained misconduct allegation shall be treated as a separate offense for the purposes of imposing discipline.*

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

Phase 2: In compliance

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

During this reporting period, we reviewed 23 misconduct investigations with sustained allegations that resulted in the recommendation for discipline for current MCSO employees. We found that MCSO again met the requirements of this Paragraph.

Paragraph 222. *The Sheriff shall also provide that the Commander of the Professional Standards Bureau shall make preliminary determinations of the discipline to be imposed in all cases and shall document those determinations in writing, including the presumptive range of discipline for the sustained misconduct allegation, and the employee's disciplinary history.*

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

Phase 2: In compliance

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

During this reporting period, there were 23 sustained investigations that were completed after July 20, 2016 where discipline was recommended. In all of these cases, the PSB Commander determined and documented in writing the presumptive discipline or presumptive range of discipline based on the policies and Discipline Matrices that were in effect at the time of the investigation. The documentation submitted for this Paragraph included the category, offense number, and employee's discipline history.

E. Pre-Determination Hearings

Paragraph 223. *If the Commander of the Professional Standards Bureau makes a preliminary determination that serious discipline (defined as suspension, demotion, or termination) should be imposed, a designated member of MCSO's command staff will conduct a pre-determination hearing and will provide the employee with an opportunity to be heard.*

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

Phase 2: In compliance

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

During this reporting period, 23 administrative misconduct investigations resulted in sustained findings against current MCSO employees. Thirteen investigations resulted in the recommendation for serious discipline. In 11, MCSO held a Pre-Determination Hearing, as required. In two, though hearings were scheduled, the employees did not attend.

Paragraph 224. *Pre-determination hearings will be audio and video recorded in their entirety, and the recording shall be maintained with the administrative investigation file.*

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- Administrative Services Division Operations Manual, published on June 17, 2019.

Phase 2: In compliance

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

During this reporting period, in all 11 cases where a PDH was held, the hearing was audio- and video-recorded as required, included in the administrative file, and reviewed by a member of our Team.

Paragraph 225. *If an employee provides new or additional evidence at a pre-determination hearing, the hearing will be suspended and the matter will be returned to the internal affairs investigator for consideration or further investigation, as necessary. If after any further investigation or consideration of the new or additional evidence, there is no change in the determination of preliminary discipline, the matter will go back to the pre-determination hearing. The Professional Standards Bureau shall initiate a separate misconduct investigation if it appears that the employee intentionally withheld the new or additional evidence during the initial misconduct investigation.*

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- Administrative Services Division Operations Manual, published on June 17, 2019.

Phase 2: In compliance

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

During this reporting period, 11 sustained investigations resulted in a PDH and we reviewed all of the recordings of these hearings. There were no instances where we, or the Appointing Authority, identified any concerns that required additional follow-up related to the requirements of this Paragraph.

Paragraph 226. *If the designated member of MCSO's command staff conducting the pre-determination hearing does not uphold the charges recommended by the Professional Standards Bureau in any respect, or does not impose the Commander of the Professional Standards Bureau's recommended discipline and/or non-disciplinary corrective action, the Sheriff shall require the designated member of MCSO's command staff to set forth in writing his or her justification for doing so. This justification will be appended to the investigation file.*

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- Administrative Services Division Operations Manual, published on June 17, 2019.

Phase 2: In compliance

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

During every site visit, we meet with the Appointing Authority and the Administrative Services Division to discuss any concerns with final outcomes or decisions that result from Pre-Determination Hearings. We have continued to emphasize to MCSO the need to comply with agency policies when determining disciplinary outcomes.

During our January 2018 site visit, we met with the Appointing Authority and Administrative Services Division personnel to discuss the PDH process and the final outcomes of cases completed during this reporting period. During the meeting, MCSO advised us that the Appointing Authority does not have the authority to reduce discipline based only on timeframe concerns when an employee appeals discipline in these cases. It is the Maricopa County Attorney's Office (MCAO) that reviews these cases and determines whether the cases should go forward. Both the Appointing Authority and the representative from the MCAO advised that they have taken some of these cases forward; but in others, they did not believe it was appropriate to do so, based on the totality of circumstances. The Parties present at the meeting also commented on their concerns regarding cases involving the Plaintiffs' class that might result in reductions in discipline as a result of the failure to complete the case within the 180-day timeframe. We discussed the specific requirements of Arizona Revised Statutes 38-1101, and that the statute only requires a "good faith" attempt to complete cases that result in suspensions, demotions, or dismissals within the 180-day timeframe. Since the time of our discussion in 2018, Arizona law has added a definition of good faith. A.R.S. 38-1101 now defines good faith as "honesty of purpose and absence of intent to defraud."

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

During this reporting period, 13 cases resulted in the recommendation for serious discipline. In all 13, the Appointing Authority provided a justification for the final decisions, and this information was provided to our Team in the submissions regarding closed internal affairs investigations. The Appointing Authority did not overturn any of the sustained findings by the PSB Commander. In 10 of the 13 cases, the final discipline was consistent with the presumptive discipline identified in the matrices in effect at the time of the investigation. In three cases, both initiated and completed after May 2017, the Appointing Authority made the decision to mitigate or aggravate the discipline within the discipline range. In all three, he authored appropriate documents that provided adequate justification; and we concur with his decisions.

MCSO remains in Phase 2 compliance with this Paragraph.

Paragraph 227. *The Sheriff shall promulgate MCSO policy which shall provide that the designated member of MCSO's command staff conducting a pre-determination hearing should apply the disciplinary matrix and set forth clear guidelines for the grounds on which a deviation is permitted. The Sheriff shall mandate that the designated member of MCSO's command staff may not consider the following as grounds for mitigation or reducing the level of discipline prescribed by the matrix:*

a. his or her personal opinion about the employee's reputation;

b. the employee's past disciplinary history (or lack thereof), except as provided in the disciplinary matrix;

c. whether others were jointly responsible for the misconduct, except that the MCSO disciplinary decision maker may consider the measure of discipline imposed on other employees involved to the extent that discipline on others had been previously imposed and the conduct was similarly culpable.

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- Administrative Services Division Operations Manual, published on June 17, 2019.

Phase 2: In compliance

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

During this reporting period, we reviewed 23 administrative misconduct investigations where discipline was recommended. The serious sustained allegations in 13 of these investigations resulted in their referrals for Pre-Determination Hearings.

Paragraph 227.a. prohibits the designated member of command staff conducting a Pre-Determination Hearing from considering a personal opinion of an employee's reputation when determining discipline. There were no indications in our reviews of these investigations that any personal opinion was considered in making a disciplinary decision.

Paragraph 227.b. prohibits the consideration of the employee's past disciplinary history (or lack thereof), except as provided in the Discipline Matrix. There were no instances where we determined that the member of command staff responsible for conducting the PDH considered disciplinary history outside of the requirements of this Paragraph.

Paragraph 227.c. prohibits the consideration of others jointly responsible for misconduct, except that the decision-maker may consider such discipline to the extent that discipline on others had been previously imposed and the conduct was similarly culpable. There were no indications in our reviews that the misconduct of others was improperly considered in the disciplinary decisions that were made.

Paragraph 228. *The Sheriff or his designee has the authority to rescind, revoke or alter any disciplinary decision made by either the Commander of the Professional Standards Bureau or the appointed MCSO disciplinary authority so long as:*

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

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

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

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

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- Administrative Services Division Operations Manual, published on June 17, 2019.

Phase 2: In compliance

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

During this reporting period, there were no instances where the Sheriff or his designee rescinded, revoked, or altered any disciplinary decision made by either the Commander of PSB or the appointed MCSO disciplinary authority.

F. Criminal Misconduct Investigations

Paragraph 229. *Whenever an internal affairs investigator or Commander finds evidence of misconduct indicating apparent criminal conduct by an employee, the Sheriff shall require that the internal affairs investigator or Commander immediately notify the Commander of the Professional Standards Bureau. If the administrative misconduct investigation is being conducted by a Supervisor outside of the Professional Standards Bureau, the Sheriff shall require that the Professional Standards Bureau immediately take over the administrative investigation. If the evidence of misconduct pertains to someone who is superior in rank to the Commander of the Professional Standards Bureau and is within the Commander's chain of command, the Sheriff shall require the Commander to provide the evidence directly to what he or she believes is the appropriate prosecuting authority—the Maricopa County Attorney, the Arizona Attorney General, or the United States Attorney for the District of Arizona—without notifying those in his or her chain of command who may be the subject of a criminal investigation.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

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

During this reporting period, we reviewed seven criminal misconduct investigations. Four were externally generated, and three were internally generated. All were initiated and completed after July 20, 2016, and appropriately assigned to criminal investigators in PSB. In all seven cases reviewed, the potential misconduct was brought to the attention of the PSB Commander as required; and in all cases, an administrative misconduct investigation was also initiated. None involved someone superior in rank to the PSB Commander.

Paragraph 230. *If a misconduct allegation will be investigated criminally, the Sheriff shall require that the Professional Standards Bureau not compel an interview of the principal pursuant to Garrity v. New Jersey, 385 U.S. 493 (1967), until it has first consulted with the criminal investigator and the relevant prosecuting authority. No other part of the administrative investigation shall be held in abeyance unless specifically authorized by the Commander of the Professional Standards Bureau in consultation with the entity conducting the criminal investigation. The Sheriff shall require the Professional Standards Bureau to document in writing all decisions regarding compelling an interview, all decisions to hold any aspect of an administrative investigation in abeyance, and all consultations with the criminal investigator and prosecuting authority.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we review completed misconduct investigations conducted by both criminal and administrative investigators to ensure that they contain appropriate documentation that complies with the requirements of this Paragraph.

We previously determined that in many cases, the administrative investigation is not submitted and reviewed during the same reporting period as the criminal investigation, as generally, administrative investigations are finalized after the completion of the criminal investigation. We discussed this issue with PSB during our January 2017 site visit. To resolve the concern, PSB agreed to provide us with a copy of any criminal investigation when PSB submits the administrative misconduct investigation for our review, even if the criminal investigation has been previously submitted. MCSO has been consistently providing copies of these criminal investigations with the administrative investigation since that time.

During this reporting period, we reviewed two administrative misconduct investigations where criminal misconduct may have also occurred. Both had companion criminal investigations completed by MCSO as required.

Paragraph 231. *The Sheriff shall require the Professional Standards Bureau to ensure that investigators conducting a criminal investigation do not have access to any statements by the principal that were compelled pursuant to Garrity.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

PSB is divided into criminal and administrative sections. Criminal investigators and administrative investigators are housed on separate floors of the building. Criminal investigators do not have access to the IAPro database for administrative investigations, and there are separate file rooms for criminal and administrative investigative documents and reports. We have previously verified during our site visits that the required separation of criminal and administrative investigations and restricted access to IAPro is in place.

In May 2018, PSB relocated to a new offsite location. After PSB's move to its new facility, we verified that criminal and administrative investigation files were housed on separate floors in the new facility. Criminal investigators do not have access to the IAPro database for administrative investigations, and there are separate and secured file rooms for criminal and administrative documents and reports.

During our January 2019 site visit, a member of our Team again verified that criminal and administrative investigative files are housed on separate floors, there is restricted access to both file rooms, and restricted access to IAPro remains in place.

Paragraph 232. *The Sheriff shall require the Professional Standards Bureau to complete all such administrative investigations regardless of the outcome of any criminal investigation, including cases in which the prosecuting agency declines to prosecute or dismisses the criminal case after the initiation of criminal charges. The Sheriff shall require that all relevant provisions of MCSO policies and procedures and the operations manual for the Professional Standards Bureau shall remind members of the Bureau that administrative and criminal cases are held to different standards of proof, that the elements of a policy violation differ from those of a criminal offense, and that the purposes of the administrative investigation process differ from those of the criminal investigation process.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

To determine MCSO's compliance with this Paragraph, we review on a monthly basis administrative and criminal misconduct investigations conducted by MCSO.

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

Paragraph 233. *If the investigator conducting the criminal investigation decides to close the investigation without referring it to a prosecuting agency, this decision must be documented in writing and provided to the Professional Standards Bureau. The Commander of the Professional Standards Bureau shall separately consider whether to refer the matter to a prosecuting agency and shall document the decision in writing.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

To determine MCSO's compliance with this Paragraph, we review on a monthly basis criminal misconduct investigations conducted by MCSO.

During this reporting period, six of the seven criminal investigations we reviewed were closed without submittal to a prosecuting agency. In all six, the decisions were supported by the facts of the investigation, interviews, or other investigative follow-up. The investigators documented their conclusions and decisions to close the cases without submittal and the PSB Commander approved these decisions in writing.

Paragraph 234. *If the investigator conducting the criminal investigation decides to refer the matter to a prosecuting agency, the Professional Standards Bureau shall review the information provided to the prosecuting agency to ensure that it is of sufficient quality and completeness. The Commander of the Professional Standards Bureau shall direct that the investigator conduct additional investigation when it appears that there is additional relevant evidence that may improve the reliability or credibility of the investigation. Such directions shall be documented in writing and included in the investigatory file.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

To determine MCSO's compliance with this Paragraph, we review on a monthly basis criminal misconduct investigations conducted by MCSO.

During this reporting period, we reviewed seven criminal misconduct investigations conducted by PSB personnel. One of the seven cases resulted in an arrest and charges for criminal misconduct. MCSO provided documentation that the PSB Commander reviewed and approved the submittal. The PSB Commander did not direct any further investigation prior to the submittal to the prosecuting agency.

Paragraph 235. *If the prosecuting agency declines to prosecute or dismisses the criminal case after the initiation of criminal charges, the Professional Standards Bureau shall request an explanation for this decision, which shall be documented in writing and appended to the criminal investigation report.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

To determine MCSO's compliance with this Paragraph, we review on a monthly basis criminal misconduct investigations conducted by MCSO.

During this reporting period, one criminal investigation resulted in the arrest of an employee, and charges were filed by the prosecutorial agency. There were no instances where a case was submitted for prosecution by MCSO and the prosecutorial agency declined prosecution or dismissed the criminal case.

Paragraph 236. *The Sheriff shall require the Professional Standards Bureau to maintain all criminal investigation reports and files after they are completed for record-keeping in accordance with applicable law.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

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

During previous site visits, we have inspected the file rooms where hardcopies of investigations are stored. Criminal and administrative investigation files are stored in separate rooms, and access to these rooms is restricted. Our random review of criminal investigation case files verified that PSB was maintaining files as required. A member of our Team also has access to IAPro, and has verified that case files are maintained in an electronic format.

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

In May 2018, PSB relocated to a new offsite location. After the move, we verified that PSB was properly maintaining criminal investigation reports and files at its new facility.

During our January 2019 site visit, a member of our Team again confirmed that criminal and administrative investigative files are housed on separate floors and restricted access to both the file rooms and IAPro remains in place.

During our July 2019 site visit, a member of our Team again verified that electronic files are being properly maintained, by accessing IAPRO and reviewing random cases.

G. Civilian Complaint Intake, Communication, and Tracking

Paragraph 237. *Within six months of the entry of this Order, the Monitor, in consultation with the Community Advisory Board, will develop and implement a program to promote awareness throughout the Maricopa County community about the process for filing complaints about the conduct of MCSO employees.*

Phase 1: Not applicable

Phase 2: Not applicable

The Monitoring Team developed and implemented a Complaint Process Community Awareness Program to promote awareness throughout the Maricopa County community about the process for filing complaints about the conduct of MCSO employees. The program provides for distributing brochures describing the complaint process at quarterly community meetings and using public service announcements – made via local media outlets and social media – to provide basic information (in both English and Spanish) about MCSO's complaint process.

The Monitoring Team contacted faith organizations and civic groups throughout Maricopa County requesting that they make complaint process information forms available to members of their congregations and groups. The Complaint Process Community Awareness Program incorporates input from the CAB, MCSO, and the ACLU of Arizona.

Paragraph 238. *The Sheriff shall require the MCSO to accept all civilian complaints, whether submitted verbally or in writing; in person, by phone, by mail, or online; by a complainant, someone acting on the complainant's behalf, or anonymously; and with or without a signature from the complainant. MCSO will document all complaints in writing.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

Phase 2: In compliance

To assess compliance with this Paragraph, we review all new misconduct complaints received each month and completed misconduct investigations conducted by MCSO personnel. In addition, we review many initial complaint documents or initial phone calls, BWC videos, traffic stop videos, Supervisory Notes, Compliance and BIO reviews, and consider findings in the complaint testing process.

During the last reporting period, there were no instances where either Court Compliance Unit or BIO personnel identified in their reviews that a supervisor had failed to initiate a complaint when appropriate. There were no completed administrative misconduct cases with any allegations of failure to take a complaint. There were no instances where we identified during our review of MCSO contacts with complainants that a complainant had attempted to make a complaint prior to the contact and was refused. There were no instances identified in the complaint intake testing process where an MCSO employee refused to take a complaint. We identified one instance in our review of traffic stops that indicated that a subject had attempted to make a complaint at the time of his arrest – but a complaint was not initiated. This information was forwarded to PSB, which initiated an administrative misconduct investigation.

During this reporting period, MCSO initiated 204 new internal investigations and 102 service complaints. There were no complaints externally or internally generated for failing to take a complaint. Of the 91 completed administrative misconduct investigations we reviewed, there were no indications or allegations that the complainant had tried unsuccessfully to make a complaint. Our review of traffic stops for this reporting period did not identify any instances where a subject who was arrested made allegations of misconduct by MCSO personnel during his arrest. Our review of Supervisory Notes during this reporting period did not identify any incidents where there were indications that a complaint had been made but not properly reported. We reviewed numerous complainant contacts and found no indication that a supervisor initially refused to take a complaint or attempted to dissuade the complainant from making a complaint. We again found several incidents where the complainant articulated that s/he did not want to make a complaint and just wanted to make MCSO aware of something that occurred. In all of the instances we reviewed, a complaint was still initiated by MCSO as required. Neither CID or BIO identified any instances in their reviews during this reporting period that indicated a complainant had attempted to file a complaint and been refused. We did not identify any complaint intake tests for this reporting period where MCSO failed to accept a complaint.

We have found that MCSO consistently accepts and records complaints as required for compliance with this Paragraph.

Paragraph 239. *In locations clearly visible to members of the public at the reception desk at MCSO headquarters and at all District stations, the Sheriff and the MCSO will post and maintain permanent placards clearly and simply describing the civilian complaint process that is visible to the public at all hours. The placards shall include relevant contact information, including telephone numbers, email addresses, mailing addresses, and Internet sites. The placards shall be in both English and Spanish.*

Phase 1: In compliance

- GJ-24 (Community Relations and Youth Programs), most recently revised on September 7, 2018.

Phase 2: In compliance

During this reporting period, the permanent placards were prominently displayed at MCSO Headquarters, and Monitoring Team members visiting MCSO Districts found that the permanent placards were also conspicuously displayed. The placard states that anyone who has a concern regarding the performance of any MCSO employee has the right to file a complaint in English or Spanish or their preferred language, to include American Sign Language; in person at any District facility or at the Professional Standards Bureau, by mail, by telephone, by fax, or online. The placard includes relevant contact information, including telephone numbers, email addresses, mailing addresses, and websites.

Paragraph 240. *The Sheriff shall require all deputies to carry complaint forms in their MCSO vehicles. Upon request, deputies will provide individuals with complaint forms and information about how to file a complaint, their name and badge number, and the contact information, including telephone number and email address, of their immediate supervising officer. The Sheriff must provide all supervising officers with telephones. Supervising officers must timely respond to such complaints registered by civilians.*

Phase 1: In compliance

- EA-2 (Patrol Vehicles), most recently revised on February 20, 2019.
- GE-4 (Use, Assignment and Operation of Vehicles), most recently revised on June 27, 2019.
- GJ-24 (Community Relations and Youth Programs), most recently revised on September 7, 2018.

Phase 2: In compliance

During this reporting period, Monitoring Team members visiting District offices verified that MCSO maintained adequate supplies of complaint forms for deputies to carry in their vehicles. All deputies with whom Monitoring Team members made contact understood their obligations to provide individuals with complaint forms and information about how to file a complaint, their name and badge number, and the contact information for their immediate supervising officer.

Also during this reporting period, Monitoring Team members verified that the supervisors with whom they made contact were in possession of MCSO-issued cellular telephones.

Paragraph 241. *The Sheriff will ensure that the Professional Standards Bureau facility is easily accessible to members of the public. There shall be a space available for receiving walk-in visitors and personnel who can assist the public with filing complaints and/or answer an individual's questions about the complaint investigation process.*

Phase 1: Not applicable

Phase 2: In compliance

In May 2018, PSB moved into the first and second floors of 101 West Jefferson Street. During our July 2018 site visit, members of the Monitoring Team toured the facility. During this reporting period, Monitoring Team members visiting MCSO Districts inspected the placards and comment and complaint forms, and noted that they all had been updated to reflect PSB's new address. The address was also updated on the comment and complaint form that is accessible to the public on MCSO's website.

The facility, the former East Court Building Library, is easily accessible to members of the public. The County Court facilities in the building are separate from the PSB reception area and offices. The PSB area is accessible from First Avenue, a major thoroughfare; and there is no required security screening of individuals entering the building through the First Avenue entrance. A member of the Monitoring Team visited the PSB facility during this reporting period. There was an MCSO employee stationed at the reception area desk in the entrance lobby to welcome visitors and provide information and assistance. As noted previously, the PSB facility's outside entrance located on First Avenue was well-marked and easily accessible to the public with no required security screening.

Paragraph 242. *The Sheriff will also make complaint forms widely available at locations around the County including: the websites of MCSO and Maricopa County government; the lobby of MCSO's headquarters; each patrol District; and the Maricopa County government offices. The Sheriff will ask locations, such as public library branches and the offices and gathering places of community groups, to make these materials available.*

Phase 1: In compliance

- GJ-24 (Community Relations and Youth Programs), most recently revised on September 7, 2018.

Phase 2: In compliance

MCSO has complaint forms available in English and Spanish on the MCSO and Maricopa County websites. MCSO maintains a list – of MCSO facilities, County offices, and public locations where community groups meet – where Community Outreach Division personnel attempt to make the forms available.

During our July site visit, we visited three locations in Maricopa County that were included on MCSO's list of facilities where complaint forms are available to the public. All three facilities displayed an ample supply of complaint forms that were in English and Spanish, and contained the correct PSB facility address. We also observed that the forms were placed in locations readily visible to the public.

Paragraph 243. *The Sheriff shall establish a free, 24-hour hotline for members of the public to make complaints.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

Phase 2: In compliance

The free 24-hour hotline for members of the public to make complaints was established in July 2016 and continued to be operational during this reporting period. A Monitoring Team representative periodically called the hotline during this reporting period and verified that the hotline is operational in both English and Spanish, and provides instructions in both languages on how to register a complaint. The recording advises callers that if the call is an emergency, they are to call 911. Callers are requested to provide their name, telephone number, and a brief summary of their complaint. If callers leave a recorded message, they are advised that MCSO will contact them as soon as possible. If callers do not wish to leave a recorded message, they are provided with a telephone number to call to speak to a supervisor. That number connects the callers to the MCSO switchboard operator, who will connect the caller to an appropriate supervisor. Callers are further advised of MCSO's operating hours if they wish to contact PSB directly.

During our July site visit, a Monitoring Team representative met with the MCSO employee who monitors and tracks all calls to the hotline. The employee was knowledgeable regarding the requirements. The hotline is housed in PSB, and PSB personnel access any recorded messages at the beginning of each business day. During this reporting period, PSB personnel reported that the hotline received one complaint. The procedures established and followed by PSB provide for creating a record of every complaint received on the hotline and maintaining a log of follow-up actions regarding referral of the complaint.

Paragraph 244. *The Sheriff shall ensure that the MCSO's complaint form does not contain any language that could reasonably be construed as discouraging the filing of a complaint, such as warnings about the potential criminal consequences for filing false complaints.*

Phase 1: In compliance

- GJ-24 (Community Relations and Youth Programs), most recently revised on September 7, 2018.

Phase 2: In compliance

Our review of the English and Spanish complaint forms' content did not reveal any language that could reasonably be construed as discouraging the filing of a complaint.

Paragraph 245. *Within two months of the entry of this Order, complaint forms will be made available, at a minimum, in English and Spanish. The MCSO will make reasonable efforts to ensure that complainants who speak other languages (including sign language) and have limited English proficiency can file complaints in their preferred language. The fact that a complainant does not speak, read, or write in English, or is deaf or hard of hearing, will not be grounds to decline to accept or investigate a complaint.*

Phase 1: In compliance

- GJ-24 (Community Relations and Youth Programs), most recently revised on September 7, 2018.

Phase 2: In compliance

Complaint forms in English and Spanish are accessible on MCSO's website. The complaint form states that anyone who has a concern regarding the performance of any MCSO employee has the right to file a complaint – in English or Spanish or their preferred language, to include American Sign Language – in person at any District facility or at the Professional Standards Bureau, by mail, by telephone, by fax, or online. The forms provide street addresses, contact numbers, and website information.

Paragraph 246. *In the course of investigating a civilian complaint, the Professional Standards Bureau will send periodic written updates to the complainant including:*

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

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

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

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

Phase 2: In compliance

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

During this reporting period, we reviewed 91 administrative misconduct investigations conducted by MCSO personnel. Of these, 63 were externally generated.

Paragraph 246.a. requires that a civilian complainant receive a written notice of receipt of his/her complaint within seven days. This letter must include the tracking number, the name of the investigator assigned, and information regarding how the complainant can inquire about the status of his/her complaint. In 89 of the 91 cases, where PSB had contact information for the complainant, the letter was sent within seven days as required. In two cases, though the letters were sent, they were not sent within the required timeframe. All of the letters sent and reviewed included the name of the investigator and information regarding how the complainant could inquire about the status of the complaint.

Paragraph 246.b. requires that PSB notify a civilian complainant of the outcome of the investigation. In all of the externally generated complaints, the complainant was provided a notice of the outcome when contact information was known. In one of the 63 cases, the final letter to the complaint contained inaccurate information.

Paragraph 246.c. requires that PSB notify a civilian complainant of any discipline imposed as soon as permitted by law. In all of the externally generated complaints with sustained findings, PSB properly notified the complainant of the sustained findings and the discipline imposed when contact information for the complainant was known.

Paragraph 247. *Notwithstanding the above written communications, a complainant and/or his or her representative may contact the Professional Standards Bureau at any time to determine the status of his or her complaint. The Sheriff shall require the MCSO to update the complainant with the status of the investigation.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.

Phase 2: In compliance

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

During this reporting period, we reviewed 91 administrative misconduct investigations conducted by MCSO. Externally generated complaints resulted in 63 of the investigations. We did not identify any instances where a complainant was discouraged from, or denied, contact with MCSO investigators to determine the status of his/her complaint, or to request an receive an update. MCSO appropriately had contact with complainants as required in Paragraph 246 in all of these cases where the complainant was known and wanted to participate in the investigation. In one instance, MCSO personnel reported that they had additional contact with the complainant during the course of the investigation.

Paragraph 248. *The Professional Standards Bureau will track, as a separate category of complaints, allegations of biased policing, including allegations that a deputy conducted an investigatory stop or arrest based on an individual's demographic category or used a slur based on an individual's actual or perceived race, ethnicity, nationality, or immigration status, sex, sexual orientation, or gender identity. The Professional Standards Bureau will require that complaints of biased policing are captured and tracked appropriately, even if the complainant does not so label the allegation.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

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

Each month, PSB provides a list of new complaints alleging biased policing. PSB also provides all closed investigations where biased policing was alleged. For this Paragraph, only allegations of biased policing that do not affect the Plaintiffs' class are reported. Those complaints alleging bias against members of the Plaintiffs' class are captured in a separate category and reported under Paragraphs 275-288.

During the last reporting period, PSB completed four investigations where potential bias was alleged that did not affect members of the Plaintiffs' class. All four investigations were initiated and completed after July 20, 2016; investigated by PSB; and tracked in a separate category as required by this Paragraph.

During this reporting period, PSB completed two investigations where potential bias was alleged that did not affect members of the Plaintiffs' class. Both investigations were initiated and completed after July 20, 2016, investigated by PSB, and tracked in a separate category as required by this Paragraph.

Paragraph 249. *The Professional Standards Bureau will track, as a separate category of complaints, allegations of unlawful investigatory stops, searches, seizures, or arrests.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

To determine Phase 2 compliance for this Paragraph, we review a monthly report from PSB that provides the information required for compliance.

To ensure that we are consistently informed of complaints relative to this Paragraph, PSB provides information concerning these investigations in its monthly document submission relative to this Paragraph.

During the last reporting period, PSB completed four investigations alleging unlawful investigatory stops, searches, seizures, or arrests. All four were initiated and completed after July 20, 2016 and tracked in a separate category as required by this Paragraph.

During this reporting period, PSB did not submit for our review any investigation where reporting under this Paragraph is applicable.

Paragraph 250. *The Professional Standards Bureau will conduct regular assessments of the types of complaints being received to identify and assess potential problematic patterns and trends.*

Phase 1: In compliance

- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

PSB continues to prepare a quarterly assessment of the types of complaints received to identify and assess potential problematic patterns or trends. During this reporting period, there were 187 complaints received; with 28 complaints alleging rude behavior and 16 complaints alleging unprofessional conduct, to include the use of inappropriate language or inappropriate behavior. PSB identified that the number of allegations of on and off duty criminal activity, mainly alleging physical assault or sexual assault was high, with 16 investigations being opened. There were 12 investigations opened in relation to allegations of workplace professionalism misconduct and 15 investigations opened into allegations of certain employees not being respectful or courteous toward other employees. There were two complaints alleging ill treatment toward persons with limited English proficiency, and nine complaints alleging bias-based policing and the use of racial or protected category slurs.

PSB identified Central Intake as the Division that received the most complaints during this reporting period. Central Intake received 19 complaints during this reporting period, which included six complaints alleging that the Detention Officers were rude and unprofessional, to include the use of inappropriate comments, profanity, and taunting/mocking behavior. There were three complaints alleging that the command staff treated employees unfairly due to incomplete investigations or incident reports. There were three complaints alleging that the employees were involved in a physical or sexual assault. An additional seven complaints did not follow a pattern or trend that could be identified.

PSB identified patterns and potential issues with certain employees who were involved in numerous internal investigations.

- One employee was identified as the principal in three internal investigations. The allegations in the three investigations do not appear to follow a trend or pattern.
- One employee was identified as the principal in three internal investigations involving rudeness or yelling at civilians during traffic stops.
- One employee was identified as the principal in three internal investigations involving allegations of sexual relationships with other employees, as well as recent inmates.

PSB also includes the information required by this Paragraph in its semi-annual public Misconduct Investigations Report, which is required under Paragraph 251. The most recent semi-annual report for the period of July 1-December 31, 2018, contains the issues identified as potentially problematic patterns or trends for that six-month period.

MCSO remains in compliance with this requirement.

H. Transparency Measures

Paragraph 251. *The Sheriff shall require the Professional Standards Bureau to produce a semi-annual public report on misconduct investigations, including, at a minimum, the following:*

a. summary information, which does not name the specific employees involved, about any sustained allegations that an employee violated conflict-of-interest rules in conducting or reviewing misconduct investigations;

b. aggregate data on complaints received from the public, broken down by district; rank of principal(s); nature of contact (traffic stop, pedestrian stop, call for service, etc.); nature of allegation (rudeness, bias-based policing, etc.); complainants' demographic information; complaints received from anonymous complainants or third parties; and principals' demographic information;

c. analysis of whether any increase or decrease in the number of civilian complaints received from reporting period to reporting period is attributable to issues in the complaint intake process or other factors;

d. aggregate data on internally-generated misconduct allegations, broken down by similar categories as those for civilian complaints;

e. aggregate data on the processing of misconduct cases, including the number of cases assigned to Supervisors outside of the Professional Standards Bureau versus investigators in the Professional Standards Bureau; the average and median time from the initiation of an investigation to its submission by the investigator to his or her chain of command; the average and median time from the submission of the investigation by the investigator to a final decision regarding discipline, or other final disposition if no discipline is imposed; the number of investigations returned to the original investigator due to conclusions not being supported by the evidence; and the number of investigations returned to the original investigator to conduct additional investigation;

f. aggregate data on the outcomes of misconduct investigations, including the number of sustained, not sustained, exonerated, and unfounded misconduct complaints; the number of misconduct allegations supported by the appropriate standard of proof; the number of sustained allegations resulting in a non-disciplinary outcome, coaching, written reprimand, suspension, demotion, and termination; the number of cases in which findings were changed after a pre-determination hearing, broken down by initial finding and final finding; the number of cases in which discipline was changed after a pre-determination hearing, broken down by initial discipline and final discipline; the number of cases in which findings were overruled, sustained, or changed by the Maricopa County Law Enforcement Merit System Council, broken down by the finding reached by the MCSO and the finding reached by the Council; and the number of cases in which discipline was altered by the Council, broken down by the discipline imposed by the MCSO and the disciplinary ruling of the Council; and similar information on appeals beyond the Council; and

g. aggregate data on employees with persistent or serious misconduct problems, including the number of employees who have been the subject of more than two misconduct investigations in the previous 12 months, broken down by serious and minor misconduct; the number of employees who have had more than one sustained allegation of minor misconduct in the previous 12 months, broken down by the number of sustained allegations; the number of employees who have had more than one sustained allegation of serious misconduct in the previous 12 months, broken down by the number of sustained allegations; and the number of criminal prosecutions of employees, broken down by criminal charge.

Phase 1: In compliance

- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

The PSB Operations Manual identifies the PSB Commander as responsible for preparing the semi-annual public report on misconduct investigations. The manual also contains provisions for the production of summary information regarding sustained conflict of interest violations; an analysis of the complaint intake process; and aggregate data on complaints (internal and external), processing of misconduct cases, outcomes of misconduct cases, and employees with persistent misconduct problems.

In July 2019, PSB issued and posted on the MCSO website its semi-annual public report for period of July 1-December 31, 2018. PSB also incorporated information relevant to Paragraph 192 in this report, which requires that PSB review, at least semi-annually, all misconduct investigations that were assigned outside the Bureau to determine whether or not the investigation was properly categorized, whether the investigation was properly conducted, and whether appropriate findings were reached. PSB also incorporated information relevant to Paragraph 250 in this report, which includes an assessment of potential problematic patterns or trends, based on a review on complaints received, for the time period of July 1-December 31, 2018.

During our July 2019 site visit, PSB informed us that it has developed a voluntary survey for complainants to complete after the conclusion of the investigation, which would capture demographic information in relation to the complainants for external complaints. MCSO is continuing to coordinate efforts with the County to identify the proper funding source for prepaid postage return envelopes. The use of prepaid postage return envelopes would allow the complainants to mail the survey to MCSO without having to incur any fees. Once the survey is implemented and PSB receives responses from the complainants, the information will be included in future semi-annual reports. The demographic information for complainants in relation to internal complaints is included in the semi-annual report.

MCSO published the Professional Standards Bureau Operations Manual during the last reporting period, at which time MCSO attained Phase 1 compliance with this requirement. MCSO remains in compliance with this requirement.

Paragraph 252. *The Sheriff shall require the MCSO to make detailed summaries of completed internal affairs investigations readily available to the public to the full extent permitted under state law, in electronic form on a designated section of its website that is linked to directly from the MCSO's home page with prominent language that clearly indicates to the public that the link provides information about investigations of misconduct alleged against MCSO employees.*

Phase 1: In compliance

- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

PSB publishes detailed summaries each month of completed misconduct investigations in an electronic format that is accessible via MCSO's website. The following data fields have been

identified for public disclosure: Internal Affairs Number; Date Opened; Incident Type; Original Complaint; Policy Violation(s) Alleged/Outcome; Discipline; Investigative Summary; and Date Completed. During our April 2017 site visit, we approved the PSB template containing detailed summaries of completed misconduct investigations for placement on the MCSO website. Each reporting period, we conduct a review of the detailed summaries of completed misconduct investigations to ensure that the content is consistent with the requirements of this Paragraph. In addition, we verify that the monthly detailed summaries of completed misconduct investigations are posted on MCSO's website for public review.

During this reporting period, PSB made the monthly detailed summaries of completed internal investigations available to the public in a designated section on the homepage of MCSO's website. MCSO remains in compliance with this requirement.

Paragraph 253. *The MCSO Bureau of Internal Oversight shall produce a semi-annual public audit report regarding misconduct investigations. This report shall analyze a stratified random sample of misconduct investigations that were completed during the previous six months to identify any procedural irregularities, including any instances in which:*

a. complaint notification procedures were not followed;

b. a misconduct complaint was not assigned a unique identifier;

c. investigation assignment protocols were not followed, such as serious or criminal misconduct being investigated outside of the Professional Standards Bureau;

d. deadlines were not met;

e. an investigation was conducted by an employee who had not received required misconduct investigation training;

f. an investigation was conducted by an employee with a history of multiple sustained misconduct allegations, or one sustained allegation of a Category 6 or Category 7 offense from the MCSO's disciplinary matrices;

g. an investigation was conducted by an employee who was named as a principal or witness in any investigation of the underlying incident;

h. an investigation was conducted of a superior officer within the internal affairs investigator's chain of command;

i. any interviews were not recorded;

j. the investigation report was not reviewed by the appropriate personnel;

k. employees were promoted or received a salary increase while named as a principal in an ongoing misconduct investigation absent the required written justification;

l. a final finding was not reached on a misconduct allegation;

m. an employee's disciplinary history was not documented in a disciplinary recommendation; or

n. no written explanation was provided for the imposition of discipline inconsistent with the disciplinary matrix.

Phase 1: In compliance

- GH-4 (Bureau of Internal Oversight Audits and Inspections), most recently amended on October 30, 2018.

Phase 2: In compliance

During our January 2018 site visit, the Bureau of Internal Oversight (BIO) Commander reported that the semi-annual public audit report regarding misconduct investigations had not yet been prepared. After a telephone conference between BIO and the Monitoring Team on January 10, 2018, it was determined that the semi-annual public audit report would be placed on hold while BIO's Audit and Inspections Unit (AIU) developed the appropriate methodology for conducting the inspection. On June 26, 2018 we approved the methodology for the inspection, which would start with an inspection of investigations that commenced after November 1, 2017. AIU is conducting monthly inspections of misconduct investigations in lieu of conducting a semi-annual audit. During this reporting period, AIU prepared inspection reports for misconduct investigations that closed during the months of February, March, and April 2019.

When perceived deficiencies are identified, AIU requests a BIO Action Form from the specific District/Division Commander to address the issue(s). During our next site visit, we will discuss with MCSO certain issues that were identified during the inspections and the responses from the respective District/Division Commanders via the BIO Action Forms.

I. Testing Program for Civilian Complaint Intake

Paragraph 254. *The Sheriff shall initiate a testing program designed to assess civilian complaint intake. Specifically, the testing program shall assess whether employees are providing civilians appropriate and accurate information about the complaint process and whether employees are notifying the Professional Standards Bureau upon the receipt of a civilian complaint.*

Phase 1: In compliance

- Audits and Inspections Unit Operations Manual, Section 304, published on January 30, 2019.
- GH-4 (Bureau of Internal Oversight Audits and Inspections), most recently amended on October 30, 2018.

Phase 2: In compliance

To meet the requirements of this Paragraph, AIU contracted with two vendors: Progressive Management Resources (PMR), which is responsible for conducting complaint intake testing via telephone, email, U.S. Mail, and MCSO's website; and the Arizona Fair Housing Center (AFHC), which is responsible for conducting in-person tests. We receive and review documentation of these tests – including any available audio-recorded documentation – as they are completed, as part of our monthly document requests. PMR does not advise AIU of the tests in advance; instead, PMR emails AIU once a test has been completed with documentation of the test.

During this reporting period, AFHC conducted two in-person tests; and PMR conducted three tests, using different methods (telephone, email, and MCSO's website). For the most part, testers received timely responses to their complaints and described the MCSO employees with whom they interacted as courteous and professional. One AFHC tester noted on the test documentation that the supervisor "asked good logical questions" during their conversation. However, we had some concerns about a few of the tests we reviewed for this reporting period. We will discuss these concerns with MCSO during our next site visit.

In the first PMR test, the tester emailed MCSO to complain that she observed a deputy parked in a handicapped parking spot at a fast food restaurant. The tester received a timely reply from PSB to her email, but she wrote on the test documentation, "It did seem a bit off-putting to not receive a response directly from the District Commander that I had sent the email complaint to…for District 3. In prior email complaints we had received preliminary email confirmation of receipt of the complaint…prior to receipt of the IA #. This additional, more personal acknowledgement of the complaint conveyed a more meaningful and professional, earnest response." While this test was in compliance, it may be useful for District Commanders who receive such emails to learn from this tester's experience and personally acknowledge complaints they receive via email in addition to forwarding them to PSB.

In another PMR test, the tester called MCSO to complain that a deputy "was driving erratically." She described the person with whom she spoke as "very professional, however he did forget to get my phone number; I volunteered it near end of call."

In one AFHC test, the tester visited a District office to complain about a deputy who tailgated her and then "slammed on his breaks and spread [sic] around me with his hands up through the intersection with no lights or sirens on." Regarding her experience entering the District office, the tester noted on the test documentation, "There were no signs. There was a window, but it was a shuttered. There was a black phone on the wall with a label instructing you to pick it up. The woman who answered was not very friendly. I asked if they were open, or if there was anyone who could help me." We have raised concerns with MCSO in the past about making District offices more accessible to the public. Even more concerning, according to the tester, the employee asked, "How are you going to complain about a deputy if you don't have a name?" In this instance, the tester reported that she "had to insist on speaking with someone in order to file the complaint." While ultimately, MCSO assisted her appropriately, this initial communication with an MCSO employee was inappropriate, violated MCSO policy, and could

be perceived by potential complainants as dissuasive. We will discuss this case further with AIU during our next site visit.

Previously, we have encouraged MCSO to provide refresher training on the complaint process to all employees who interact with the public. We will discuss this with AIU during our next site visit.

Paragraph 255. *The testing program is not intended to assess investigations of civilian complaints, and the MCSO shall design the testing program in such a way that it does not waste resources investigating fictitious complaints made by testers.*

Phase 1: In compliance

- Audits and Inspections Unit Operations Manual, Section 304, published on January 30, 2019.
- GH-4 (Bureau of Internal Oversight Audits and Inspections), most recently amended on October 30, 2018.

Phase 2: In compliance

AIU has informed both vendors it has contracted with of this requirement. AIU has created several procedures to ensure that the Complaint Intake Testing Program does not waste resources investigating fictitious complaints made by testers – including setting parameters for the types of inquiries that testers make, and creating official identification cards for testers designating them as such. For in-person tests, AIU has required that the vendor it has contracted with inform AIU in advance of all tests, and AIU personnel make themselves available via telephone if testers encounter any issue as they lodge their test complaints.

Paragraph 256. *The testing program shall assess complaint intake for complaints made in person at MCSO facilities, complaints made telephonically, by mail, and complaints made electronically by email or through MCSO's website. Testers shall not interfere with deputies taking law enforcement action. Testers shall not attempt to assess complaint intake in the course of traffic stops or other law enforcement action being taken outside of MCSO facilities.*

Phase 1: In compliance

- Audits and Inspections Unit Operations Manual, Section 304, published on January 30, 2019.
- GH-4 (Bureau of Internal Oversight Audits and Inspections), most recently amended on October 30, 2018.

Phase 2: In compliance

As noted above, AIU has contracted with two vendors to meet the complaint intake testing requirements. AIU advised both vendors that testers shall not interfere with deputies taking law enforcement action, nor shall they attempt to assess complaint intake in the course of traffic stops or other law enforcement action being taken outside of MCSO facilities.

AIU has asked the vendor responsible for in-person testing to inform AIU in advance of all tests, and AIU personnel make themselves available via telephone if testers encounter any issue as they lodge their test complaints.

Paragraph 257. *The testing program shall include sufficient random and targeted testing to assess the complaint intake process, utilizing surreptitious video and/or audio recording, as permitted by state law, of testers' interactions with MCSO personnel to assess the appropriateness of responses and information provided.*

Phase 1: In compliance

- Audits and Inspections Unit Operations Manual, Section 304, published on January 30, 2019.
- GH-4 (Bureau of Internal Oversight Audits and Inspections), most recently amended on October 30, 2018.

Phase 2: In compliance

AIU has informed both vendors it has contracted with of the requirements of this Paragraph. We receive copies of the recordings following the completion of the tests. Per the agreed-upon methodology, all tests conducted via telephone are audio-recorded; and all in-person testers' interactions with MCSO personnel are video-recorded to assess the appropriateness of responses and information provided.

Paragraph 258. *The testing program shall also assess whether employees promptly notify the Professional Standards Bureau of civilian complaints and provide accurate and complete information to the Bureau.*

Phase 1: In compliance

- Audits and Inspections Unit Operations Manual, Section 304, published on January 30, 2019.
- GH-4 (Bureau of Internal Oversight Audits and Inspections), most recently amended on October 30, 2018.

Phase 2: In compliance

AIU has informed both vendors it has contracted with of the requirements of this Paragraph so that the tests conducted by both vendors shall also assess whether employees promptly notify the PSB of civilian complaints and provide accurate and complete information to the Bureau.

As it receives documentation about completed tests from its vendors, AIU reviews the information; and issues Action Forms, authors memorandums of concern, or takes other appropriate action if a test fails or raises any concerns about the conduct of MCSO employees.

Paragraph 259. *MCSO shall not permit current or former employees to serve as testers.*

Phase 1: In compliance

- Audits and Inspections Unit Operations Manual, Section 304, published on January 30, 2019.
- GH-4 (Bureau of Internal Oversight Audits and Inspections), most recently amended on October 30, 2018.

Phase 2: In compliance

AIU has informed both vendors it has contracted with to conduct the tests of this requirement. AIU personnel have informed us that no current or former employees have served, or will serve in the future, as testers.

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

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

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

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

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

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

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

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

Phase 1: In compliance

- Audits and Inspections Unit Operations Manual, Section 304, published on January 30, 2019.
- GH-4 (Bureau of Internal Oversight Audits and Inspections), most recently amended on October 30, 2018.

Phase 2: Not in compliance

We have discussed with AIU personnel the requirements of this Paragraph. Although Paragraph 260 requires that MCSO produce an annual report summarizing its complaint intake testing, AIU personnel have also elected to complete monthly reports. During our July site visit, we briefly discussed with AIU personnel the draft methodology AIU developed for the monthly and annual reports. We encouraged AIU to circulate this to the Parties, and we look forward to discussing this further with AIU when it is made available.

Section 13: Community Outreach and Community Advisory Board

COURT ORDER XVI. COMMUNITY OUTREACH AND COMMUNITY ADVISORY BOARD

Paragraph 261. *The Community Advisory Board may conduct or retain a consultant to conduct a study to identify barriers to the filing of civilian complaints against MCSO personnel.*

Phase 1: Not applicable

Phase 2: Not applicable

During this reporting period, the CAB continued to explore the possibility of retaining a consultant to conduct a study to identify barriers to the filing of civilian complaints against MCSO personnel, by researching polling firms that are experienced in working with Latino populations.

Paragraph 262. *In addition to the administrative support provided for in the Supplemental Permanent Injunction, (Doc. 670 ¶ 117), the Community Advisory Board shall be provided with annual funding to support its activities, including but not limited to funds for appropriate research, outreach advertising and website maintenance, stipends for intern support, professional interpretation and translation, and out-of-pocket costs of the Community Advisory Board members for transportation related to their official responsibilities. The Community Advisory Board shall submit a proposed annual budget to the Monitor, not to exceed $15,000, and upon approval of the annual budget, the County shall deposit that amount into an account established by the Community Advisory Board for that purpose. The Community Advisory Board shall be required to keep detailed records of expenditures which are subject to review.*

Phase 1: Not applicable

Phase 2: Not applicable

In July 2018, the Monitor approved CAB's proposed budget. The budget includes the following categories: community meetings; video production (to produce a short video in English and Spanish that provides information about the CAB and the MCSO complaint process); marketing materials; stipends for an assistant to help coordinate CAB meeting logistics; and reimbursement for CAB members' meeting expenses.

Following the Monitor's approval of the CAB's budget, the CAB established a bank account, and the County provided the $15,000. CAB members developed procedures for tracking funds and receiving reimbursement. During our January 2019 site visit, we met with CAB members to discuss these procedures and review the CAB's expenditures to date; these records appear to be in order and we will review the CAB's expenditures periodically.

Section 14: Supervision and Staffing

COURT ORDER XVII. SUPERVISION AND STAFFING

Paragraph 263. *The following Section of this Order represents additions and amendments to Section X of the first Supplemental Permanent Injunction, Supervision and Evaluations of Officer Performance, and the provisions of this Section override any conflicting provisions in Section X of the first Supplemental Permanent Injunction.*

Paragraph 264. *The Sheriff shall ensure that all patrol deputies shall be assigned to a primary, clearly identified, first-line supervisor.*

Phase 1: In compliance

- GB-2 (Command Responsibility), most recently amended on June 28, 2019.

Phase 2: In compliance

During this reporting period, consistent with our methodology, for April, we reviewed a sample of shift rosters from Districts 4, 6, 7, and Lake Patrol; for May, we reviewed a sample of shift rosters from Districts 1, 2, and 3; and for June, we reviewed a sample of shift rosters from Districts 4, 6, 7, and Lake Patrol. Monthly and daily rosters indicated that deputies were assigned to one single consistent supervisor.

Paragraph 265. *First-line patrol supervisors shall be responsible for closely and consistently supervising all deputies under their primary command.*

Phase 1: In compliance

- GB-2 (Command Responsibility), most recently amended on June 28, 2019.

Phase 2: Not in compliance

Paragraph 265 is a general directive that covers several aspects of supervision. There are several requirements covered in other Paragraphs of this Order that directly impact this Paragraph; these requirements must be met before MCSO can establish compliance with Paragraph 265. We have determined that for MCSO to meet the compliance requirements of this Paragraph, MCSO must be in compliance with Paragraphs 83, 85, 89, 90, 91, 93, and 94. During this reporting period, MCSO was in compliance with Paragraphs 83, 85, 89, 90, and 93. During this reporting period, MCSO did not achieve compliance with Paragraphs 91 and 94. We are encouraged by the progress made with Paragraph 91. Although MCSO is not yet in compliance, for this reporting period, the compliance rate for Paragraph 91 was 92%. We note our continued concern with the timely production and submission of BIO Inspection Reports; we rely on the Traffic Stop Data Collection inspection report to determine partial compliance

with Paragraph 91. For MCSO to achieve compliance with this Paragraph, it must retain compliance with Paragraphs 83, 85, 89, 90, and 93; and attain compliance with Paragraphs 91 and 94.

Paragraph 266. *First-line patrol supervisors shall be assigned as primary supervisor to no more persons than it is possible to effectively supervise. The Sheriff should seek to establish staffing that permits a supervisor to oversee no more than eight deputies, but in no event should a supervisor be responsible for more than ten persons. If the Sheriff determines that assignment complexity, the geographic size of a district, the volume of calls for service, or other circumstances warrant an increase or decrease in the level of supervision for any unit, squad, or shift, it shall explain such reasons in writing, and, during the period that the MCSO is subject to the Monitor, shall provide the Monitor with such explanations. The Monitor shall provide an assessment to the Court as to whether the reduced or increased ratio is appropriate in the circumstances indicated.*

Phase 1: In compliance

- GB-2 (Command Responsibility), most recently amended on June 28, 2019.

Phase 2: In compliance

To verify Phase 2 compliance with this Paragraph, we reviewed monthly rosters and shift rosters for the second quarter of 2019. During this reporting period, consistent with our methodology, for April we reviewed a sample of shift rosters from Districts 4, 6, and 7, and Lake Patrol. For May, we reviewed a sample of shift rosters from Districts 1, 2, and 3. For June we reviewed a sample of shift rosters from Districts 4, 6, and 7, and Lake Patrol. Monthly and daily rosters indicated that deputies were assigned to one single consistent supervisor. For the 66 dates selected in this reporting period, all shifts were in compliance. There were 17 span of control memos generated during this reporting period, indicating that those shifts or part of those shifts exceeded the supervisor-deputy ratio of 1:8. Six span of control memos were generated by District 1. Five span of control memos were generated by District 2. Five span of control memos were generated by District 3, and one memo was generated by Lake Patrol. MCSO did not exceed the 1:10 supervisor-deputy ratio in any of the sample shifts we inspected during this reporting period. MCSO remains in compliance with this Paragraph.

Paragraph 267. *Supervisors shall be responsible for close and effective supervision of deputies under their command. Supervisors shall ensure that all deputies under their direct command comply with MCSO policy, federal, state and local law, and this Court's orders.*

Phase 1: In compliance

- GB-2 (Command Responsibility), most recently amended on June 28, 2019.

Phase 2: Not in compliance

Close and effective supervision requires that supervisors consistently apply the concepts established in several Paragraphs of the First Order. There are requirements covered in other Paragraphs that directly impact Paragraph 267, and must therefore be in compliance for MCSO to establish compliance with this Paragraph. We have determined that for MCSO to meet the compliance requirements of this Paragraph, it must be in compliance with Paragraphs 83, 85, 89, 90, 91, 93, and 96. During this reporting period, we found MCSO in compliance with Paragraphs 83, 85, 89, 90, and 93. During this reporting period, MCSO did not meet the compliance requirements of Paragraphs 91 and 96. MCSO will be implementing a new Incident Report Inspection methodology in September. We anticipate that this inspection will lead to added emphasis on the requirements of this Paragraph, and ultimately will assist MCSO in attaining compliance with Paragraph 96. For MCSO to achieve compliance with this Paragraph, it must remain in compliance with Paragraphs 83, 85, 89, 90, and 93; and achieve compliance with Paragraphs 91 and 96.

Paragraph 268. *During the term that a Monitor oversees the Sheriff and the MCSO in this action, any transfer of sworn personnel or supervisors in or out of the Professional Standards Bureau, the Bureau of Internal Oversight, and the Court Implementation Division shall require advanced approval from the Monitor. Prior to any transfer into any of these components, the MCSO shall provide the Court, the Monitor, and the parties with advance notice of the transfer and shall produce copies of the individual's résumé and disciplinary history. The Court may order the removal of the heads of these components if doing so is, in the Court's view, necessary to achieve compliance in a timely manner.*

Phase 1: In compliance

- Court Implementation Division Operations Manual, most recently amended on August 17, 2018.
- Professional Standards Bureau Operations Manual, most recently amended on December 13, 2018.

Phase 2: In compliance

During this reporting period, there were three transfers into the Bureau of Internal Oversight (BIO) and four transfers into the Professional Standards Bureau (PSB). We reviewed the documentation for all incoming transfers and noted no issues of concern. In addition, during this reporting period, MCSO transferred three employees out of BIO and one employee out of PSB. We reviewed the documentation provided and approved the transfers.

Also during this reporting period, we received a request to approve the temporary transfer of the PSB commander, out of PSB, to cover for a vacancy in Patrol. We were concerned with the possible adverse impact that this move would have created in PSB, as the burden of the PSB Commander's job would have fallen on an extremely busy Executive Chief. PSB investigators carry a heavy workload, and there is a backlog of cases in the system. The PSB Commander plays a crucial role in ensuring timely and thorough investigation of misconduct cases. We requested additional information from MCSO, specifically for alternatives that would not cause problems in PSB. MCSO reconsidered and withdrew the request for transfer.

Section 15: Document Preservation and Production

COURT ORDER XVIII. DOCUMENT PRESERVATION AND PRODUCTION

Paragraph 269. *The Sheriff shall ensure that when the MCSO receives a document preservation notice from a litigant, the MCSO shall promptly communicate that document preservation notice to all personnel who might possibly have responsive documents.*

Phase 1: In compliance

- GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices), most recently amended on May 3, 2019.
- GD-9 User Guide, published on May 3, 2019.

Phase 2: Not in compliance

To verify MCSO's Phase 2 compliance with this Paragraph, we reviewed monthly submittals of document preservation notices to MCSO employees for the reporting period. We also reviewed a sample of cases during our July 2019 site visit to assess if MCSO was properly preserving documents that are requested in the course of litigation.

Document preservation is set in motion when a party sends a litigation hold notice or written directive to MCSO requesting the preservation of relevant documents or records and electronically stored information (ESI), in anticipation of future litigation against the agency. MCSO's Legal Liaison Section (LLS) manages litigation holds. Upon the receipt of a litigation hold, which is usually sent by the Maricopa County Attorney's Office (MCAO), the LLS conducts an initial research to determine whether the request is something that LLS can provide or if LLS has to request it from an MCSO Division. If the LLS requires documents from other MCSO Divisions, it must draft a Document Preservation Notice within five business days and address it to the required Division. Upon receipt of the Document Preservation Notice, MCSO must identify responsive documents and also preserve them in the manner in which they are usually kept in the course of business. The LLS began using the online tool Open Axes to manage the litigation holds. The process is conducted electronically through the system so that the employees need only access the program to complete any forms and identify litigation holds of any responsive document.

During our July site visit, we reviewed a sample of the third-party source documents that generate the litigation holds that the LLS receives from MCAO. The LLS identify possible document custodians through Open Axes, who then receive the Document Preservation Notices. MCSO correctly conveys the information contained in the third-party source document into the Document Preservation Notices that are then forwarded to the employees in the different Divisions. The Document Preservation Notices have been distributed 100% in a timely manner to employees who may have responsive documents.

GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices) requires that the employee who receives a document preservation request complete two forms: Attachment A, Document Preservation Acknowledgment and Attachment B, Document Preservation Questionnaire. Attachment A, the attestation, is due within five days of receipt; while Attachment B – which requires more in-depth information such as steps taken to search documents, the outcome of the search, and the itemization of the documents identified as responsive – is due within 10 days of receipt. Attachment A was returned in a timely manner 92% of the time, a 10% increase since the last reporting period. Attachment B was returned within established timeframes 93% of the time, a 7% increase from the last reporting period.

During our July site visit, we reviewed completed copies of Attachment B, and found that 98% of them were properly completed, a 1% increase since the last quarter. We noted that the LLS intercepted the few improperly completed forms and returned them for corrections. We also noted the improper completion of Attachment B by personnel who were not accustomed to completing these types of forms.

We withdrew MCSO's compliance for this Paragraph during the last reporting period over the untimely receipt of the attachments. During this reporting period, we observed significant improvement with the timely receipt of attachments in most of our reviewed samples. However, we did encounter a particular sample in May that prevented MCSO from achieving compliance during this reporting period. We discussed our observations with LLS personnel and provided recommendations as it pertains to reaching out to all MCSO areas to provide additional guidance on GD-9; particularly to the areas that do not usually handle litigation holds.

Paragraph 270. *The Sheriff shall ensure that when the MCSO receives a request for documents in the course of litigation, it shall:*

a. promptly communicate the document request to all personnel who might possibly be in possession of responsive documents;

b. ensure that all existing electronic files, including email files and data stored on networked drives, are sequestered and preserved through a centralized process; and

c. ensure that a thorough and adequate search for documents is conducted, and that each employee who might possibly be in possession of responsive documents conducts a thorough and adequate search of all relevant physical and electronic files.

Phase 1: In compliance

- Administrative Services Division Operations Manual, published on June 17, 2019.
- GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices), most recently amended on May 3, 2019.
- GD-9 User Guide, published on May 3, 2019.

- GM-1 (Electronic Communications, Data and Voicemail), most recently amended on March 7, 2019.

Phase 2: In compliance

To verify MCSO's Phase 2 compliance with this Paragraph, we reviewed monthly submittals of requests for documents to MCSO employees for the reporting period and documents drafted by the LLS in search of documents from other Divisions of the agency. For this reporting period, we identified a sample of document requests and requested a copy of the responsive documents sequestered and/or produced.

Paragraph 270.a. requires prompt communication of document requests to all personnel who might possibly be in possession of responsive documents. GD-9 requires the LLS to enter the data into a tracking system within five business days and to draft a Document Production Notice within five additional business days. The LLS is required, within five business days, to respond to the request for production if sourced within LLS, or to forward to the required MCSO Division for production.

Our review revealed that MCSO is manually forwarding the Document Production Notices in a timely manner to all of its Divisions. In addition, MCSO is sending Attachment C, the Document Production Acknowledgement Questionnaire, to all employees. In 99% of the cases, the personnel who provided responsive documents properly completed Attachment C.

To prepare our assessment of this Paragraph, we also identified a subsample from our sample data to assess document preservation practices within MCSO. During our July site visit, we visited six MCSO Divisions that do not usually handle document preservation and found that documents were being properly preserved.

Paragraph 270.b. requires that all responsive ESI be stored, sequestered, and preserved by MCSO through a centralized process. MCSO now performs the searches through a centralized process through Open Axes. The preservation of the data is completed at the Division that has the actual document while the notation is made in the Open Axes program, which performs case management. LLS can now create a case, assign a case number, and trigger time alerts to the custodians of documents that LLS identifies through the system. Open Axes searches on the H, W, and U computer hard drives of MCSO, which are shared among Headquarters and the Districts.

MCSO continues to manage litigation hold cases through Open Axes; all cases for this reporting period were managed through Open Axes. MCSO continues to work with the Technology Management Bureau and the vendor to address any software problems. MCSO developed the Open Axes Operations Manual as part of the Administrative Services Division Operations Manual.

Paragraph 270.c. requires that MCSO conduct an adequate search for documents, and that each employee who might possibly be in possession of responsive documents conducts a thorough and adequate search of all relevant physical and electronic files. We reviewed a sample of responsive documents for this reporting period, and MCSO identified responsive documents to the document production notices in all of the cases we reviewed.

Paragraph 271. *Within three months of the effective date of this Order, the Sheriff shall ensure that the MCSO Compliance Division promulgates detailed protocols for the preservation and production of documents requested in litigation. Such protocols shall be subject to the approval of the Monitor after a period of comment by the Parties.*

Phase 1: In compliance

- GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices), most recently amended on May 3, 2019.
- Administrative Services Division Operations Manual, published on June 17, 2019.

Phase 2: In compliance

On June 17, 2019, MCSO published the Administrative Services Division Operations Manual, which details the protocols for the preservation and production of documents requested in litigation.

Paragraph 272. *The Sheriff shall ensure that MCSO policy provides that all employees must comply with document preservation and production requirements and that violators of this policy shall be subject to discipline and potentially other sanctions.*

Phase 1: In compliance

- GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices), most recently amended on May 3, 2019.

Phase 2: In compliance

No internal investigations were completed against any MCSO employee during this reporting period for failure to preserve or produce documents.

Section 16: Additional Training

COURT ORDER XIX. ADDITIONAL TRAINING

Paragraph 273. *Within two months of the entry of this Order, the Sheriff shall ensure that all employees are briefed and presented with the terms of the Order, along with relevant background information about the Court's May 13, 2016 Findings of Fact, (Doc. 1677), upon which this Order is based.*

Phase 1: Not applicable

Phase 2: In compliance

MCSO previously delivered this training on the E-Policy platform. All personnel (100%) determined to be applicable by CID have received this training.

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

COURT ORDER XX. COMPLAINTS AND MISCONDUCT INVESTIGATIONS RELATING TO MEMBERS OF THE PLAINTIFF CLASS

Paragraph 274. *In light of the Court's finding that the MCSO, and in particular Sheriff Arpaio and Chief Deputy Sheridan, willfully and systematically manipulated, misapplied, and subverted MCSO's employee disciplinary policies and internal affairs processes to avoid imposing appropriate discipline on MCSO deputies and command staff for their violations of MCSO policies with respect to members of the Plaintiff class, the Court further orders as follows:*

A. Investigations to be Overseen and/or Conducted by the Monitor

Paragraph 275. *The Monitor is vested with the authority to supervise and direct all of the MCSO's internal affairs investigations pertaining to Class Remedial Matters. The Monitor is free from any liability for such matters as is set forth in ¶ 144 of the Supplemental Permanent Injunction.*

Paragraph 276. *The Monitor shall have the authority to direct and/or approve all aspects of the intake and investigation of Class Remedial Matters, the assignment of responsibility for such investigations including, if necessary, assignment to his own Monitor team or to other independent sources for investigation, the preliminary and final investigation of complaints and/or the determination of whether they should be criminally or administratively investigated, the determination of responsibility and the imposition of discipline on all matters, and any grievances filed in those matters.*

Phase 1: Not applicable

Phase 2: In compliance

The Second Order requires oversight by the Monitor for all internal investigations determined to be Class Remedial Matters (CRMs). The Professional Standards Bureau (PSB) now schedules meetings every two weeks to discuss existing and incoming complaints to determine which, if any, could be CRMs. During these meetings, PSB personnel discuss cases pending a CRM decision, cases determined to be CRMs, and any cases where the decision may be made that the case would not be classified as a CRM. The PSB Commander determines the classification of the cases. A member of our Team attends all of these meetings to provide the oversight required for this Paragraph.

At the end of the July-September 2016 reporting period, PSB had reviewed 442 administrative investigations that were open as of July 20, 2016; and determined that 42 of them met the basic criteria for CRMs. These cases were reviewed during the scheduled CRM meetings. In addition, a Monitoring Team member randomly selected an additional 52 cases from the 400 remaining pending cases; and concurred with PSB's assessment that the cases did not meet the basic criteria for CRMs. In addition to the 42 cases determined to be potential CRMs from the pending case list as of July 20, 2016, PSB identified an additional 10 cases that were potential CRM cases. At the end of the first reporting period after the Court's Second Order, nine cases had been determined to be CRMs; and one other was pending a CRM decision. The remaining cases reviewed were determined not to be CRMs.

At the end of the last reporting period, PSB had reviewed a total of 257 cases since August 2016. Of these, 55 had been classified as CRMs.

During this reporting period, an additional 21 cases were reviewed as possible CRMs. Of these, five were determined to be CRMs. As of the end of this reporting period, there was a total of 278 cases that have been reviewed and 60 cases that have been determined to be CRMs since the July 20, 2016 Court Order.

Since July 20, 2016, MCSO has completed a total of 47 CRM cases, including five completed during this reporting period. In the cases closed during this reporting period, two had sustained findings. One complainant alleged that a Detention Officer had made an inappropriate comment due to the complainant being Latino. The employee was sustained for making the inappropriate comment. The comment was not racial in nature, and no evidence indicated that the comment was made due to the complainant's race. The involved employee received a 16-hour suspension for the inappropriate comment as he had prior documented misconduct. The second sustained case involved a traffic stop and was initiated as a result of a BIO inspection. No racial bias was alleged or identified. The employee involved was sustained for using the wrong criminal code for charging and the sergeant was sustained for failing to identify and address the deputy's errors. The deputy received a written reprimand and the sergeant received an eight-hour suspension. Our Team approved the investigations, findings, and the discipline in both of these cases.

The three remaining cases closed during this reporting period had findings of unfounded or exonerated. One of these three investigations involved an allegation of racial bias. A subject stopped for traffic violations alleged he was stopped for violations he did not commit and believed it may have been because he was Latino. The BWC video clearly showed the traffic violations had occurred and there was no inappropriate conduct by the Deputy. In one case, a complainant with a Latino surname alleged that a deputy was rude during a traffic stop. The complainant did not allege any racial bias, nor was any observed in the review of the deputy's BWC. In the final case, a traffic stop, BIO generated the complaint based on possible inappropriate emergency driving leading up to the stop. The driver of the vehicle had a Latino surname and was contacted. Neither he, nor the passenger in his vehicle at the time of the stop,

alleged any racial bias on behalf of the deputies. Our Team approved the investigations and findings in all three of these cases.

Of the 23 CRM cases that have been closed to date with findings of sustained misconduct and reviewed by our Team, nine have involved employees who are deceased or left MCSO employment prior to the completion of the investigation or the disciplinary process. Fourteen involve current employees of MCSO. Only one of these 14 cases closed to date has involved a sustained finding of misconduct involving bias related to the Plaintiffs' class: a sustained allegation of an inappropriate and biased comment.

During the scheduled meetings, case investigators continue to provide investigative updates on all cases that could be, or are, CRMs. Their briefings are thorough, and they continue to be responsive to any questions or input from members of our Team. In all cases where we have provided oversight since July 20, 2016, we have concurred with the decisions made by the PSB Commander regarding the case classifications and findings. Where appropriate, we have also approved the discipline in all these cases.

Paragraph 277. *This authority is effective immediately and shall remain vested in the Monitor until the MCSO's internal affairs investigations reach the benchmarks set forth in ¶ 288 below. With respect to Class Remedial Matters, the Monitor has plenary authority, except where authority is vested in the Independent Investigative and Disciplinary Authorities separately appointed by the Court, as is further set forth in ¶¶ 296–337 below.*

Paragraph 278. *The Sheriff shall alert the Monitor in writing to all matters that could be considered Class Remedial Matters, and the Monitor has the authority to independently identify such matters. The Monitor shall provide an effective level of oversight to provide reasonable assurance that all Class Remedial Matters come to his attention.*

Phase 1: Not applicable

Phase 2: In compliance

Since the first CRM meeting held on August 17, 2016, PSB has consistently completed the required notification to us regarding the cases that could be considered CRMs. A Monitoring Team member has attended every CRM meeting with PSB where these matters are discussed and personally reviewed a number of the cases that were pending on July 20, 2016; and our Team member reviews the new cases that are presented at each meeting. There has been no need for us to independently identify CRMs, as PSB consistently properly identifies and reports these cases as required.

Paragraph 279. *The Monitor shall have complete authority to conduct whatever review, research, and investigation he deems necessary to determine whether such matters qualify as Class Remedial Matters and whether the MCSO is dealing with such matters in a thorough, fair, consistent, and unbiased manner.*

Phase 1: Not applicable

Phase 2: In compliance

During the scheduled CRM meetings attended by a Monitoring Team member, PSB has consistently properly identified cases that could be, or are, CRMs. PSB personnel brief each case at these meetings, and their briefings have included all appropriate information. They have been responsive to any questions from our Team members during the meetings, and have responded appropriately to any suggestions we have raised. There has been no need for us to independently conduct any review, research, or investigation; as PSB is consistently properly identifying and investigating these cases.

Paragraph 280. *The Monitor shall provide written notice to the Court and to the parties when he determines that he has jurisdiction over a Class Remedial Matter. Any party may appeal the Monitor's determination as to whether he has jurisdiction over a Class Remedial Matter to this Court within seven days of the Monitor's notice. During the pendency of any such appeal the Monitor has authority to make orders and initiate and conduct investigations concerning Class Remedial Matters and the Sheriff and the MCSO will fully comply with such action by the Monitor.*

Phase 1: Not applicable

Phase 2: Not applicable

During this reporting period, cases involving both sworn and non-sworn members of MCSO have continued to be reviewed as possible CRMs, when appropriate. There were no appeals by any Parties regarding any of the CRM classifications.

Paragraph 281. *Subject to the authority of the Monitor, the Sheriff shall ensure that the MCSO receives and processes Class Remedial Matters consistent with: (1) the requirements of this Order and the previous orders of this Court, (2) MCSO policies promulgated pursuant to this Order, and (3) the manner in which, pursuant to policy, the MCSO handles all other complaints and disciplinary matters. The Sheriff will direct that the Professional Standards Bureau and the members of his appointed command staff arrive at a disciplinary decision in each Class Remedial Matter.*

Phase 1: In compliance

- GC-16 (Employee Grievance Procedures), most recently amended on April 2, 2019.

- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Administrative Services Division Operations Manual, published on June 17, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

To evaluate Phase 2 compliance with this Paragraph, a Monitoring Team member has attended each meeting conducted by PSB to discuss Class Remedial Matters. PSB has consistently provided thorough briefings, and the PSB Commander has made appropriate decisions regarding these matters.

During this reporting period, PSB completed and closed five CRM cases. We concurred with, and approved, all allegations; policy violations; findings; and if sustained, the discipline. The case reports we reviewed were consistent with the briefings that had been provided during the scheduled CRM meetings. PSB investigators continue to conduct appropriate follow-up on these cases, expend extensive efforts to locate and contact all involved parties and witnesses, and provided detailed information concerning the allegations and the justifications for findings in their investigative reports.

Of the five cases completed during this reporting period, two had sustained findings on three separate MCSO employees. One employee received a 16-hour suspension; one employee received an eight-hour suspension; and one employee received a written reprimand. In all three cases, the discipline assessed was consistent with the Discipline Matrices in place.

Paragraph 282. *The Sheriff and/or his appointee may exercise the authority given pursuant to this Order to direct and/or resolve such Class Remedial Matters, however, the decisions and directives of the Sheriff and/or his designee with respect to Class Remedial Matters may be vacated or overridden in whole or in part by the Monitor. Neither the Sheriff nor the MCSO has any authority, absent further order of this Court, to countermand any directions or decision of the Monitor with respect to Class Remedial Matters by grievance, appeal, briefing board, directive, or otherwise.*

Phase 1: In compliance

- GC-16 (Employee Grievance Procedures), most recently amended on April 2, 2019.
- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Administrative Services Division Operations Manual, published on June 17, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

There were no CRM cases completed during this, or previous reporting periods, in which the Sheriff and/or his appointee exercised their authority to resolve CRMs, which we needed to vacate or override.

Paragraph 283. *The Monitor shall review and approve all disciplinary decisions on Class Remedial Matters.*

Phase 1: Not applicable

Phase 2: Not applicable

At the end of this reporting period, MCSO has closed a total of 47 CRM cases since July 20, 2016. Twenty-three of the completed cases have resulted in sustained findings. Six had sustained findings on two separate deputies who are deceased, and three involved sustained findings on deputies who left MCSO employment prior to the determination of discipline. Fourteen have resulted in sustained findings against current MCSO employees. In all of the sustained cases, we have reviewed and approved all of the disciplinary decisions.

Paragraph 284. *The Sheriff and the MCSO shall expeditiously implement the Monitor's directions, investigations, hearings, and disciplinary decisions. The Sheriff and the MCSO shall also provide any necessary facilities or resources without cost to the Monitor to facilitate the Monitor's directions and/or investigations.*

Phase 1: In compliance

- GC-16 (Employee Grievance Procedures), most recently amended on April 2, 2019.
- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Administrative Services Division Operations Manual, published on June 17, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

During this, and previous reporting periods, a Monitoring Team member attended all scheduled CRM meetings conducted in an appropriate location determined by MCSO. PSB continues to provide a password and access to the IAPro system to a member of our Team so that we can complete independent case reviews if necessary.

PSB personnel continue to be professional and responsive to all input, questions, or concerns we have raised.

Paragraph 285. *Should the Monitor decide to deviate from the Policies set forth in this Order or from the standard application of the disciplinary matrix, the Monitor shall justify the decision in writing and place the written explanation in the affected employee's (or employees') file(s).*

Phase 1: Not applicable

Phase 2: Not applicable

At of the end of this reporting period, there are a total of 23 CRM cases with sustained findings. Six have sustained findings on two separate deputies who are deceased, and three involve deputies who left MCSO employment prior to the determination of discipline. Fourteen cases involve sustained findings against current MCSO employees. All 14 cases resulted in appropriate sanctions based on MCSO policy and the Discipline Matrices in effect at the time the investigations were conducted. No action on our part has been necessary relative to this Paragraph.

Paragraph 286. *Should the Monitor believe that a matter should be criminally investigated, he shall follow the procedures set forth in ¶¶ 229–36 above. The Commander of the Professional Standards Bureau shall then either confidentially initiate a Professional Standards Bureau criminal investigation overseen by the Monitor or report the matter directly and confidentially to the appropriate prosecuting agency. To the extent that the matter may involve the Commander of the Professional Standards Bureau as a principal, the Monitor shall report the matter directly and confidentially to the appropriate prosecuting agency. The Monitor shall then coordinate the administrative investigation with the criminal investigation in the manner set forth in ¶¶ 229–36 above.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

During this reporting period, there were no CRM cases where PSB determined that a criminal misconduct investigation should also be conducted. We did not identify any CRM where we believe a criminal investigation should be initiated. No action on our part relative to this Paragraph has been necessary.

Paragraph 287. *Any persons receiving discipline for any Class Remedial Matters that have been approved by the Monitor shall maintain any right they may have under Arizona law or MCSO policy to appeal or grieve that decision with the following alterations:*

a. When minor discipline is imposed, a grievance may be filed with the Sheriff or his designee consistent with existing MCSO procedure. Nevertheless, the Sheriff or his designee shall immediately transmit the grievance to the Monitor who shall have authority to and shall decide the grievance. If, in resolving the grievance, the Monitor changes the disciplinary decision in any respect, he shall explain his decision in writing.

b. disciplined MCSO employee maintains his or her right to appeal serious discipline to the Maricopa County Law Enforcement Merit System Council to the extent the employee has such a right. The Council may exercise its normal supervisory authority over discipline imposed by the Monitor.

Phase 1: In compliance

- GC-16 (Employee Grievance Procedures), most recently amended on April 2, 2019.
- GC-17 (Employee Disciplinary Procedures), most recently amended on June 27, 2019.
- GH-2 (Internal Investigations), most recently amended on June 28, 2019.
- Administrative Services Division Operations Manual, published on June 17, 2019.
- Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2: In compliance

Twenty-three completed CRM cases have had sustained findings of misconduct since the issuance of the Second Order. We concurred with MCSO's decisions in all of these cases.

During this reporting period, one employee's discipline appeal to the Maricopa County Law Enforcement Merit System Council remains pending.

Paragraph 288. *The Monitor's authority over Class Remedial Matters will cease when both:*

a, The final decision of the Professional Standards Bureau, the Division, or the Sheriff, or his designee, on Class Remedial Matters has concurred with the Monitor's independent decision on the same record at least 95% of the time for a period of three years.

b. The Court determines that for a period of three continuous years the MCSO has complied with the complaint intake procedures set forth in this Order, conducted appropriate internal affairs procedures, and adequately investigated and adjudicated all matters that come to its attention that should be investigated no matter how ascertained, has done so consistently, and has fairly applied its disciplinary policies and matrices with respect to all MCSO employees regardless of command level.

Phase 1: Not applicable

Phase 2: In compliance

During this and prior reporting periods, we and PSB have agreed on the investigative outcome of each CRM investigation completed.

PSB is responsible for the investigation of all CRM cases, and has continued to appropriately identify cases that could be, or are, CRMs. PSB personnel are professional in our contacts with them and responsive to any concerns or questions we have raised; and they provide detailed information and updates in the scheduled briefings. Their written reports are thoroughly prepared, and the reports have been consistent with the information provided during the weekly case briefings.

Paragraph 289. *To make the determination required by subpart (b), the Court extends the scope of the Monitor's authority to inquire and report on all MCSO internal affairs investigations and not those merely that are related to Class Remedial Matters.*

Phase 1: Not applicable

Phase 2: Not applicable

During the last reporting period, we reviewed a total of 155 internal investigations. Twelve were criminal investigations and 143 were administrative investigations. All 12 of the criminal investigations were in compliance with the requirements of the Court. Of the 143 administrative investigations, 120 (84%) were in full compliance. This was an increase from OUR 79% compliance finding during the prior reporting period.

During this reporting period, we reviewed 98 misconduct investigations. Seven were criminal investigations and 91 were administrative investigations. All seven of the criminal investigations were in compliance. This is consistent with our findings regarding criminal investigations over past reporting periods. Of the 91 administrative investigations, 66 (73%) were in full compliance. This is a decrease from the 84% compliance finding during the last reporting period.

There were no completed administrative misconduct investigations submitted for compliance with Paragraph 249 (investigatory stops) during this reporting period. Two completed investigations were submitted for Paragraph 33 (biased policing). Both were in compliance. Five investigations were submitted under Paragraph 275 (CRMs), and all five were in compliance.

Investigations conducted by PSB sworn personnel were compliant in 100% of the cases we reviewed, consistent with the last reporting period. PSB investigations conducted by Detention personnel were compliant in 90% of the cases they investigated, a slight decrease from the 92% compliance the last reporting period. Four investigations conducted by the contract investigator were non-compliant for failure to include an investigative extension request, and these cases are included in the overall compliance finding for PSB investigations. Those investigations conducted by Divisions and Districts outside of PSB were compliant in 63% of the cases, a

decrease of 12% from the previous reporting period. Overall compliance for all 98 investigations was 74%, a decrease of 11% from the last reporting period.

While we continued to note ongoing improvement in cases reviewed during past reporting periods, that was not the case during this reporting period. The overall percentage of administrative misconduct cases that were fully compliant declined during this reporting period, from 85% in the last reporting period to 73% this reporting period. The decrease in overall compliance is primarily the result of an increase in non-compliant District cases and the four non-compliant investigations conducted by the contract investigator.

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

Effective with the revisions to internal affairs and discipline policies on May 18, 2017, the PSB Commander may now determine that a received complaint can be classified as a "service complaint" if certain specified criteria exists. Service complaint documentation must then be completed and is reviewed under this Paragraph.

MCSO closed 64 service complaints during the last reporting period. Five were properly reclassified to administrative misconduct investigations after review by PSB. Of the remaining 59, we found MCSO properly completed the service complaints in 54 (92%) of the cases.

During this reporting period, we reviewed 81 service complaints completed by MCSO. In 12, an administrative misconduct investigation was opened after review by PSB. The remaining 69 were approved by PSB as service complaints. Twenty-six (38%) of these complaints were determined not to involve MCSO personnel. Twenty-nine (42%) involved complaints regarding laws, MCSO policies and procedures; or they involved other contacts from the public that did not include allegations of employee misconduct. Seven (10%) were closed due to lack of specificity and seven (10%) were closed for a combination of reasons. We concur with MCSO's handling in 66 (95%) of the 69 cases classified as service complaints. In one case, we believe an allegation of misconduct had been made and an administrative misconduct investigation should have been initiated. In the second case, MCSO did not properly follow up with the complainant; and in the third case, MCSO did not send the complainant a final disposition letter on the complaint.

Effective with the revisions to the internal affairs and discipline policies, the PSB Commander is now authorized to determine that an internal complaint of misconduct does not necessitate a formal investigation if certain criteria exist. The PSB Commander's use of this discretion is reported in this Paragraph. During the last reporting period, the PSB Commander used this discretion in 10 cases. All involved internally generated complaints of a minor nature and met the criteria for handling with coaching without a formal investigation. We concur with the PSB Commander's decision in all 10 of these cases.

During this reporting period, the PSB Commander used the discretion allowed by policy to determine that eight internal complaints of misconduct did not necessitate a formal investigation. All eight involved minor misconduct and met the criteria for handling with coaching without a formal investigation. The involved employees received a coaching, and all coachings were appropriately documented.

Paragraph 290. *This requirement is necessitated by the Court's Findings of Fact that show that the MCSO manipulates internal affairs investigations other than those that have a direct relation to the Plaintiff class. The Court will not return the final authority to the Sheriff to investigate matters pertaining to members of the Plaintiff class until it has assurance that the MCSO uniformly investigates misconduct and applies appropriate, uniform, and fair discipline at all levels of command, whether or not the alleged misconduct directly relates to members of the Plaintiff Class.*

Paragraph 291. *The Monitor shall report to the Court, on a quarterly basis, whether the MCSO has fairly, adequately, thoroughly, and expeditiously assessed, investigated, disciplined, and made grievance decisions in a manner consistent with this Order during that quarter. This report is to cover all internal affairs matters within the MCSO whether or not the matters are Class Remedial Matters. The report shall also apprise the Court whether the MCSO has yet appropriately investigated and acted upon the misconduct identified in the Court's Findings of Fact, whether or not such matters constitute Class Remedial Matters.*

Phase 1: Not applicable

Phase 2: Not applicable

This report, including all commentary regarding MCSO's compliance with investigative and disciplinary requirements, serves as our report to the Court on these matters. An overall summary of our compliance observations and findings is provided here.

During this reporting period, we reviewed 91 administrative misconduct investigations and seven criminal misconduct investigations. All seven criminal investigations were in full compliance with the Second Order. Of the 91 administrative misconduct investigations we reviewed, 71% were in full compliance with the Second Order. As noted in previous Paragraphs, during this reporting period, administrative misconduct compliance dropped from 84% to 73%; and compliance for all investigations dropped from 85% to 74%.

During the period of July-December 2016, PSB provided us with a memorandum describing PSB's efforts in meeting the requirements of this Paragraph related to the Court's Findings of Fact. MCSO had outsourced three cases to another law enforcement agency, and an additional four investigations were pending outsourcing to an outside investigator. These cases were outsourced due to the involvement of the former Chief Deputy, or other conflicts of interest identified by MCSO, and included the investigations identified in Paragraph 300. MCSO

processed a Request for Proposal and retained an outside investigator who met the requirements of Paragraphs 167.iii and 196 to conduct the investigations identified. One potential misconduct case identified in the Court's Findings of Fact was retained and investigated by PSB, as no identifiable conflict of interest appeared to exist.

PSB provided us with a document sent by the Independent Investigator assigned by the Court to investigate, or reinvestigate, some of the misconduct that is related to the Plaintiffs' class. In this document, the Independent Investigator clarified his intent to investigate the matters assigned to him by the Court, as well as the matters that the Court determined were the discretion of the Independent Investigator. He further clarified that his investigations would include the initial misconduct alleged, as well as any misconduct that might have occurred during the process of review or issuance of discipline by MCSO personnel.

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

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

During our January 2019 site visit, PSB advised us that no additional investigations had been outsourced to the contract vendor. Six cases had been completed and forwarded to PSB for review. None had yet been forwarded to our Team for review. The Independent Investigator continued investigations identified by the Court, and notified us of the status of these cases on a regular basis. We also received closed investigations that he completed.

During our April 2019 site visit, PSB advised that three additional investigations had been outsourced to the contract investigator. The six cases he has completed remained in review by PSB personnel. We had not received any of the investigations completed by this investigator for our review.

During our July site visit, PSB personnel advised us that they had outsourced an additional four investigations to the contract investigator. We received four completed investigations conducted by the contract investigator for review during this reporting. In all four cases, we found the investigations to be thorough and well-written. All, however, were non-compliant as proper extension memorandums were not completed. Additional cases completed by this investigator have been forwarded to PSB for their review prior to forwarding to our Team.

During the last reporting period, the Independent Investigator reported that he had completed all of the investigations identified by the Court; and we reviewed one investigation that he completed. While he had completed additional investigations, they remained in the discipline or appeal process.

During this reporting period, the Independent Investigator again reported that he had completed all of the investigations identified by the Court, as well as those where he initiated new investigations due to potential misconduct he identified during his review of cases. While he has submitted his final report, some of the cases he investigated remain in either the grievance or appeal process. We will not receive and review these cases until these processes are complete.

Paragraph 292. *To make this assessment, the Monitor is to be given full access to all MCSO internal affairs investigations or matters that might have been the subject of an internal affairs investigation by the MCSO. In making and reporting his assessment, the Monitor shall take steps to comply with the rights of the principals under investigation in compliance with state law. While the Monitor can assess all internal affairs investigations conducted by the MCSO to evaluate their good faith compliance with this Order, the Monitor does not have authority to direct or participate in the investigations of or make any orders as to matters that do not qualify as Class Remedial Matters.*

Phase 1: Not applicable

Phase 2: In compliance

PSB personnel continue to inform us of ongoing criminal and administrative misconduct investigations. A member of our Team attends each CRM meeting, reviews the lists of new internal investigations, and has access to the PSB IAPro database. The only cases for which any oversight occurs during the investigative process are those that are determined to be CRMs. We review all other misconduct investigations once they are completed, reviewed, and approved by MCSO personnel.

Paragraph 293. *The Monitor shall append to the quarterly reports it currently produces to the Court its findings on the MCSO's overall internal affairs investigations. The parties, should they choose to do so, shall have the right to challenge the Monitor's assessment in the manner provided in the Court's previous Order. (Doc. 606 ¶¶ 128, 132.)*

Phase 1: Not applicable

Phase 2: Not applicable

Since we began reviewing internal investigations conducted by MCSO more than four years ago, we have reviewed hundreds of investigations into alleged misconduct by MCSO personnel. As noted in our previous quarterly status reports and elsewhere in this report, we have identified

ongoing concerns, but also noted continuing improvement. However, that was not the case this reporting period, as there was a significant decrease in overall compliance.

All seven criminal misconduct investigations we reviewed for this reporting period were investigated by PSB and complied with the Second Order requirements.

PSB conducted 35 of the 91 total administrative misconduct investigations we reviewed for this reporting period. PSB sworn investigators completed 15 of the investigations. All 15 (100%) were in compliance. This is the same compliance percentage as the last reporting period. Detention supervisors in PSB conducted 20 of the investigations. Eighteen (90%) were in compliance. This is a slight decrease from the 92% compliance the last reporting period. Overall PSB sworn and Detention investigations were 94% compliant, the same compliance percentage as the last reporting period.

During this reporting period, we reviewed four investigations completed by the contract investigator hired by MCSO. We found that in all four, the investigations were thorough and well-written. However, all four were found non-compliant as proper investigative extensions were not sought or approved. As these cases are completed at the direction of PSB, they are included in the final compliance finding for PSB. Of the total 39 investigations completed by, or at the direction of PSB, 33 were compliant, a compliance rate of 85%.

Fifty-two investigations were conducted by Districts or Divisions outside of PSB. Of these 52, 33 (63%) complied with Second Order requirements. This is a significant decrease from the 75% compliance rate found during the last reporting period. Those investigations conducted outside of PSB that were found not compliant contained numerous qualitative issues, as well as administrative documentation deficiencies as has been noted throughout this report. We note, again, that in many cases, the deficiencies and errors we have found should have been identified prior to them being forwarded to PSB for review.

For the 91 administrative misconduct investigations we reviewed for this reporting period, MCSO's overall compliance was 73%, a 11% decrease from the 84% compliance the last reporting period. This overall compliance finding takes into account multiple factors. As we have noted throughout this report, investigators, reviewers, command personnel, and the final decision makers all impact the compliance for each case. For this reporting period, the most significant contributor to the decreased compliance was those cases investigated and approved by District personnel.

MCSO completed delivery of the 40-hour Misconduct Investigative Training at the end of 2017, and all sworn supervisors who investigate administrative misconduct attended the training. Refresher training on misconduct investigations has also been delivered since the initial 40-hour training. During our site visit and District visits in July 2019, and in our previous visits, we have continued to receive positive feedback on the training that has been provided on misconduct investigations and District Command personnel have told us investigations conducted by their personnel continue to improve. Until the completion of our case reviews for this reporting period, we concurred with this assessment; and our review of investigations during the past several reporting periods supported that training and experience in the

completion of administrative investigations had produced the desired effect of improved quality, particularly in those investigations completed after January 1, 2018. As we have documented throughout this report, our findings for this reporting period indicate a decrease, rather than an increase, in compliance.

PSB personnel continue to be receptive to our input, and we have had many productive meetings and discussions regarding the investigations being conducted and the compliance for both PSB and District and Division Cases. We also discuss compliance concerns with District and Division Command during every site visit. During our next site visit, we will discuss those cases that are not compliance with both PSB and District and Division personnel, specifically addressing what is a significant reduction in compliance. We continue to stress that compliance is not the sole responsibility of any one individual or Division – but dependent on all those who complete, review, or approve internal investigations.

We have noted in numerous previous reporting periods that MCSO's executive leadership must take the appropriate action to ensure that adequate resources are dedicated to the completion of administrative and criminal misconduct investigations. PSB has continued to inform us that despite the approval for numerous additional investigative personnel in the July 2018 budget, only one of these positions has been filled and there is no indication that the additional positions will be filled in the foreseeable future. We noted again during this reporting period that the case backlog in PSB continues to increase. MCSO must take action to address this increasing backlog.

B. Investigations to be Conducted by the Independent Investigator and the Independent Disciplinary Authority

Paragraph 294. *In its Findings of Fact, (Doc. 1677), the Court identified both: (1) internal affairs investigations already completed by the MCSO that were inadequate or insufficient; (see, e.g., Doc. 1677 at ¶ 903), and (2) misconduct or alleged misconduct that had never been investigated by MCSO that should be or should have been investigated. (Id. at ¶ 904.)*

Paragraph 295. *In light of MCSO's failure to appropriately investigate these matters, the Court appoints an Independent Investigator and an Independent Disciplinary Authority from the candidates set forth by the parties, and vests them with the authority to investigate and decide discipline in these matters.*

1. The Independent Investigator

Paragraph 298. *In assessing the existence of previously uncharged acts of misconduct that may be revealed by the Findings of Fact, the Independent Investigator does not have authority to investigate acts of misconduct that are not sufficiently related to the rights of the members of the Plaintiff class. While the Independent Investigator should identify such acts of misconduct and*

report those acts to the Commander of the Professional Standards Bureau, and to the Monitor for purposes of making the Monitor's assessment identified in ¶¶ 291–93 above, the Independent Investigator may not independently investigate those matters absent the authorization and the request of the Sheriff.

Paragraph 300. *The following potential misconduct is not sufficiently related to the rights of the members of the Plaintiff class to justify any independent investigation:*

a. Uninvestigated untruthful statements made to the Court under oath by Chief Deputy Sheridan concerning the Montgomery investigation. (Doc. 1677 at ¶ 385).

b. Uninvestigated untruthful statements made to the Court under oath by Chief Deputy Sheridan concerning the existence of the McKessy investigation. (Id. at ¶ 816).

c. Chief Deputy Sheridan's untruthful statements to Lieutenant Seagraves made during the course of an internal investigation of Detective Mackiewicz to the effect that an investigation into the overtime allegations against Detective Mackiewicz had already been completed. (Id. at ¶ 823).

d. Other uninvestigated acts of misconduct of Chief Deputy Sheridan, Captain Bailey, Sergeant Tennyson, Detective Zebro, Detective Mackiewicz, or others that occurred during the McKessy investigation. (Id. at ¶¶ 766–825).

Phase 1: Not applicable

Phase 2: Deferred

During our January 2017 site visit, the PSB Commander assured us that all acts of misconduct that we identified and discussed during our October 2016 site visit would be provided to a contracted investigator for investigative purposes.

Since that time, the PSB Commander has advised us that MCSO has contracted with a licensed private investigator. The contract investigator possesses the requisite qualifications and experience to conduct the investigations of misconduct outlined in Paragraph 300 (a.-c.), and the additional misconduct in the Findings of Fact that directly associates with Paragraph 300 (d.). PSB has not found it necessary to contract with any additional licensed private investigators.

During our April 2017 site visit, we met with PSB command staff and representatives from the Maricopa County Attorney's Office (MCAO) to verify that all of the acts of misconduct that were identified in the Findings of Fact (FOF) are under investigation, either by the Court-appointed Independent Investigator or the private licensed contract investigator. Before this meeting, PSB command provided us with a roster of related acts of misconduct that PSB intended to be assigned to the contract investigator. The roster of intended assignments did not include all of the acts of misconduct that we had discussed. The MCAO and PSB command personnel explained that the Court also identified, in Paragraph 301, many of the acts of

potential misconduct identified in the FOF as sufficiently related to the rights of members of the Plaintiffs' class. In Paragraph 301, the Court documented that because of this determination, investigations of the potential misconduct were justified if the Independent Investigator deemed that an investigation was warranted.

The Independent Investigator reported during the last reporting period that he had completed all of the investigations identified by the Court. During this reporting period, the Independent Discipline Authority reported that he has completed all of the discipline hearings. While he has completed them, some remain in the grievance or appeal process. We will not review these reports to ensure that all conduct outlined in the FOF has been addressed until these processes are completed.

The contract investigator retained by MCSO has completed some of the investigations he has been assigned. Four were submitted for our review during this reporting period. We found these investigations to be thorough and well-written, and we concur with the findings in all four. None of these four investigations were those identified in the Court's Second Order. We have not yet received or reviewed any of the investigations the contract investigator has completed relative to the Order of the Court.

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

Paragraph 310. *The Monitor and the parties are directed to promptly comply with the Independent Investigator's requests for information. The Monitor and the Independent Investigator may communicate to coordinate their investigations. Nevertheless, each is independently responsible for their respective jurisdiction set forth in this Order, and each should make independent decisions within his own delegated responsibility.*

2. The Independent Disciplinary Authority

Paragraph 337. *Nevertheless, when discipline is imposed by the Independent Disciplinary Authority, the employee shall maintain his or her appeal rights following the imposition of administrative discipline as specified by Arizona law and MCSO policy with the following exceptions:*

a. When minor discipline is imposed, a grievance may be filed with the Sheriff or his designee consistent with existing MCSO procedure. Nevertheless, the Sheriff or his

designee shall transmit the grievance to the Monitor who shall have authority to decide the grievance. If in resolving the grievance the Monitor changes the disciplinary decision in any respect, he shall explain his decision in writing.

b. A disciplined MCSO employee maintains his or her right to appeal serious discipline to the Maricopa County Law Enforcement Merit System Council to the extent the employee has such a right. The Council may exercise its normal supervisory authority over discipline imposed by the Independent Disciplinary Authority with one caveat. Arizona law allows the Council the discretion to vacate discipline if it finds that the MCSO did not make a good faith effort to investigate and impose the discipline within 180 days of learning of the misconduct. In the case of any of the disciplinary matters considered by the Independent Disciplinary Authority, the MCSO will not have made that effort. The delay, in fact, will have resulted from MCSO's bad faith effort to avoid the appropriate imposition of discipline on MCSO employees to the detriment of the members of the Plaintiff class. As such, the Council's determination to vacate discipline because it was not timely imposed would only serve to compound the harms imposed by the Defendants and to deprive the members of the Plaintiff class of the remedies to which they are entitled due to the constitutional violations they have suffered at the hands of the Defendants. As is more fully explained above, such a determination by the Council would constitute an undue impediment to the remedy that the Plaintiff class would have received for the constitutional violations inflicted by the MCSO if the MCSO had complied with its original obligations to this Court. In this rare instance, therefore, the Council may not explicitly or implicitly exercise its discretion to reduce discipline on the basis that the matter was not timely investigated or asserted by the MCSO. If the Plaintiff class believes the Council has done so, it may seek the reversal of such reduction with this Court pursuant to this Order.

Phase 1: In compliance

- GC-16 (Employee Grievance Procedures), most recently amended on March 21, 2019.

Phase 2: In compliance

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

Section 18: Concluding Remarks

We assess compliance with 94 Paragraphs of the First Order, and 113 Paragraphs of the Second Order, for a total of 207 Paragraphs. MCSO is in Phase 1 compliance with 77 of the First Order Paragraphs, or 96%; and 103 of the Second Order Paragraphs, or 100%.

As noted above, at the end of this reporting period, we concurred with MCSO's assertions of Full and Effective Compliance with 26 Paragraphs of the First Order, as that term is defined in the First Order. Including these 26 total Full and Effective Compliance Paragraphs, MCSO is in Phase 2, or operational compliance, with 71 of the First Order Paragraphs, or 76%. MCSO is in Phase 2 compliance with 103 of the Second Order Paragraphs, or 91%. Combining the requirements of both Orders, MCSO is in Phase 1 compliance with 180 Paragraphs, or 98%; and in Phase 2 compliance with 174 Paragraphs, or 84%.

In our last two reports, we raised the issue of deputies failing to prepare and provide Incidental Contact Receipts to passengers with whom they have contact during traffic stops, when required to do so by MCSO policy. We are still identifying instances where the passengers are being contacted by deputies and are *not* being provided with Incidental Contact Receipts, but we note that our samples still consist of cases before a modification to the TraCS system prompting completion of this form went into effect. We hope that the issue will be resolved with the implementation of this feature.

During this reporting period, the Audit and Inspections Unit (AIU) instituted the Post-Stop Ethnicity Inspection, to conduct monthly reviews of whether deputies are accurately documenting the perceived ethnicity of drivers and passengers listed on the Vehicle Stop Contact Forms. This will likely assist MCSO in identifying any potential issues where deputies may be misclassifying the ethnicity of drivers and passengers, as has been noted in the past.

We continue to identify issues where deputies who respond to assist on traffic stops fail to prepare the Assisting Deputy and Body-Worn Camera Log. We encourage MCSO to reinforce and clarify to deputies in what circumstances the log is required to be prepared.

MCSO has advised us of its staffing issues. Agency leadership asserts that Patrol is severely understaffed and unable to address the workload. MCSO advises that it is working on solutions, and has taken steps to backfill Patrol positions using deputies from specialized Divisions. MCSO has also created the new position of Deputy Service Aide. We encourage MCSO to continue to improvise solutions to assist in any staffing shortages. We recommend that MCSO continue to seek solutions to lessen the burden of non-emergency tasks for patrol deputies, and create more community policing time. Additional steps can be taken to reduce the number of calls that currently require a deputy response. We also encourage MCSO to continue the involvement of community leaders in helping address the agency's many challenges. The Community Advisory Board (CAB) has been an untapped resource that the agency should access on a sustained basis. Community engagement and assistance constitute a resource with untold benefits for the agency and the community at large.

Appendix: Acronyms

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

AB	Administrative Broadcast
ACJIS	Arizona Criminal Justice Information System
ACLU	American Civil Liberties Union
ACT	Annual Combined Training
AIU	Audits and Inspections Unit
AOC	Arizona Office of Courts
ARG	Alert Review Group
ARS	Arizona Revised Statutes
ASU	Arizona State University
ATU	Anti-Trafficking Unit
BAF	BIO Action Form
BB	Briefing Board
BIO	Bureau of Internal Oversight
CAB	Community Advisory Board
CAD	Computer Aided Dispatch
CBP	Customs and Border Protection
CDA	Command Daily Assessment
CEU	Criminal Employment Unit
CID	Court Implementation Division
COrD	Community Outreach Division
CORT	Court Order Required Training
CRM	Class Remedial Matter
DOJ	Department of Justice
DUI	Driving Under the Influence
EIS	Early Identification System

EIU	Early Intervention Unit
EPA	Employee Performance Appraisal
FAEC	Full and Effective Compliance
FBI	Federal Bureau of Investigation
FEC	Full and Effective Compliance
FOF	Findings of Fact
FTO	Field Training Officer
GI	General Instructor
ICE	Immigration and Customs Enforcement
IIU	Internal Investigations Unit
IMF	Incident Memorialization Form
IR	Incident Report
JED	Judicial Enforcement Division
LOS	Length of stop
LLS	Legal Liaison Section
MCAO	Maricopa County Attorney's Office
MCSO	Maricopa County Sheriff's Office
NOI	Notice of Investigation
NTCF	Non-Traffic Contact Form
PAL	Patrol Activity Log
PDH	Pre-Determination Hearing
POST	Peace Officers Standards and Training
PPMU	Posse Personnel Management Unit
PSB	Professional Standards Bureau
SID	Special Investigations Division
SMS	Skills Manager System
SPSS	Statistical Package for the Social Science
SRT	Special Response Team

TraCS	Traffic Stop Data Collection System
TSAR	Traffic Stop Annual Report
TSAU	Traffic Stop Analysis Unit
TSMR	Traffic Stop Monthly Report
TSQR	Traffic Stop Quarterly Report
VSCF	Vehicle Stop Contact Form